



DENISE MERRILL

SECRETARY OF THE STATE
CONNECTICUT

**Veterans' Affairs Committee
Public Hearing Testimony
February 19, 2013**

Good afternoon Senator Leone, Representative Hennessy and members of the Veteran's Committee, my name is James Spallone and I am Deputy Secretary of the State.

Thank you for allowing me the opportunity to share my thoughts with you. Today, I offer testimony on Senate Bill 647, "An Act Concerning Voting by Members of the Military Serving Overseas." Like you, Secretary Merrill wants to make voting accessible, simple and reliable for military voters. After all, our residents who have volunteered to serve their nation and state in the armed forces are helping protect and preserve our rights as Americans.

However, Secretary Merrill has some concerns about the way this bill addresses our shared goal. Specifically, we have concerns about precedents it may set regarding the secret ballot and the vulnerability of electronic systems to corruption of the voting process. There may be better ways to address the issue of ensuring military voters have the opportunity to vote and have their votes counted. Every new idea that affects elections must always weigh two competing interests against one another. The interest of ensuring that the ballot is easy to cast and accessible, and the potential to have our process and its integrity compromised.

First, let us understand the basics of this issue. Connecticut, because of its dedication to its military population, requires an absentee ballot to be available 90 days in advance of Election Day. This is the longest timeline in the nation. We also allow for the use of email communication to request a ballot or an application for a ballot. We also allow for the *blank ballot* to be *electronically transmitted* to the military voter.

What our law does not allow for is the return of the marked ballot electronically. It needs to be printed and mailed to the town clerk. For several years now the Overseas Voting Foundation has surveyed military and overseas voters to measure their participation and evaluate ways to better serve this population of eligible voters. They found that military voters' awareness of elections is much like the general population's experience. That is to say, military voters are unaware of bureaucratic deadlines, and often do not pay attention to campaigns or elections until very late in the process. Also, like the general public, participation ebbs and flows based on the type of election year (Presidential, municipal, statewide). Like the general population, many of the young people in military service are not registered to vote. If they start the registration process late they will, naturally, receive their ballot late, and may be left with little time to return it. This is the same experience that college students often have. These findings suggest that a national solution may be much more effective at addressing this problem with compromising the elections system.

Perhaps the lesson to be learned here is that the military units should do some sort of internal communication early-on with servicemen and women so that this could be avoided. Of course, these deadlines vary from state to state and that makes it difficult to assist their soldiers. Our staff is willing to work with the Military Department to provide information, materials and suggestions for implementing an educational program. Just last fall, a commander of a Connecticut unit that was being deployed out of state contacted our office for information on how to ensure that those serving under him could vote.

This session, our office is working with the CT Bar Association to tailor a bill for Connecticut called the Uniform Military and Overseas Voters Act (UMOVA). We hope that we will be successful and that this bill might be before your committee this session.

As many of you will know, our office is currently working to build an online voter registration system which will also help to streamline the process of enrolling as a voter. This will be operational as of January 2014 and will also help mitigate the timeline challenges for military voters.

The Overseas Voting Foundation's survey also found that there has been steady progress in voter participation among the military voting population. I think we can interpret from this that we are on the right path now.

We are concerned about the bill's proposal for the following reasons:

First, to allow someone to return their voted by fax or email would violate the principle of the secret ballot. States that have implemented this process have enacted policies to require voters casting their ballots by email or fax to waive their right to a

secret ballot. This is a serious concern. The secret ballot was a major reform of the 19th century that was hard won. Would this waiver create an atmosphere that promoted vote selling or voter intimidation? Would these waivers, or worse – these ballots, become disclose-able to the public under freedom of information laws?

Second, we need to recognize that a free-standing fax machine with a dedicated hardwired phone line is pretty much a thing of the past. When we talk about faxes, especially in mobile office environments, we really mean scanning or imaging technology and email delivery systems. This may come out as a printed piece of paper in your town clerk's office, but it could have originated or traveled as an email and could just as well be printed from your laser printer. I mention this because most of us have had our email hacked from time to time. And, if you are maximizing the use of email in our elections, you are then maximizing the impact of that technology's vulnerabilities in our elections.

In fact, the plain truth is that the US has the highest number of online cyber threats with 35% of them aimed at citizens in the US. The US was also the country that hosted the most attacks, with 60% of phishing actions originating here. Every day the Pentagon receives over 6 million hacking and security threats a day. It is not realistic to feel secure with a simple Hotmail account.

The bill also does not address the need for secure receipt of a voted ballot by fax. For example, where is the fax machine located? It may not be, as you assume, in the Town Clerk's office. It may be in a common area, or the office of the Mayor. The fax may also be unattended when the ballot is received, perhaps in the middle of the night or during the 16 hours of the day that are not normal business hours, for someone to view or discard. Also, faxes can be jammed by something as simple as an automated robo-call. Who will be held responsible if someone is disenfranchised in any of these ways? You can hack an email. You can jam a fax machine. You cannot flood the post office to the point that it is non-functional.

As the Uniform Law Commission itself noted in a comment to UMOVA, "no consensus yet exists on the question of whether and how electronic voting can occur securely and privately." Upon adoption of the optical scan voting machines we elected not to utilize the machine's capability to electronically transmit the vote counts of each machine. This policy was the result of a thorough evaluation of the pros and cons. On the positive side, it would have provided quick information to the public, but on the negative side it also provided an opportunity to change the outcome. As much as I embrace the adoption of new technology in elections I believe it was the right choice.

Last, I would emphasize that this kind of policy assumes that all people involved have access to the same basic technology and technical support. There have been, on occasion, blank ballots transmitted to overseas and military voters that have ended up in

SPAM folders, for example. The more we use this kind of technology the more we will need to dedicate resources to resolve these kinds of glitches for both the sender and the receiver.

I want to thank you for considering the unique challenges that these voters face in exercising their democratic rights. The Office of the Secretary of the State is available as a resource to members of the committee and others interested in improving the voting experience for military voters. Thank you.