STATE OF COLORADO
Department of State

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December 14th, 2020

The Honorable Lori Saine
Chair, Legislative Audit Committee
Colorado General Assembly
State Capitol
200 E. Colfax Ave.
Denver, Colorado 80203

RE: Legislative Audit Committee Hearing on Election Integrity

Dear Chair Saine and Members of the Committee:

I. Introduction

Colorado elections are among the most secure in the nation, and the 2020 presidential election was the most secure election to date. The Secretary of State's office and the State of Colorado spent years, spanning several administrations—led by secretaries from both major political parties—working to increase election security through statutory changes, rule updates, and process improvements. As a result, Colorado has a secure, transparent, and resilient election model, which is the envy of most states.

Many of Colorado's elected leaders—particularly the elected county clerks and recorders, as well as state elected officials—past and present, from both parties, continue to affirm the security and transparency of Colorado's voting system. Some of those individuals will be testifying before this very committee; on December 2, 2020, Congressman Ken Buck held a public event to defend the integrity of Colorado's election system, telling participants, "I think it's so important for us to understand that our votes are not being manipulated.[1] Another witness, Chuck Broerman, El Paso County Clerk and Recorder, stated "We are considered the gold standard. Everybody wants to be like Colorado. And that goes from the execution of our elections to the products and the vendors that we use in that process."[2]

Colorado's clerks and recorders and their election officials, in partnership with the State, run secure, transparent elections of which our voters can be confident and proud. This letter outlines the

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[1] Three Republican county clerks also attended this event on election security with Congressman Ken Buck. *Available at* https://www.denverpost.com/2020/12/03/ken-buck-election-colorado-republicans/.In a recent statement, Speaker Becker noted, Colorado "runs among the safest and most secure elections in the country, and the results of the election are beyond doubt." *Available at* https://www.coloradopolitics.com/denver-gazette/house-gop-members-seek-audit-of-dominion-rejected-by-speaker-becker/article_81547bfe-396b-11eb-93d3-9fe80325ce01.html.

[2] *Available at* https://www.cpr.org/2020/12/03/as-trump-continues-to-attack-election-integrity-colorado-gop-wants-members-to-trust-colorados-system/.

measures Colorado takes each election to secure our elections from the moment a voting system vendor is selected to the conclusion of the election.

II. Responses to Committee Press Release

While the December 9, 2020 invitation did not reference Dominion Voting Systems, a news release on this issue reference lawmakers "concerns surrounding Dominion voting." The Secretary of State's office undertakes many procedures to safely certify and implement all voting systems, as detailed in this letter.

Dominion software has been used broadly in Colorado since 2015. Dominion hardware and software, under a previous set of contracts, was used by several Colorado counties as far back as the 1990s. Importantly, no evidence of wrongdoing has been presented against Dominion concerning its use and performance in this election or any other. Furthermore, there is no evidence that the Dominion Voting software operated in this election anyway other than flawlessly – as demonstrated by Colorado's post-election risk-limiting audit, outlined below. In fact, all Colorado voting systems are constantly tested through our state's audit procedures.[3] Since the implementation of the Risk-Limiting Audit, Dominion Systems have been successfully tested over 800 times.

Dominion Voting equipment is now used in 62 of the 64 Colorado counties, as a result of recommendations made by the bipartisan Uniform Voting System Advisory Committee and Public Participation Panel.[4] The equipment meets certification standards as determined by the Election Assistance Commission before its use. Further, system updates are tested by the federally accredited Voting Systems Test Lab and reviewed by Colorado Department of State's career staff prior to being approved for use in Colorado, and are again acceptance-tested by county officials when updates are installed on the equipment by Secretary of State career staff. County staff and bipartisan judges also conduct Logic and Accuracy testing prior to each election, as well as a risk-limiting audit that proves to a high statistical degree of confidence the accuracy of election results.

III. Background Information on Colorado Election Security and Transparency

To assist the Committee, the following sections provide important background information on: (1) protection of voting systems; (2) protection of ballots; (3) ensuring voter identity; and (4) protection the accuracy of election outcomes. This is a high-level summary of the laws, rules, and processes in place to secure Colorado elections. Each step in the process is another check to ensure that every election is fair and represents the will of Colorado voters.

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[3] C.R.S. 1-7-509 and 1-7-515; 8 C.C.R. 1505-1 §§ 11.2, 25.2
[4]"Uniform Voting System Advisory Committee Recommendation to the Secretary of State" *Available at* https://www.sos.state.co.us/pubs/elections/VotingSystems/files/2014/20140207UVSACRecommendation.pdf; "Recommendations of the Uniform Voting System Public Participation Panel on Proceeding with the Uniform Voting System Process" *Available at* https://www.sos.state.co.us/pubs/elections/VotingSystems/files/2014/20140203PPP-UVSRecommendationMemo.pdf

A. *Protection of Voting Systems*

All voting systems are tested and certified before use. In Colorado, voting systems are tested and certified in compliance with federal voting systems standards for both state and federal elections.[5] Colorado adds specific requirements in addition to the federal standards.[6] Certification requires a vendor to include technical data package and a test plan that addresses all of the requirements.[7] After the Secretary of State approves the test plan, the federally accredited Voting Systems Test Lab conducts testing, including a review of 938 requirements, an application penetration test to identify potential vulnerabilities, and a source code evaluation.[8] When the testing is complete, Department staff evaluate the documentation to identify additional testing that may be needed before recommending certification. Any upgrade or changes to these systems must be certified in the same manner. Upon completion of this process, the final version of the software is the "Trusted Build" for that certification designation.

Specific software for voting systems is similarly vetted. The process of installing the certified version of the source code – the Trusted Build – is performed by Department staff following specific security measures to establish a chain of custody evidence that the trusted build is installed and unaltered.[9] The county maintains the chain of custody after the build is installed by sealing the key access points of the physical equipment and maintaining a seal log throughout the life of the equipment. The Secretary of State's office maintains secure custody of the certified software throughout the life of the system certification. Pursuant to Secretary of State rules, no person other than a Secretary of State staff member may install, change, or even possess the trusted build program before installation.[10] It is very important to understand that neither a county nor a vendor (including Dominion Voting) may install the trusted build software. In fact, only career employees of the Secretary of State's office have ever installed voting system software since Colorado entered into a contract with Dominion Voting. Additionally, Department staff issue mandatory Conditions of Use for certified voting systems to mitigate any deficiencies found in testing. [11]

Bipartisan Logic and Accuracy Tests are conducted on every piece of voting equipment prior to every election. The Bipartisan Logic and Accuracy Tests ("LATs") require that a bipartisan county testing board marks test ballots in every possible combination of marks and then scans those documents to make sure the scanning software is properly tabulating each ballot.[12] This process ensures that the ballot scanners record votes accurately and that the ballot marking devices mark the ballots as the voter intended. The testing board—comprised of one registered elector from each major party —verifies that the scanned results match the actual ballots marked for the equipment to be approved for use. Following the test, the county may

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[5] C.R.S. Article 5, parts 5-7; 8 C.C.R. 1505-1 § 21
[6] C.R.S. Article 5 parts 5-7; 8 C.C.R. 1505-1 § 21
[7] 8 C.C.C. 1505-1 § 21.2
[8] 42 U.S.C. § 15371(b), 231(b)
[9] 8 C.C.R 1505-1 § 21; "Voting Systems Trusted Build Procedures" *Available at*
https://www.sos.state.co.us/pubs/elections/VotingSystems/files/trustedBuildProcedures.pdf
[10] 8 C.C.R 1505-1 §§ 1.1.43, 20, 21
[11] C.R.S. 1-50608.5(3)(b); "Conditions of Use for Dominion Voting System's Democracy Suite ® 5.11-CO Voting System *Available at* https://www.sos.state.co.us/pubs/elections/VotingSystems/DVS-DemocracySuite511/documentation/DominionDS511ConditionsOfUse.pdf;
[12] C.R.S. 1-7-509(2)(a)

not change the programming of any device before the election, pursuant to state law.[13] If any component of equipment is changed after the LAT, a new version of the Trusted Build software is installed by a member of the Secretary of State's career staff and the same testing board conducts another LAT on that piece of equipment before the election.[14]

The voting system is secured from tampering through multiple safeguards. Voting systems are never connected to and cannot be accessed through the Internet because Wi-Fi and Bluetooth capability are stripped from the unit before use and all other connective technology is disabled by the Trusted Build.[15] There are tamper evident seals on all voting equipment. The locations where the seals are placed is specified in rule,[16] and a bipartisan panel of judges reviews and confirm all seals before equipment is used. Passwords for voting systems are regularly changed and are required to be sufficiently complex.[17] Voting system providers are not granted administrative or user access to a county's election management system. All of these requirements are subject to inspection by classified career staff at the Secretary of State's office.[18]

B. *Protection of Ballots*

Extensive security measures are in place to protect both voting equipment and ballots in all Colorado elections. The first, and most important security measure in our election system is that every mail ballot and every in-person ballot are cast on paper. Colorado does not use direct record electronic (DRE) voting systems, voting systems that record votes electronically, nor any other non-paper form of voting. This is the foundation of Colorado's resilient model, which ensures that ballots cannot be manipulated by cyber-attack and enables risk-limiting audits. As for the equipment and software used in Colorado, statute and rules require that county clerks employ multiple security measures for ballots, tabulation and adjudication machines, and other equipment used during the election.

County clerks maintain physical security of rooms where election management activity occurs. Security measures include security locks on entry points that are changed every year. Entrance to these areas is limited to employees and judges who have passed background checks, and all entries and exits into these rooms are logged.[19] Pursuant to rule, these rooms are required to be under 24-hour surveillance beginning 60 days before the election through the conclusion of election activities.[20]

Bipartisan personnel maintain a chain of custody for all voting equipment. When in-person ballots, mail ballots, or voting equipment are moved between locations in a county, the materials or equipment are transported in sealed containers or with appropriate seals on the equipment.[21] A chain of custody log is employed to ensure the seals are available to review. All

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[13] 8 C.C.R. 1505-1 § 11.3.2 (c)(2)
[14] 8 C.C.R. 1505-1 §§ 11.3.2(e)(1-5)_
[15] 8 C.C.R. 1505-1 §§ 20.6, 20.8, 21.4.10 (d)(3)
[16] 8 C.C.R. 1505-1 §§ 20.4, 20.10.1
[17] 8 C.C.R. 1505-1 § 20.6.1
[18] 8 C.C.R. 1505-1 § 20.3.1
[19] 8 C.C.R. 1505-1 § 20.5
[20] 8 C.C.R. 1505-1 § 20.9
[21] 8 C.C.R 1505-1 § 20.11,

seals must remain intact throughout the transportation process. Transportation of ballots is always done by a bipartisan team. The chain of custody documentation is retained by the county and is subject to inspection by career staff at the Secretary of State's office.[22]

All ballots are paper ballots. The Colorado's election model is built primarily on the use of mail ballots which, by definition, are paper ballots. In the 2020 Presidential election, 94% of all votes cast were by mail ballot, which are sent directly to the voters. In-person voting also results in a paper ballot. When voting in person, a voter will either be offered a paper ballot to mark by hand or vote on a ballot marking device. The ballot marking device is an electronic version of the ballot, but once the voter has finished voting the ballot, the voter prints that ballot, can see their choice of candidates, and carries it to the ballot box. The use of these paper ballots ensures the integrity of the election and accurate audits, as explained below.

Process to protect ballot integrity and ensure accurate audits. Once ballots are received by county clerks at the county central count facilities, they are processed and retained to ensure the integrity of the count.[23] Following signature verification, ballots are removed from their envelopes, batched, and scanned in uniform groups. These batches are maintained in a specific order after scanning to conduct the risk-limiting audit, before being placed in containers under seal.[24] Maintaining ballots in batches allows judges to retrieve specific ballots for review during the post-election risk-limiting audit. All of these activities are undertaken in the presence of surveillance cameras with bipartisan teams of judges, and with watchers appointed by parties and candidates, observing the process.

C. Ensuring the Identity of the Voter

Before a Colorado ballot is processed, a voter's identity and eligibility are confirmed. For most Colorado voters who choose to vote a mail ballot, this is done through use of signature verification. For Coloradans who choose to vote in person, this is done by examination of a qualifying form of identification when the voter checks in at the voter service and polling center.[25]

Colorado's signature verification system is thorough. Upon receipt of a ballot, signatures that appear on mail ballot envelopes are compared to signatures on file for each Colorado voter. If the comparison finds a match, then the corresponding ballot is moved on to tabulation. Signatures that do not achieve a match upon first review move to second level of review, requiring a bipartisan team of election judges. The bipartisan team determines whether the signature should be accepted or rejected, based on well-defined criteria initially implemented under Secretary of State Scott Gessler.[26] A ballot rejected for a signature discrepancy may be "cured" by the voter who submitted it by returning a signed form and acceptable identification to the county clerk or through the Text2Cure program. County clerks are required to send ballots that are not cured to the local district attorney for investigation.[27]

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[22] 8 C.C.R. § 20.3
[23] C.R.S. 1-7-802; 8 C.C.R. 1505-1 §§ 7.5.2, 20.11, 25.2(d)
[24] 8 C.C.R. 1505-1 25.2(d)
[25] C.R.S. 1-7-110
[26] C.R.S. 1-7.5-107.3; 8 C.C.R. 1505-1 §7.8; Secretary of State Signature Verification Guide
[27] C.R.S. 1-7.5-107.3(2)(a)

Colorado requires identification to confirm in-person voter identity. For a voter that opts to vote in-person, once they enter a polling place an ID is provided by the voter. Election judges confirm the identification and permit the voter to cast their ballot either by marking by hand or by using a ballot marking device that produces a paper ballot that the voter may review before submitting for counting. Every voter service and polling center has at least one ballot marking device to comply with the ADA.[28]

Only one ballot per voter is accepted for counting. Colorado's statewide voter registration and election management system only accepts one ballot per voter. There are occasions where a voter might receive more than one ballot. For instance, if a voter is mailed a ballot but then votes in person, the mail ballot is voided and will not be counted, even if it is later received by the county. Or if a voter moves, and a replacement ballot is mailed, the first ballot won't be counted unless the second ballot is not received. Voters who attempt to vote twice in any election are referred by the county clerk to the local district attorney or referred to the Attorney General for investigation.[29]

D. *Protecting the Accuracy of the Election Through Post-Election Audits*

Following each election, Colorado conducts a statewide risk-limiting audit. The statewide risk-limiting audit is conducted to deliver a statistical level of confidence that the outcomes of the election are accurate. Following Election Day, the Secretary of State selects at least one statewide contest and at least one contest in each county as the target races.[30] The Secretary selects the target races to ensure that the audit reaches a sufficient number of races and ballots. The Secretary prioritizes, with input from career staff and county clerks, prominent races with narrow outcomes to ensure that each county must review a sizable number of ballots during the audit. Once the target races are selected, every county then uploads two files to the risk-limiting audit software—the ballot manifest, which tracks how and where every ballot is stored, and the cast vote record file. The Secretary of State's office then convenes a public meeting to set a random seed (series of 20 numbers determine by dice roll), which is input into an audit algorithm that ultimately determines the ballots to be audited.[31] The software used to conduct the risk-limiting audit was created and coded by contractors and Secretary of State career staff, and is made available for public review. The code is completely separate from any other voting equipment software or manufacturer.

The statewide-risk limiting audit is conducted by bipartisan election judges. First, the judges must use the list generated by the software to identify the ballots and where those can be located. Each ballot is pulled for audit. During this process, the judges maintain strict chain of custody of all ballots. Then the judges review the ballot and enter the voter's selections for each contest into the audit software. After judges finish auditing all the selected ballots, the software compares how the judges recorded the voters' choices to the cast vote record file. There are

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[28] C.R.S. 1-5-705
[29] C.R.S. 1-2-305
[30] C.R.S. 1-7-515; 8 C.C.R. § 25.2.2(j)
[31] C.R.S. 1-7-515; 8 C.C.R. § 25.2.2(i)

rarely discrepancies during this analysis, but when there are, the audit judges audit even more ballots until the risk limit is met.[32]

No Colorado election has ever failed the statewide risk-limiting audit. Colorado has conducted statewide risk-limiting audits in every state and federal election since the 2017 coordinated election. In each of these elections, the risk limit has been met, thereby assuring the election's accuracy. This means that the outcomes in every state and federal election, including the 2020 presidential election, was confirmed with statistical confidence using the risk-limiting audit procedures. Following the audit, Secretary of State staff research every reported discrepancy. In the seven audits conducted since 2017, our office has yet to identify a single instance where the voting system inaccurately recorded a vote. In every case, audit errors were either human error during adjudication or human error during the audit.

Every election is certified by bipartisan representatives. Following the completion of the risk-limiting audit, representatives from the Republican and Democratic parties meet to certify the election results in each county. This process involves bipartisan canvass boards, required by statute to account and balance the election results, reconcile the number of ballots counted to the number of ballots cast, and reconcile the number of ballots cast to the number of voters who voted.[33] If the difference between the highest number of votes cast and the next highest number of votes cast is less than 0.05% in any contest, or if otherwise requested and paid for by an interested party, the county will conduct a recount of the contest.[34] A recount is conducted methodically, maintaining strict chain of custody.[35] The board re-scans the ballots, adjudicating both over-votes and under-votes. Then re-canvasses the final results.[36] In every state recount conducted since 2010, there has never been a significant change in the outcome of a race.

IV. Responses to Committee Questions

The Secretary of State's office received questions from two committee members, Chair Saine and Senator Lundeen. These questions and answers follow below.

Senator Lundeen's Questions
1. Election software audit – *Discussed in Section III(A).*
2. Please define the certification process of voting systems – *Discussed in Section III(A).*
3. Provide the details of the examination process of the Election management software code used by Clear Ballot and Dominion – *Discussed in Section III(A).*
4. Please describe the Trusted build process – *Discussed in Section III(A).*
5. Describe the Risk Limiting Audit process and how it demonstrates confidence in Colorado's Election process – *Discussed in Section III(D).*
6. ERIC mailing purpose – *Under Colorado's contract with Electronic Registration Information Center (ERIC), the Secretary of State is required to send a mailing inviting potentially eligible but unregistered Coloradans to register to vote at least once an election cycle (two years). Thirty*

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[32] C.R.S. 1-7-515; 8 C.C.R. § 25.2.3(c)
[33] C.R.S. Article 10; 8 C.C.R. §§ 10.1-108
[34] C.R.S. Article 10.5; 8 C.C.R. §§ 10.9-10.14
[35] 8 C.C.R. §§ 10.13.2, 10.10.13.8
[36] C.R.S. Article 10.5; 8 C.C.R. §§ 10.9-10.14

states, plus the District of Columbia, are members of ERIC. See here: https://ericstates.org/who-we-are/. Each state and DC are similarly required to invite potentially eligible but unregistered citizens to register to vote.

7. History around of the ERIC mailing – *Colorado joined ERIC in 2012 under then-Secretary Scott Gessler and continued its membership under Secretary Wayne Williams. Secretary Gessler conducted the mailings in 2012 and 2014. Secretary Williams conducted the mailing in 2016 and 2018.*

8. How did you determine who this mailing was sent to? – *ERIC takes the list of all Coloradans with a driver's license and removes those on the list who are registered to vote. Those remaining are checked to confirm that they are not on the state or federal deceased lists, reside at a group home, incarcerated for a felony, nor showed a noncitizen credential when they applied for a driver's license.*

9. Is the mailing list of the ERIC mailing public record? - *No*

10. Explain the meaning of potentially eligible voters with respect to the ERIC mailing? –*A potentially eligible voter can register to vote and vote in a general election overseen by the Secretary of State's office if they live in Colorado for 22 days before the next election, are a U.S. citizen, at least 18 years of age, and are not incarcerated for a felony.*

11. Could we get a detail report of CARES Act funding by the Secretary of State office? What was it spent on? – *The State of Colorado had approximately $8M in CARES Act funding and state match to use to prevent and mitigate COVID-19 in 2020 federal elections. Any complete reporting on funds spent can only be finished once all grant reimbursements to counties are finalized.*

12. CARES funding spent on advertising? – *A portion of the CARES Act funds was spent to inform voters about the upcoming election, how to vote in that election, ways to prevent COVID-19 transmission during the election in both English and Spanish languages, and to counter foreign disinformation about the electoral process. More Coloradans voted in the 2020 General Election, even in pandemic conditions, than in any previous election in state history.*

13. How much was spent on commercials during your appearance on Meet the Press and CNN? – *No funds were spent on commercials to coincide with Meet the Press or CNN appearances. See above answer for further context.*

14. Any CARES act funding for counties to spend on voter outreach and voter education? – *Voter education and outreach were done on a statewide basis to reach all voters, and to avoid disallowances of expenses due to failure to follow specific complex requirements and procedures outlined verbally and in writing by the U.S. Elections Assistance Commission.*

15. Was there any direct funding for counties for cyber security? Why or why not? – *At counties' requests, there was an upgrade to the Statewide Voter Registration System. Technology upgrades were also provided to Weld county, Boulder county, and Elbert county using CARES funds. Funding county cyber security upgrades in and of themselves are not an allowable use of CARES funding; the funding had to be used to mitigate the effect of COVID-19 in 2020 federal elections.*

16. Are not small counties potentially the weakest link? – *All 64 counties in Colorado are equally important in ensuring that our state conducts safe, secure and fair elections.*

Representative Saine's Questions:
1. What examples can you provide of any problems the SOS office has experienced with the centralized statewide voter registration system? – *Colorado experienced no problems with the statewide voter registration system in the 2020 General Election (or any other election this year).*

2. What examples can you provide of any death, felonies, DMV changes, or address changes that were not detected and updated in the statewide voter registration list through the SOS data matches? – *None.*
3. Does the SOS office provide conditions of use for electronic and electromechanical voting systems? – *Yes.*
4. Would you please describe the SOS certification process for the conduct of elections? – *Discussed in Section IV(A) below.*
5. The SOS office is charged with developing a uniform administrative complaint procedure. Can you describe this procedure and any examples of its use? – *On the Secretary of State's website there is a page entitled "Election Complaint Process" at* https://www.sos.state.co.us/pubs/elections/HAVA/electionComplaintProcess.html*. It describes how to file an election complaint.*

V. Conclusion from Secretary Griswold

In closing, it is very unfortunate that election security has become politicized, especially in Colorado, which by every measure conducts fair and secure elections. Claims to the contrary are misinformation – plain and simple. We must reject misinformation and embrace facts: Colorado's elections are universally praised and considered the gold standard for U.S. elections. Colorado elections involve multiple checks, audits, and security measures to ensure voter confidence. In fact, I was recently informed that our Elections Director, Judd Choate, and our Chief Information Officer, Trevor Timmons, will be receiving an award from the United States Attorney for Colorado, who is appointed by President Trump, for their outstanding work in election security. This is just one example of the outstanding work performed by my staff.

When I was sworn into office, I committed to working every day to ensure Colorado continues to be the gold standard in elections, and to ensure that every eligible Coloradan can have their voice heard in our elections. I am proud of the work of my office to accomplish this goal. Colorado voters should have confidence in the outcome of our state and federal elections. I hope this committee's work will serve to improve voter confidence; because to do otherwise is to undercut the extraordinary efforts of Colorado's bipartisan county clerks and secretaries of state, and the tremendous contributions of legislators on both sides of the aisle who wrote the laws that make our elections the envy of the nation.

Thank you for the opportunity to submit my comments to the Committee.

Sincerely,

/s/ Jena Griswold   /s/ Judd Choate

Jena Griswold   Judd Choate
Secretary of State   Director, Division of Elections