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OFFICE OF THE
SECRETARY OF STATE

MEMORANDUM

To: Secretary of State Francisco Aguilar
From: Chief Deputy Gabriel Di Chiara, Deputy Secretary for Elections Mark Wlaschin
Date: February 21, 2024
Subject: February 18, 2024 Vote History Discrepancies

Mr. Secretary,

On February 18th, the state was made aware of potential irregularities relating to the vote history of individuals who did not participate in the Presidential Preference Primary (PPP). State staff met that evening to discuss possible root causes, and determined that a conclusion could not be reached without input from the clerks and registrars of counties with affected voters. After those preliminary discussions, state and county staff met to discuss the issue at 8 am on February 19th, and remained working on it throughout the day. What follows is an outline of the circumstances that brought about these irregularities, as well as the steps that the state and counties took to alleviate the issue.

The technical issue that resulted in the inaccurate information being displayed was a miscommunication in code, based on the state and counties interpreting the same data in different ways. These events highlight the importance of modernizing our election system, and educating voters on how elections are administered in Nevada.

It is important to note that at no time were election results affected by this issue nor any voter Personally Identifiable Information (PII) compromised. The voter registration and election management systems are kept separate. Additionally, at no point was any county data inaccurate. *Any claims to the contrary are false.*

This memo is based on the understanding of Secretary of State staff, and is not intended to make any representations on behalf of the counties

Summary

The Secretary of State's website provides several election-specific services to voters, including the ability to register to vote, update your voter registration, and more. Once such service is 'vote history', which allows voters to log in and see which elections they voted in and by what method (early voting, vote by mail, etc).

Over the weekend of February 18th, individuals who did not participate in the PPP, when checking their vote history on the Secretary of State's website, found that they had a PPP vote history of 'Mail Ballot Counted'. This primarily seemed to be affecting individuals who did not vote in the PPP and did not surrender their ballots.

The effect of this issue was concerning to many voters: people who had not voted received a message saying their mail ballot had been counted. As soon as the issue of erroneous data was identified, state and county staff immediately began working together to diagnose and resolve the problem; by 8pm on February 20th fixes had been identified for all impacted counties.

The root cause of the incident was simple and preventable in retrospect: the state voter database was hard-coded to interpret a certain vote history code in one way before and on Friday, February 16th, the 10th day after the election, and to interpret that same code another way after that date. Before the 10th day after an election, counties marked any voters who had been sent a mail ballot with the code "MB" - after this date, the system interprets the "MB" code as a Mail Ballot Counted.

This change on the 10th day signifies the acceptance of the results by the Boards of County Commissioners/Supervisors pursuant to [NRS 293.387](#) which must occur not later than the 10th day after the election. The 'canvass' code was a solution to a problem facing the state in the 2020 election cycle, and has been in place ever since. In prior elections, individual counties worked with the state and their vendors to take steps based on their election management system, ensuring that this code was only applied to appropriate individuals; some of those steps did not happen for the PPP.

This was also the culmination of various issues that election administrators at the state and local level have been trying to address for years. The increasingly politicized climate around elections, the number of demands placed on individual clerks and their staff, the turnover of election staff at every level, lack of adequate resourcing for local election offices, and the precarity of the bottom-up system currently in place could each lead to unfortunate outcomes on their own. The fact that Nevada's elections run so smoothly is a testament to the hard work of the clerks and registrars in the face of this adversity.

The solution, as the legislature saw fit to write into law with AB422 in 2021, is moving to a top-down voter registration and election management system. This will take the potential for issues related to data conversion out of the process entirely, while also allowing the state to spot check data and assist counties with troubleshooting. Due to your focus on this subject, and the governor's decision to include \$30 million in one-shot dollars for the VREMS project, our new system will go live before the June 2024 primary election. There is no substitute for a top-down system, and with the support of the counties the VREMS system will alleviate these concerns and many more.

The current voter registration process

Currently, Nevada's bottom-up voter registration systems requires the state to stitch together 17 different files from different systems and combine them into a single statewide file, which we then make available to the public. Bottom-up systems have not been a best practice in the

industry for decades, and there are fewer than 6 states (including Nevada) that currently have a bottom-up voter registration system.

Each night, the counties send a copy of their own voter registration file to the state via secure upload. The state has an automated program that then ‘stitches together’ these files, creating that single statewide voter registration file. The files contain data related to each voter: county voter ID number, name, birth date, and assorted other data. Some of this other data includes ‘vote history’, meaning if a voter voted in any given election, and also by what method.

The code that the counties use related to mail ballots is “MB”. The statewide voter database has been programmed to interpret the “MB” code coming from a county voter file in two different ways based on the date. At any point prior and up until the 10th day after the election, “MB” means that a mail ballot has been sent to the voter. Following the 10th day after the election, the system interprets the “MB” code as meaning “Mail Ballot Counted”. This ‘canvass’ code has been in place for each election since Nevada became a universal vote by mail state in 2020, and was based on feedback from the counties at that time.

In order to ensure the accuracy of the voter file, counties worked with their internal teams and election management vendors to identify a way to remove the “MB” code from voters who were sent a mail ballot but did not return it, surrender it, or vote by another method. Once that ‘clean up’ step was taken at the county level, the ‘canvass’ code would run at the state level and voters would see their vote history updated appropriately: the “Mail Ballot Counted” message for individuals who voted by mail, and no vote history for individuals who did not vote.

Crucially, after this programmatic was put in place the state and counties had little interaction on the matter. Given the many demands on the clerk/registrar’s time, short-staffing, turnover in county offices, etc. it was perhaps unrealistic to expect that the ‘clean up’ step would happen on a regular basis without communication from the Secretary of State’s office.

This election, there were a number of issues related to the voter history data uploaded to the state, and how the state’s system interpreted that data. The technical reasons behind the “MB” code issue varied from county to county, but they all became public upon the execution of the ‘canvass’ code at 12:00am on Saturday, February 19th.

As the election management and voter registration systems are kept separately, and both are currently controlled by the counties, it is impossible for the state to know who actually voted in the election and who did not. As such, inaccurate data would be indistinguishable from accurate data, and the state was unable to pre-emptively identify that there was an issue.

Issues and solutions by county

VOTEC Counties (Churchill, Elko, Esmerelda, Eureka, Humboldt, Lincoln, Lyon, Mineral, Nye, Pershing, Storey, White Pine)

Twelve of Nevada’s counties utilize the VOTEC election management system, VEMACS. The ‘clean up’ step described above was historically accomplished in different ways, even among VOTEC counties; it involved a single setting several menus deep. Once the issue was pinpointed as the presence of the “MB” code, counties were

able to identify and implement a solution and the “MB” code was removed from voters who had not returned their mail ballot.

The state is very grateful to Lisa Lloyd, Lincoln County Clerk, for taking screenshots of the process step by step so that it could be distributed to other counties.

Clark County

Two post-‘canvass code’ files that Clark County sent to the state were in a format that the state system could not read appropriately, and resulted in inaccurate information being displayed on the state site; again, at no point was county data inaccurate. Once these formatting issues were identified, Clark County was able to make an adjustment and move an updated file to our system by 5pm on Monday, February 19th, which was immediately validated and moved into production.

Washoe County

Washoe County maintains their own instance of an election management system, DIMS, that is no longer supported by the vendor. As a result, any changes to statute or regulation can require adjustments to source code that have the potential for error. The Washoe County issue was specific to their instance of DIMS, which made identifying the problem and solution complicated. By 8 pm on Monday, February 19th an accurate file was moved to the Secretary of State, where it was verified and put into production .

Respectfully,

The Office of the Secretary of State

*Memo prepared for Secretary Aguilar by Chief Deputy Gabriel Di Chiara and Deputy for Elections Mark Wlaschin