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Internet Voting

In recent years, the possibility of voters being able to cast a ballot over the Internet has become a topic of intense debate. There is strong interest in Internet voting across the nation, at both the Federal and State level, and within the private sector. As such, many major studies into the feasibility of utilizing the Internet in the electoral process have been conducted. Additionally, enthusiasm for such Internet voting has translated into actual practice in recent years, specifically in Arizona. This report seeks to summarize the major findings of the most relevant studies and summarize the issues surrounding the Arizona experience.

The Federal Election Commission

In most states, voting systems and their software are reviewed against the Federal Election Commission (FEC) guidelines for voting systems (Elliott N.D.). Thus, the FEC's standards for such systems are relevant. Citing the findings of a report by the Internet Policy Institute (see following section), the FEC was led in 2001 "to conclude that controls cannot be developed at the present time to make remote Internet voting sufficiently risk-resistant to be confidently used by election officials and the voting public" (Federal Election Commission 2001). Therefore, the FEC states, no standards can be written specifically for the testing and qualification of Internet voting systems. The FEC considers Internet voting systems to be a "public network direct recording electronic" (DRE) system, and thus, must meet FEC's standards for DRE systems. Additionally, Internet systems must additionally meet requirements specific to systems that integrate certain telecommunications components (Federal Election Commission 2001).

Studies on Internet Voting

Both the Federal Government and State governments have commissioned studies on the feasibility of Internet voting. Their findings are strikingly similar.

The Internet Policy Institute

In 1999, at the direction of the White House, the National Science Foundation (NSF) funded the Internet Policy Institute—an independent, nonprofit research and educational institute—to conduct a workshop and produce a report that would assess the feasibility of Internet voting and define an Internet voting research agenda.

The study, completed in March of 2001, concludes that Internet voting from actual polling sites is likely to be feasible, and could be responsibly fielded within the next several election cycles. The study states that some issues remain to be addressed with this system of voting, yet they appear likely to be resolvable in the short term.

The IPI found that the next step beyond poll site voting would be to deploy 'kiosk' voting terminals in public places. This path toward greater convenience would enable technologists and social scientists to address the many issues that confront the voting process at each level of implementation. The major issue currently surrounding kiosk voting is setting a standard for electronically authenticating voters.

The study finds that Remote Internet voting systems (*i.e.*, voting from one's home computer) pose significant risk to the integrity of the voting process, and should not be fielded for use in public elections until substantial technical and social science issues are addressed. The security risks associated with these systems are both numerous and pervasive, and in many cases cannot be resolved using even the most sophisticated technology today. In addition, many of the social science concerns regarding the effects of remote voting on the electoral process would need to be addressed before any such system could be responsibly deployed (Internet Policy Institute 2001).

Over the past few years, a variety of interests have argued that Internet voting will increase voter participation, particularly among under-represented groups such as youths, the elderly, the disabled and persons abroad. They contend that, by addressing two main obstacles to voting, convenience and mobility, Internet voting will attract new and disaffected voters to exercise this right and privilege. The IPI goes on to state that many social scientists studying the pattern of decline in voter participation believe that it is unwarranted to assume that Internet voting will increase turnout. Previous reforms designed to make voting more convenient have had very little if any effect on turnout levels and virtually none on the composition of the electorate. Reducing further the costs of voting may well pale in significance compared with the extremely low benefits of voting perceived by many nonvoters. Research suggests that information, motivation and mobilization are more powerful forces shaping voting participation than convenience. However, the IPI feels that further research may reveal a greater turnout potential from Internet voting than expected (Internet Policy Institute 2001).

California Secretary of State

In March of 1999, California Secretary of State Bill Jones convened The California Internet Voting Task Force to study the feasibility of using the Internet to conduct elections in California. More than two dozen experts in the field of data security, elections and voter participation were asked to volunteer their time and expertise (California Secretary of State 2000). Although the study was conducted specifically for California, election officials throughout the country were watching for the findings of the California commission to help in their decisions on the issue (Fairley Raney 1999).

The Task Force's findings, released in January of 2000, found that the implementation of Internet voting would allow increased access to the voting process for millions of potential voters

who do not regularly participate in California elections. Yet, there were significant technological threats to the security, integrity and secrecy of Internet ballots, similar to those identified in the IPI report (California Secretary of State 2000).

Yet the task force found that despite these technological challenges, it would be technologically possible to utilize the Internet to develop an additional method of voting that would be at least as secure from vote-tampering as the current absentee ballot process in California; however, it stated that at this time, it would not be legally, practically or fiscally feasible to develop a comprehensive remote Internet voting system that would completely replace the current paper process used for voter registration, voting, and the collection of initiative, referendum and recall petition signatures (California Secretary of State 2000).

To realize the ultimate goal of having a comprehensive remote Internet voting system, the task force recommended a system of a strategy of evolutionary rather than revolutionary change. That is, a phased-in approach to developing an Internet Voting System that will allow election officials and voters the opportunity to identify any possible problems before they occur (California Secretary of State 2000).

This phased-in approach would begin with the use of Internet voting technology in a supervised setting, such as a traditional polling place. In this phase, voters would not yet gain the advantage of voting from any place at any time, but the integrity of the voting and tabulation technology will be verified through the use of Internet Voting Machines. The second phase would eventually allow voters to cast Remote Internet Ballots. The authentication of voter identity would take place with a combination of manual and electronic procedures that would provide at least the same level of security as the existing voting process (California Secretary of State 2000).

For the foreseeable future, however, the California study found that, due to technological, sociological and logistical concerns, Internet Voting should be viewed only as a supplement to, not a replacement of, traditional paper-based voting (California Secretary of State 2000).

The Digital Divide

As noted in the preceding sections, the so-called 'digital-divide'—that is, the trend of certain groups to have less access to information technologies and the Internet—is a serious sociological concern when considering the logistics and feasibility of Internet voting. The government, for its part, has concerned itself with this matter and the U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA) has released a series of reports on the subject, the fourth and most recent of which was published in October of 2000. According to the NTIA, the "Digital Divide" is the concept that the society should not be separated into information haves and information have-nots (U.S. Department of Commerce 2000).

The report measures the extent of digital inclusion by looking at households and individuals that have a computer and an Internet connection. The digital divide is measured by looking at the differences in the shares of each group that is digitally connected. The report also provides data on high-speed access to the Internet, as well as access to the Internet and computers by people with disabilities (U.S. Department of Commerce 2000).

According to the report, the overall level of U.S. digital inclusion is rapidly increasing. The share of households with Internet access soared by 58%, rising from 26.2% in December 1998 to 41.5% in August 2000. Moreover, the report states that this increase is occurring among most groups of Americans, regardless of income, education, race or ethnicity, location, age, or gender. Groups that have traditionally been digital "have-nots" are now making dramatic gains; however, the most recent data show that noticeable divides still exist. The study found divides between those with different levels of income and education, different racial and ethnic groups, old and young, single and dual-parent families, and those with and without disabilities (U.S. Department of Commerce 2000).

Groups Lagging Behind

For some groups, the digital divide is increasing when compared against the national average. That is to say, their rate of internet penetration is not increasing as rapidly as the rest of the nation.

Blacks and Hispanics: There is a significant divide for Blacks and Hispanics when measured against the national average Internet penetration rate. For Black households, the penetration rate was 23.5%, compared to the national average rate of 41.5%, leaving a gap of 18.0 percentage points. That gap is 3.0 percentage points wider than the 15.0 percentage point gap that existed in December 1998.

The Internet divide between Hispanic households and the national average rate was 17.9 percentage points in August 2000 (a 23.6% penetration rate for Hispanic households, compared to 41.5% for households nationally). That gap is 4.3 percentage points wider than the 13.6 percentage point gap that existed in December 1998.

Despite this, Black households are now more than twice as likely to have home access than they were 20 months ago, rising from 11.2% to 23.5%. Hispanic households have also experienced a tremendous growth rate during this period, rising from 12.6% to 23.6% (U.S. Department of Commerce 2000).

Persons with Disability: Persons with a disability are only half as likely to have access to the Internet as those without a disability: 21.6% compared to 42.1%. And while just under 25% of those without a disability have never used a personal computer, close to 60% of those with a disability fall into that category. Among those with a disability, people who have impaired vision and problems with manual dexterity have even lower rates of Internet access and are less likely to use a computer regularly than people with hearing and mobility problems (U.S. Department of Commerce 2000).

For these reasons, the aforementioned studies on the feasibility of internet voting have cited concerns that some votes could become disenfranchised, should certain types of internet voting be adopted before this 'digital divide' is closed.

The Arizona Democratic Primary

Despite such reservations as expressed in both the California and IPI reports, the Arizona Democratic Party conducted its primary over the Internet in 2000, two months after the California Report was released (Fairley Raney 2000). The party hired Election.com, a private company to conduct their election. Internet voting was set for a four-day period: From Tuesday, March 7 through Friday, March 10. On Saturday, March 11, the official primary day, the same Internet system was mounted on public computer terminals that were used in place of traditional voting machines at physical polling places. Paper ballots were also available at these polling places for those who chose to use them (Kantor 2000).

The results of the Arizona primary are noteworthy. Of the state's 843,000 registered Democrats, over 37,000 people cast ballots remotely, 20,000 more used mail-in ballots, and another 20,000 came to the physical polls. This turnout was twice as large as in any other Arizona Democratic primary since 1984, prior to which, Arizonans had held nominating conventions (Kantor 2000). Thus, 39,942 of the votes, fewer than half, actually came through the Internet, either remotely from in polling places, and 46,028—the majority—were cast on paper ballots, most of which were mailed (Ledbetter 2000).

Also worthy of note is the controversy that surrounded the Arizona primary. The Voting Integrity Project (V.I.P.), a nonpartisan, nonprofit group based in Virginia, had objected to the online vote because Internet voters were be allowed to cast ballots from home for 24 hours a day from March 7 through March 10, whereas voters who went to polling places were allowed to vote only on March 11 (Fairley Raney 2000a). Moreover, the V.I.P. charged that disparities in access between white voters and minority voters – specifically ability to access the Internet, the so-called ‘digital divide’ – would weight the results toward white voters' preferences (see following section).

Seeking a preliminary injunction to cancel the election, the V.I.P. brought suit on behalf of Lu Bain Jr. and Olivia Lizarraga-Bussey, two minority voters on January 21, 2000, a month and a half before the primary was to have taken place (Thomsen 2000). According to the Tim Casey, the Phoenix election lawyer who filed the case, the overall objective of the lawsuit was to slow down the speed at which Internet voting happens. "We're asking the federal government to stop, look and listen before letting Internet voting go forward," Casey said (Fairley Raney 2000a). The Arizona Democratic Party claimed that the V.I.P. was playing partisan politics, accusing the V.I.P.'s director of associating closely with conservatives like Pat Buchanan whom they accuse of being anathema to the idea of increased voter participation in communities who typically support Democrats (Burke 2000).

On February 29, Judge Paul G. Rosenblatt of United States District in Phoenix denied the V.I.P.'s motion for a preliminary injunction. Judge Rosenblatt allowed the election to proceed with the caveat that the court might have to set aside the election if the numbers showed disproportionate participation by white voters with Internet access. Judge Rosenblatt said that the Voting Integrity Project had failed to prove that the divide would cause irreparable harm in that particular election (Fairley Raney 2000b).

Following the election, Marty Harper, general counsel for the Arizona party, said two experts' analyses of the turnout showed no pattern of discrimination. Though the V.I.P. initially pledged to appeal, they later decided not to. The Arizona Democrats and the V.I.P. ended up settling out of court in April of 2001, the terms of which were left undisclosed. "This turned out to be a very cooperative effort between our clients and the Democratic Party," Casey stated (Associated Press 2001)

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