



Written by [Michael Tennant](#) on February 21, 2017

State Officials Formally Oppose DHS' Potential Takeover of Elections

An organization of state officials continues to voice its opposition to an Obama administration decision that could result in the federalization of elections — and its concern that the Trump administration may leave states in the lurch.

According to the [Daily Caller](#), “The National Association of Secretaries of State (NASS), which includes officials from all 50 states and U.S. territories, appealed to President Donald Trump in a resolution approved Saturday at the group’s winter meeting to overturn the Obama policy, but doing so may encounter unexpected resistance from the new administration.”

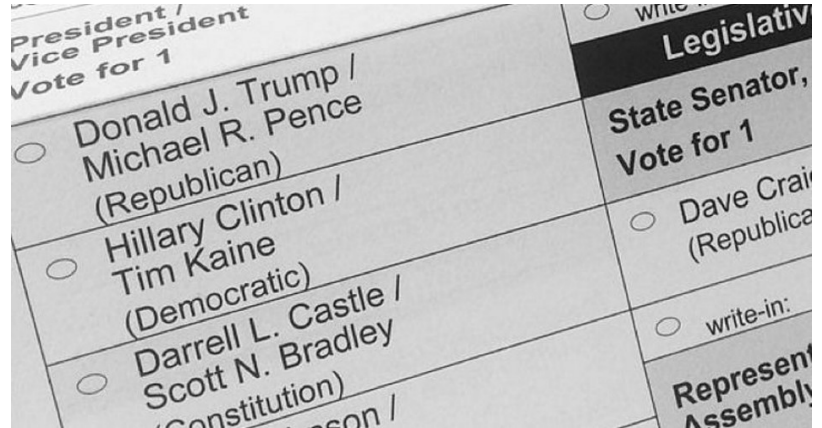
On January 6, just two weeks before leaving office, then-Homeland Security Secretary Jeh Johnson [announced](#) that he was designating the nation’s electoral systems “critical infrastructure.” The move would enable the Department of Homeland Security (DHS) “to prioritize our cybersecurity assistance to state and local election officials” and make “clear both domestically and internationally that election infrastructure enjoys all the benefits and protections of critical infrastructure that the U.S. government has to offer,” Johnson said in a press release.

Johnson’s announcement coincided with the release of a report from the intelligence community alleging that Russia had interfered with last fall’s elections. The report, however, stated that Russia had not tampered with “vote tallying,” a fact that NASS noted in a January 9 [statement](#), saying, “No credible evidence of hacking, including attempted hacking of voting machines or vote counting, was ever presented or discovered in any state.”

NASS formally declared its opposition to Johnson’s decision Saturday when it passed, by voice vote, a resolution saying it “opposes the designation of elections as critical infrastructure.” NASS members include 33 Republicans, 21 Democrats, and one independent.

“I do not see this as a partisan issue,” Connecticut Secretary of State Denise Merrill (D), the current NASS president, told the Daily Caller. “I think this is a question of election administration and where that appropriately belongs, what kind of oversight should come from the federal government. Because it is seen by most of us as a state function.”

From a constitutional perspective, elections are undeniably a state function. Yet Johnson’s press release said his designation covers “storage facilities, polling places, and centralized vote tabulations locations used to support the election process, and information and communications technology to include voter registration databases, voting machines, and other systems to manage the election process and report and display results on behalf of state and local governments,” a list that includes almost the entire electoral process.





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“It’s a broad new role for the federal government,” Merrill said during a Friday panel discussion on cybersecurity, according to [FCW.com](#).

While Johnson denied that his decision meant “a federal takeover, regulation, oversight or intrusion concerning elections in this country,” NASS is not so sure. “We have concerns about where it could go,” said Merrill.

Some of those concerns could perhaps be allayed if the DHS were to respond to NASS’ requests for written guidance on what the policy means. Merrill said they’ve been asking for this information since Johnson’s announcement but haven’t received a response. “We were continually asking them ‘what does this mean, what will it cover, what are the implications?’ And we sort of never got anything back,” she told the Daily Caller.

Louisiana Secretary of State Tom Schedler (R), Merrill’s immediate predecessor as NASS president, told the conservative website much the same story. “The biggest difficulty was the stonewalling from the previous administration,” he said. “They just don’t seem to give us any answers to our repeated requests.”

But he added an even more worrisome detail, wrote the Daily Caller: “He said Trump administration officials have also not been forthcoming about the meaning of the designation.”

In fact, Trump’s Homeland Security chief, General John Kelly (Ret.), appears to have changed his position on the designation since assuming his post. During his Senate confirmation hearing, Kelly said he opposed the move; but on February 7, he told the House Homeland Security Committee, “I would argue that, yes, we should keep that [designation] in place.”

“Members of NASS appeared undaunted by Kelly’s retreat,” reported the Daily Caller, “with Merrill saying of the resolution, ‘this is a pretty strong statement from this organization and I know there are members who have contacts in the administration.’” Others, including Indiana Secretary of State Connie Lawson (R) and Georgia Secretary of State Brian Kemp (R), also expressed a belief that the Trump administration would be more receptive to their entreaties. (The Trump DHS is investigating the source of hacking attempts against Georgia’s voter-registration database that were traced to one of the department’s computers.) Schedler said the group hopes to meet with Kelly and Vice President Mike Pence, adding that he’s “not quite sure [Kelly] has studied the issue in depth.”

During the panel discussion, Neil Jenkins, DHS chief of policy and planning, “said DHS is looking to start a wider dialogue ahead of the next election in hopes of sparking use of its cybersecurity scanning capabilities and expertise,” wrote FCW.

State officials aren’t convinced that they need DHS’ “expertise.” Merrill said she gets the best cybersecurity information from her state’s Information Technology department, which is already using the same technology as DHS.

Furthermore, she maintained, getting the federal government involved could end up compromising, rather than securing, elections. For one thing, noted FCW, “sharing data with DHS on possible intrusions could open up sensitive data to the federal government,” an entity that hardly has a stellar cybersecurity record. For another, the decentralization of elections, combined with the fact that election machines are not connected to the Internet, makes them much less susceptible to large-scale cyberattacks.

“I can’t say this often enough. The election equipment that actually tallies the results of elections are



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not connected to the Internet,” Merrill told the Daily Caller. “And so, it’s hard to see what the cybersecurity is going to address.”

That, of course, suggests that cybersecurity was never the point of Johnson’s designation but was merely a fig leaf to cover a naked power grab. The question now is whether the Trump administration is willing to let go of the reins.



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