



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Wednesday, March 31, 2021

Video and Teleconference

Videoconference:

<https://covaconf.webex.com/covaconf/j.php?MTID=mff9f281646b74dea02525f343eb3a37e>

Meeting password: *RbPmmhJp233*

Teleconference:

1-517-466-2023 US Toll

1-866-692-4530 US Toll-Free

Access Code: 178 522 9256

Richmond, VA

1:00 P.M.

SBE Board Working Papers



**STATE BOARD OF ELECTIONS
AGENDA**

DATE: Wednesday, March 31, 2021

TELECONFERENCE:

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[D=mff9f281646b74dea02525f343eb3a37e](https://covaconf.webex.com/covaconf/j.php?MTI)

Password: RbPmmhJp233

TIME: 1:00 PM

I. CALL TO ORDER

Robert Brink, Chairman

II. APPROVAL OF MINUTES

Jamilah LeCruise, Secretary

A. February 23, 2021

III. COMMISSIONER'S REPORT

Christopher E. Piper

Commissioner

IV. DELEGATION OF VA. CODE § 24.2-307

Ashley Coles

ELECT Policy Analyst

**V. CERTIFICATION OF SPECIAL ELECTION –
SENATE OF VIRGINIA 38TH DISTRICT**

Paul Saunders

Elections Administration Supervisor

VI. DRAWING FOR CANDIDATE BALLOT ORDER

Paul Saunders

Elections Administration Supervisor

**VII. CONSIDERATION OF CANDIDATE FILING
EXTENSION (VA. Code § 24.2-503)**

David Nichols

Elections Services Director

VIII. RISK LIMITING AUDIT REPORT

*Karen Hoyt-Stewart
Voting Technology Program Manager*

IX. VOTING SYSTEM CERTIFICATION

Karen Hoyt-Stewart

• **ELECTRONIC POLLBOOK CERTIFICATION**

Voting Technology Program Manager

X. ADVISORY WORKGROUP APPOINTMENT

Robert Brink, Chairman

XI. PUBLIC COMMENT

XII. CLOSED SESSION

XIII. ADJOURNMENT

NOTE: Public comment will be offered prior to Board action, but comments will be limited to the specific agenda item in question. An open public comment period will be offered prior to adjournment. Members of the public participating virtually who wish to give public comment on any of the agenda items may do so; if using WebEx, by using the raise hands feature, or if by phone, identifying themselves when the Chair opens the floor to those members of the public attending via telephone.

<https://townhall.virginia.gov/L/ViewMeeting.cfm?MeetingID=31935>



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes

BOARD WORKING PAPERS
Secretary LeCruise

1 The State Board of Elections (“the Board”) meeting was held by electronic
2 communication on Tuesday, February 23, 2021. In attendance: Robert Brink, Chairman, John
3 O’Bannon, Vice Chairman, and Jamilah LeCruise, Secretary, represented the State Board of
4 Elections (“the Board”). Christopher E. “Chris” Piper, Commissioner, represented the
5 Department of Elections (“ELECT”) and Carol Lewis represented the Office of the Attorney
6 General (“OAG”). Chairman Brink called the meeting to order at 1:00 P.M.

7 Chairman Brink informed the Board that on March 12, 2020, Governor Ralph S.
8 Northam declared that a state of emergency exists in the Commonwealth as the result of the
9 potential spread of COVID-19, a communicable disease presenting a threat to public health.
10 On March 30, 2020, the Governor issued an executive order requiring all individuals in
11 Virginia to remain at their place of residence, with certain enumerated exceptions.

12 This meeting was conducted consistent with the requirements for electronic meetings
13 by public bodies set forth in Items 4-0.01 of House Bills 29 and 30, as passed by the General
14 Assembly (“GA”) and signed by the Governor in April 2020. The purpose of the meeting is
15 to transact the statutorily required business of the Board. Chairman Brink stated that the
16 Board would receive public comments on agenda items prior to its action on that item. An
17 open public comment period would be offered prior to adjournment.

18 The first item of business was the approval of the minutes from the January 12, 2021
19 Board meeting, presented by Secretary LeCruise. Vice Chair O’Bannon moved that the
20 Board approve the minutes from the January 12, 2021 Board meeting. Chairman Brink
21 seconded the motion and the motion passed unanimously. A roll call vote was taken:

22 Chairman Brink – Aye

23 Vice Chair O’Bannon – Aye

24 Secretary LeCruise – Aye

25 The next item of business was the Commissioner’s Report, presented by
26 Commissioner Piper. Commissioner Piper congratulated Deputy Secretary Grindly Johnson
27 on her new position as the Secretary of Administration and Deputy Commissioner Jessica
28 Bowman on her new role as the Deputy Secretary of Administration. The Commissioner
29 informed the Board that the Governor’s proposed budget included funding designated to
30 replace VERIS with a new state voter registration system. Commissioner Piper explained
31 that both budget versions include the funding, and ELECT is working to release a formal
32 request for proposal (RFP) as next steps.

33 The Commissioner informed the Board that a Special Election for Virginia Senate’s
34 38th District will take place on March 23, 2021. Commissioner Piper stated that absentee
35 voting has already begun for this special election, and the affected localities are preparing for
36 the upcoming election day on March 23rd. The Commissioner added that February 23, 2021
37 is the deadline for political parties to submit primary declarations. Commissioner Piper
38 informed the Board that a primary election will only occur if two candidates qualify for the
39 primary, adding that ELECT will update its website with a list of the localities that will be
40 having a primary election.

41 Commissioner Piper informed the Board that ELECT and the Office of the Attorney
42 General have responded to three lawsuits regarding the safe collection of petition signatures.
43 The Commissioner stated that two consent decrees have been brought forth addressing
44 signature collection for petitions regarding statewide offices; the two consent decrees permit
45 the electronic collection of electronic signatures and additionally, reduce the number of
46 required signatures from 10,000 per statewide candidate to 2,000 per statewide candidate.

47 Commissioner Piper advised that the Board, now a panel of three members, will
48 shortly expand to five. The Commissioner informed the Board that ELECT posted the
49 position for Director of Operations, a position recommended by the Joint Legislative Audit &
50 Review Commission in their 2018 report. That passed into law by the 2020 General
51 Assembly.

52 Commissioner Piper informed the Board that the U.S Elections Assistance
53 Commission on February 11, 2021 passed the Voluntary Voting Systems Guidelines 2.0
54 (“VVSG”). The Commissioner stated that the certification for the voting systems had not
55 been updated since 2005. Commissioner Piper stated that as a result, vendors have been
56 assessing and reviewing the VVSG for updates to their voting systems. The Commissioner
57 informed the Board that the National Institute of Standards and Technology (“NIST”) will
58 develop the testing standards. Commissioner Piper informed the Board that ELECT is
59 reviewing these changes, considering the impact on Virginia’s standards and other voting
60 equipment vendors.

61 The Commissioner informed the Board that the Statewide Risk Limiting Audit
62 (“RLA”) kicked off on February 16, 2021, with a recorded live broadcast, that can be found
63 on ELECT’s YouTube channel. Commissioner Piper explained that the broadcast was held to
64 discuss how to conduct an RLA and answer questions from local elections officials about the
65 process. The Commissioner explained that the localities must assess their ballots and create a
66 “Ballot Manifest”. A ballot manifest is a record listing all ballots voted in an election and the
67 boxes or folder in which they are located. The ballot manifest allows local elections officials
68 to locate and pull the specific selection of particular ballots that are identified for review by
69 an algorithm that relies on a randomly generated number obtained from a dice roll.
70 Commissioner Piper informed the Board that the previous day, on February 22, 2021,
71 ELECT conducted a dice roll to randomly select the seed for ballot selection.

72 The Commissioner explained that the dice roll is comprised of twenty individual die
73 with ten sides that are rolled to generate a random number. That number is then entered into
74 the audit software, which prints out the identification numbers of the random ballots that
75 need to be pulled from the various localities. Commissioner Piper stated that the audit
76 software identified the 1,372 ballots that needed to be audited. The Commissioner stated that
77 some localities such as Bath County, Dickinson County, Emporia City, Floyd County,
78 Greenville County, Highland County, Lexington City, Lunenburg County, Edward County,
79 Bradford City, and Richmond County were not required to review ballots. Commissioner
80 Piper stated that localities not mentioned above are required to participate in the 2021 RLA.
81 The Commissioner informed the Board that localities are holding public meetings and have
82 until Friday, February 26, 2021 at 5:00 P.M. to complete the audit. Commissioner Piper

83 explained to the Board that the localities would pull the ballots identified through the audit
84 software, and submit the candidates selected in the U.S. Presidential and U.S. Senate races
85 into the audit platform. At that point, ELECT will complete its review of the audit
86 submissions and announce the results on March 2, 2021 at 11:30 A.M. during a recorded live
87 broadcast.

88 Vice Chair O'Bannon asked the Commissioner about the process ELECT will use to
89 fill the Director of Operations position. Commissioner Piper stated that the position is a
90 100% classified full-time position with the Commonwealth. As such, the hiring process will
91 adhere strictly to the procedures established by the Commonwealth's Department of Human
92 Resource Management ("DHRM"). The Vice Chair asked Commissioner Piper if Virginia
93 Code § 24.2-671, mentioned in a February 4th letter from four members of the General
94 Assembly, suggest that the voting machines be checked during the audit. Commissioner
95 Piper explained that because Virginia uses paper ballots, ELECT can rely on a review of the
96 actual paper ballots submitted by voters in order to conduct the audit, which is based on a
97 random sample of the number of ballots necessary to confirm that the results as reported
98 accurately reflected the winner of the November 2020 U.S. Presidential and U.S. Senate
99 races.

100 The Commissioner explained that if someone "hacked" a voting machine to generate
101 incorrect results, if ELECT were to "check" the count using the same machine after the
102 election, we would receive the same erroneous results, and we would not know anything
103 more about the machine or the incorrect results. However, the review of a random sampling

104 of ballots, identified by a statistical method will confirm whether the ballots were counted
105 correctly. Vice Chair O'Bannon stated that ELECT's post-election report indicated that
106 voters' biggest complaint after November 2018 was the long lines, and the biggest complaint
107 in November 2020 was, election integrity. The Vice Chairman voiced his concern as to why
108 ELECT did not choose to conduct an audit during on one of the close congressional races,
109 instead of choosing an election with wider margins. Commissioner Piper stated that ELECT
110 chose to conduct an audit on the 2020 election because it allows all 133 localities to be
111 exposed to the audit process. Secretary LeCruise asked Commissioner Piper about ballot
112 polling versus ballot level comparison. Commissioner Piper stated that given the current
113 setup of the system, the most efficient way for ELECT to complete an audit with full
114 assurance that we are meeting that risk limit, is with ballot polling.

115 The next item of business was the Post-Election Report, presented by Commissioner
116 Piper. Commissioner Piper expressed his appreciation to David Nichols, Elections Services
117 Director and his Election Administration team, the Information Services division, the
118 General Registrars, the Electoral Board members, ELECT staff, members of the State Board
119 of Elections, and the Governor's administration, for their support and ensuring the success of
120 our 2020 election. The Commissioner stated that Virginia election officials conducted the
121 most safe, secure, and successful election in the history of the Commonwealth on November
122 3, 2020. Commissioner Piper stated that the point of the post-election report is to perform an
123 honest assessment of the election. This report is in the Working Papers for the February 23,
124 2021 meeting.

125 The Commissioner stated that the biggest change during this election was extending
126 the no excuse absentee voting for the entire 45 days. Commissioner Piper explained that this
127 is the first year Virginia did not require an excuse to receive an absentee ballot. The
128 Commissioner stated that the General Assembly met during a special session and passed
129 legislation allowing for a cure process for absentee ballots, prepaid postage, and creating
130 drop off locations. Commissioner Piper stated that the Board passed many regulations to
131 meet the absentee by mail practices. The Commissioner advised that the regulations included
132 the Intelligent Mail Barcode requirement, the Mail Insignia on absentee ballots, and the
133 missing or illegible postmarks. Commissioner Piper addressed the number of lawsuits that
134 have been filed during his tenure, noting that some of the major lawsuits filed included the
135 number of petition signatures required, the removal of the witness signature, expanding the
136 print disabled individuals' requirement, and the outage of Virginia's registration website on
137 registration deadline day.

138 The Commissioner stated that in 2020 nearly 78% of voters who registered to vote,
139 voted in the 2020 election, and 18% in 2019. Commissioner Piper informed the Board that
140 Virginia had the highest turnout for the most voters, voting in the 2020 election. The
141 Commissioner stated that 4.4 million Virginians voted in person on Election Day, and 2.6
142 million voted early either by mail or in person). The Commissioner stated that in 2016, four
143 million voters voted in person on Election Day. Commissioner Piper informed the Board that
144 each locality performed a Logic and Accuracy ("LNA") test and submitted a certification
145 confirming its completion. The Commissioner advised the Board that five localities did not
146 provide the certification to ELECT, but did complete the test.

147 The Commissioner stated that ELECT utilized the Cares Act funding to provide
148 Personal Protective Equipment for localities. Commissioner Piper stated that ELECT
149 collaborated with the Medical Reserve Corps, which is a function of the Virginia Department
150 of Health. The Commissioner stated that the Medical Reserve Corps assisted numerous
151 localities by monitoring early voting locations, training full time workers on infection
152 control, and providing consultation at polling places on Election Day. Commissioner Piper
153 stated that on the last day of the voter registration deadline, a fiber optic cable, that was
154 critical to the operations of the Virginia Information Technology Agency (“VITA”), was cut.
155 The Commissioner stated that this led to outages for ELECT and the Department of Motor
156 Vehicles (“DMV”). Commissioner Piper explained that this made it impossible for anyone to
157 register to vote online for most of the day. The Commissioner expressed appreciation to
158 VITA and to the ELECT team for addressing the issues promptly. Commissioner Piper
159 informed the Board that the online registration was back online at 4:00 P.M. As a result of
160 legal action by several groups, the court the voter registration deadline to ensure that nobody
161 was disenfranchised.

162 The Commissioner stated that the plan put into place on election night presented some
163 unforeseen issues with the public perception. Commissioner Piper explained that absentee
164 votes were allowed to be received up until Friday after the election. The Commissioner
165 stated that the issue came about when providing results on election night. Commissioner
166 Piper informed the Board that the Election Day votes were reported as normal and then at
167 11:00 P.M, the registrars were asked to cease processing absentee ballots and report all the
168 early votes and absentee ballots that were received. The Commissioner explained that the

169 issue came about because there was a large number of votes from Election Day and then later
170 that evening, a large number of votes from the early and absentee votes.

171 Commissioner Piper stated that ELECT collaborated with the United States Postal
172 Service (“USPS”) to ensure that any issues with ballots or election mail were handled. The
173 Commissioner stated that as a result of the Board’s regulation on ballot tracking the
174 Intelligent Mail Barcode was applied. Commissioner Piper explained that Ballot Scout was
175 created to allow voter to track their ballot through the system. The Commissioner advised the
176 Board that there were issues with the USPS not scanning the ballots. Commissioner Piper
177 stated that ELECT has been working with Ballot Scout and the USPS to provide upgrades to
178 the system and have more consistent tracking to avoid confusion in the future.

179 The Commissioner stated that there were some reported some issues with New Kent
180 County, Hopewell, Prince William County, City of Richmond, Fairfax County and the City
181 of Virginia Beach. Commissioner Piper informed the Board that the localities have worked to
182 rectify the issues. The Commissioner stated that some localities provided reports of sending
183 more than one ballot to single voters. Commissioner Piper stated that protections are in place
184 to ensure an individual can only submit one ballot.

185 Vice Chair O’Bannon asked the Commissioner for specifics on the issue regarding
186 reporting ballots at the end of the election. Commissioner Piper stated that ELECT is refining
187 the process and providing the guidance differently. The Commissioner explained that early
188 voting and absentee voting coexisted as one, and the outcome resulted in a lot of votes cast
189 before Election Day, and not being reported until later that evening. Commissioner Piper

190 stated that ELECT is refining how local elections officials conduct pre-processing, which is
191 running absentee ballots by the mail through the ballot counter, to make the process uniform
192 across the Commonwealth. The Commissioner informed the Board that ELECT works
193 closely with the voters, the General Registrars and the Electoral Boards workgroups to
194 address the issues. Commissioner Piper stated that what is important is to talk about what
195 was not done right and address it.

196 Chairman Brink opened the floor to public comment. Chris Marston, representing the
197 Republican Party of Virginia asked to have his statement entered into the minutes. His
198 statement appears as Appendix A. Susan Swecker, Chairwoman, Democratic Party of
199 Virginia asked to have her statement entered into the minutes. Her statement appears as
200 Appendix B. The former Secretary of Administration, Nancy Rodrigues asked to have her
201 statement entered into the minutes. Her statement appears as Appendix C.

202 The next item of business was the Consideration of Amendments to 1VAC20-70-20
203 presented by Daniel Davenport, ELECT Policy Analyst. Mr. Davenport informed the Board
204 that the amendments to 1VAC20-70-20 address absentee ballots that have been returned by
205 the absentee deadline but with missing or illegible postmarks. This report is in the Working
206 Papers for the February 23, 2021 meeting. He explained that the amendments are to comply
207 with a consent decree that was signed on January 13, 2021, between the Department of
208 Elections through the Attorney General Office and plaintiff Thomas P. Reed. Chairman
209 Brink opened the floor to public comment. No public comment was given.

210 Vice Chair O'Bannon moved that the Board adopt the Department's proposed
211 amendments to 1VAC20-70-20. Secretary LeCruise seconded the motion and the motion
212 passed unanimously. A roll call vote was taken:

213 Chairman Brink – Aye

214 Vice Chair O'Bannon – Aye

215 Secretary LeCruise – Aye

216 The next item of business was the proposed SBYA policy 2021-001, presented by
217 Tammy Alexander, Campaign Finance Compliance and Training Specialist. Mrs. Alexander
218 informed the Board that ELECT has currently been working under the policy adopted March
219 8, 2018 SBE policy 2018-001 Stand By Your Ad hearing ("SBYA"). She informed the Board
220 that the new policy allows for a better SBYA management. This report is in the Working
221 Papers for the February 23, 2021 meeting. Ms. Lewis informed the Board that in order to
222 give candidates a chance to rebut any complaint that is brought against them, they will be
223 able to request that any complainant appear before the Board for cross examination.

224 Secretary LeCruise asked Ms. Lewis if the Board members will be conducting the
225 cross examination of the complainants or if the candidates will. Ms. Lewis stated that both
226 the candidate and the Board would be able to cross-examine the respondent. Chairman Brink
227 opened the floor to public comment. No public comment was given. Vice Chair O'Bannon
228 moved that the Board adopt SBE Policy 2021-001 to govern Stand By Your Ad (SBYA)

229 hearings. Secretary LeCruise seconded the motion and the motion passed unanimously. A

230 roll call vote was taken:

231 Chairman Brink – Aye

232 Vice Chair O’Bannon – Aye

233 Secretary LeCruise – Aye

234 Chairman Brink opened the floor to public comment. Elizabeth Butler, Ames Russell,

235 Barbara Zelder, and Starlet Stevens, representing the Richmond City Republican Committee

236 asked to have their statements entered into the minutes. Their statements appear as Appendix

237 D. Retired Colonel John Mills addressed the Board and asked to have his statement entered

238 into the minutes. His statement appear as Appendix E. Jen Goetz and Cheryl Driscoll spoke.

239 Vice Chair O’Bannon moved to adjourn the meeting. Secretary LeCruise seconded

240 the motion and the motion passed unanimously. A roll call vote was taken:

241 Chairman Brink – Aye

242 Vice Chair O’Bannon – Aye

243 Secretary LeCruise – Aye

244 The meeting adjourned at 3:10 P.M.

245

246

State Board of Elections
FINAL Meeting minutes
Tuesday, February 23, 2021

247 _____
248 Chairman
249

250 _____
251 Vice Chair
252

253 _____
254 Secretary

255

APPENDIX: A

256

Chris Marston

257

representing the Republican Party of Virginia

Introduction

I share the Department's appreciation for dedicated election officials around the Commonwealth who worked diligently to carry out an election under the difficult circumstances of 2020. Any criticism of this Post-Election Report relates not to their efforts, but to the compounding of the difficulties they faced by actions of the General Assembly, the State Board of Elections, and the Department of Elections.

At the outset, I would also note that superlatives, particularly unsupported by any objective measures or analysis have no place in a report prepared by the Department. To declare that "Virginia election officials conducted the most safe, secure, and successful election in the history of the Commonwealth on November 3, 2020," begs the question how unsafe, insecure and unsuccessful prior elections in the Commonwealth have been in its over 200 years—should we request a recount in the Madison v Monroe congressional election of 1789?

Law and Regulation Changes

The dramatic changes in law resulting from the 2020 Regular Session of the General Assembly worked fundamental changes on election administration in Virginia. Although there were several positive changes, legislation generally decreased election integrity protections.

Improvements to satellite voting location (SB 617), the requirement for backup paper poll books in precincts (HB 1421) and making the deadline to request an absentee ballot by mail earlier (HB 238) were welcome changes that improved election administration.

Unfortunately, these gains were more than offset by other poorly considered changes:

- Voter ID—Virginia had an effective and user-friendly voter ID law requiring voters to present one of a range of photo IDs in order to vote. It provided free Photo ID to anyone who lacked it and allowed for anyone who was unable to present the ID at the polling place to vote provisionally and have their vote counted once they provided ID (or even obtained a new, free Photo ID within 3 days of the election). HB 19 and SB 65 replaced this effective system with an ineffective system allowing just about any document to be used as ID and allowing any person who claimed not to have even one of these widely available documents to fill out an affidavit with no requirement for identifying information (all affidavit fields other than name and signature are optional).
- Absentee Voting—Allowing for the counting of absentee ballots returned after Election Day (HB 238) significantly complicated election night reporting and made the canvassing and certification process more difficult with little benefit (less than three-tenths of one percent of absentee ballots were returned after election day). Making the deadline for requesting an absentee ballot by mail another three days would have had the same effect on the return rate without causing any of the related problems. The annual absentee ballot application list created by HB 240 will not appreciably increase access to voting, but will increase the number of live absentee ballots

sent out to addresses that may no longer be occupied by the registered voter, decreasing the security of the absentee process.

- Polling Place Procedures—the elimination of the requirement that an officer of election repeat the address of the voter out loud (HB 1402) decreases the effectiveness of party authorized representatives at polling places, eliminates an additional check on whether a voter’s address requires and update, and provides no additional privacy protection to voters, all of whose addresses are listed on voting rolls already available to parties and candidates.

Of course, these changes pale in comparison to the last-minute changes made by 2020 Special Session of the General Assembly, which, avoiding the supermajority requirement for emergency legislation, hid its changes to election procedures in a budget amendment.

Prepaid postage and a cure process for absentee ballots are not necessarily objectionable from an election administration perspective but implementing such major changes so close to an election is always a cause for concern. As the report notes, the cure process for absentee ballots was not implemented uniformly across the state making the efficacy of a voter’s absentee ballot dependent on the city or county in which he or she lives.

Ballot harvesting on the other hand, the process facilitated by drop-off locations, opens the election process up to substantial manipulation. The Commonwealth had always required that voters personally deliver their ballots to an election official—either directly in the polling place, by voting absentee in person, or by using the mail or a private commercial mail carrier. Drop-off locations for the first time added someone between the voter and the election official. Anyone could return a ballot on behalf of anyone else.

The State Board of Elections regulatory activity also had a mixed record.

The Board did not begin to act on regulations until August despite having known what changes in the law would be effective on July 1 as early as mid-April. They compounded this problem by delaying their publication in the Register of Regulations and final adoption considerably. Communications to local election officials treated the changes as though they had already been enacted when they had not.

If the 2021 General Assembly session, as anticipated, produces many more election law changes, the Board should begin action earlier so that regulations can be finalized well in advance of required implementation steps.

Despite the late start, three regulations made positive changes, two simply responded to legislative changes directly, and only one created election administration problems. Changes to the regulation for full optical scan voting equipment ballot bins, requirements for logic and accuracy testing of electronic poll books, and the improvements to election mail by requiring the use of the election mail logo and Intelligent Mail barcodes were all welcome changes to election administration.

Unfortunately, the Board’s failure to faithfully follow the Code’s postmark rule for absentee ballots returned after Election Day required litigation to resolve, further complicating instructions issued to local election officials.

Court Actions

Litigation certainly challenged election administration in 2020 and consumed significant time and attention for the Department and the Office of the Attorney General. It also led to a lack of uniformity in relief granted in relation to COVID—petition signature requirements and nominating deadlines were changed on a case by case basis, first without the Commonwealth taking a position, and later with its consent. The Commonwealth should work to ensure uniform application of ballot access requirements when litigating to eliminate disparity in the treatment of political parties and different regions of the state.

Fortunately, the General Assembly appears poised to enact a bill dealing with failures in the online voter registration system near the registration deadline. This is the second presidential election in which that system has failed on the deadline, necessitating litigation.

Finally, the Department could have improved its performance regarding the witness signature requirement in the election. While the Republican Party of Virginia opposed efforts to relax that requirement, voters should not have had to sort through the confusion caused by explanations of the ruling in *League of Women Voters of Virginia v. State Board of Elections*, when the Special Session legislation eliminated the witness signature requirement.

Statistical Analysis

The statistical analysis section provides interesting pieces of information, but one significant inconsistency calls into question the accuracy of the data.

In “Voters and Votes Cast,” the Department presents 4,413,388 voters. The Department’s website reports in its “Turnout Statistics” for the 2020 November General, a total of 4,486,821 votes, a difference of 73,433. The results on the website for President and Vice President show a total of 4,460,524 votes cast, a difference of 47,136 votes. In an election where so many questions have been asked about the results, reporting different numbers in different places can only undermine citizens faith in the electoral system.

Election Administration Tasks

The Department’s review of election administration tasks raises serious concerns about record-keeping, which is critical to election integrity. Hopefully, these are all record-keeping issues and don’t reflect underlying problems in the election process.

- Nineteen localities (14% of all localities) failed to report on their readiness for absentee balloting 45 days prior to the election.
- Five localities, including its second largest city and second largest county failed to certify the completion of logic & accuracy testing, and several other localities were late with their certifications.
- Seventeen localities failed to timely review data in the Election Night Reporting system, which may have been one of the causes of the problems detailed below.
- Thirty-nine localities had incorrect turnout data or had to revise it.
- Thirty-two localities had incorrect voter credit or had to revise it.
- Twenty-one localities failed to submit election results verification checklists.
- Thirty localities had to correct the abstract of votes, the official record of vote totals.

Documenting that correct procedures have been followed and providing detailed explanations of any deviations are a critical part of ensuring election integrity. These substantial gaps in reporting by localities are cause for significant concern. The lack of logic and accuracy testing certification by jurisdictions that include hundreds of thousands of voters is particularly troubling.

Working to improve these processes warrants more than the two paragraphs the report dedicates to issues identified for election administration training.

Leaders of the Virginia Electoral Board Association (VEBA) have noted that the Department has focused its organization and efforts on communications with general registrars, sometimes to the exclusion of electoral board members. Electoral board members are charged with election administration in their localities. Many have designated general registrars as directors of election and regularly delegate some election administration tasks, however, the board members are still the officials charged by statute with responsibility for election administration. Reopening lines of communication with electoral boards could help address some of these problems. Perhaps the Department's staff of general registrar liaisons should become general registrar/electoral board liaisons, or a new role of electoral board liaison may be warranted.

The procedures for collection of absentee ballots from drop-off locations provide an excellent example of this problem. While the Department provide guidance on chain of custody for collecting ballots from drop-off locations, many localities were confused about how to apply that guidance on election day. Some had planned to have a single officer of election take custody of the absentee ballots returned at a polling place and return them—either when the polls closed or along with the other materials from the precinct. Had this guidance come early enough for electoral boards to include it in the training for the precinct officers of election or received it directly so the board members could take personal responsibility for ensuring the rules were followed, this confusion might have been avoided.

Special Topics Related to the 2020 General Election

Several of the special statewide topics warrant further attention.

The “Online Absentee Ballot Applications/Citizen Portal” section notes an important concern raised by general registrars. The ability of voters to add themselves to the annual absentee ballot list (soon to be permanent absentee list) after the deadline to request an absentee ballot for the current election bears further attention. The application and portal should make abundantly clear to voters that they will not be receiving an absentee ballot for the present election but being added to a list for future elections. Add this problem to the voters who will move out of state and continue to receive live ballots at an address where they no longer live as a reason not to maintain a permanent absentee list.

The issues under the heading “Reporting Results on Election Night and Through the End of the Canvass” relate to a critical issue of public confidence in election integrity. A relatively straightforward process that has worked well for many elections turned into a major burden on election officials and created confusion that led to uncertainty and doubts by the public in our election results. The General Assembly's decision to allow for late-arriving ballots to be counted created the problem. The Department's high volume of guidance relating to absentee ballot counting, including last minute changes required by its postmark regulation led to confusion over the process. Its needless directive to count until 11 pm on election night exacerbated the issue. Problems with localities use of the election

night reporting system made it worse. The infamous “vote dump” issue was compounded by data entry errors. The many reports of votes being moved in the middle of the night from one candidate to another appear to have been the result of localities entering the data more than once and then backing it out, making it appear as if voters were lost or changed. Media reporting through Election Data Services and other aggregators compounded this problem by posting only changes in vote totals without the relevant change information in the Department’s change log.

Additionally, the reporting of absentee results in the aggregate in central absentee precincts with no breakdown of those votes among precincts has caused substantial confusion that can easily be corrected. While the General Assembly has rejected several proposals to provide for reporting of absentee votes by precincts, the City of Chesapeake has already demonstrated that such reporting can be easily accomplished and there is no reason why the Board, the Department, and localities could not pursue this commonsense solution with an order from the General Assembly.

The special topics related to localities raise very serious issues that demand corrective action and warrant further attention. The Board is charged with “supervis[ing] and coordinat[ing] the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections.” § 24.2-103. These reports cry out for supervision to obtain uniformity and legality.

- New Kent’s Registrar did not allow absentee voters to cast their ballots directly on voting machines
- Hopewell’s Electoral Board illegally cast provisional ballots that violated Virginia’s in-precinct voting rule, not just for Hopewell voters, but for voters from a neighboring county.
- Richmond failed to follow the law with regards to the absentee cure process (there have been reports of other small jurisdictions that also failed to follow the law in this regard)
- Richmond’s late voter credit interfered with the critical voter list maintenance program that had already been delayed for 2020.
- Pre-processing of absentee ballots were inconsistent and sometimes carried out without the presence of the officers of election representing the two parties.
- Absentee ballot mailings in four jurisdictions resulted in multiple live absentee ballots being sent to the same applicant.

Summary and Suggested Best Practices

Given the extensive problems identified by the report, the Department’s eight item list of cursory recommendations offers little hope for meaningful improvement in election administration. I hope that the list will become a more detailed plan for corrective actions.

Although the Board and the Department have no control over the General Assembly’s decision, both should aggressively use the authority they do have to improve election administration practices and restore confidence of voters in Virginia’s elections.

If the Board or the Department wish to pursue corrective actions, the Republican Party of Virginia stands ready to assist.

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APPENDIX: B

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Susan Swecker,

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Chairwoman for Democratic Party of Virginia

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- Pulling off a successful 2020 election took hard work, commitment, thorough planning. We worked closely with Election Administrators across VA who helped make this a smooth and accessible process.
- With one exception. Here in the Capitol City, we saw repeated mistakes and mismanagement that led to confusion and chaos for voters and candidates. Registrar Kirk Showalter failed repeatedly to adapt to legal requirements. She is the only Registrar we had to sue to get information that we were lawfully entitled to. She recklessly disregarded the Covid Protocols put in place, putting her staff and citizens in danger – more than once.
- Ms. Showalter failed to follow the law regarding absentee ballots. She refused to preprocess ballots – waiting until the last minute – this made absentee cure even harder. Further, she initially claimed that they had no ballots requiring cure. Later it was revealed that there were and those voters were not contacted within the statutorily required time frame.
- Ms. Showalter hurt the integrity of the office by providing knowingly false information to a Virginia Freedom of Information Act Request. This action led to a lawsuit being filed by the Democratic Party of Virginia – the only registrar in my almost 6 years that I have had to sue. While settled, Richmond was the only locality to have supervision mandated by the State Board of Elections.
- Ms. Showalter failed to provide the public with accurate results of the election in a timely manner.
 - a. On two occasions, City Council candidates were treated disrespectfully by Ms. Showalter for simply asking for clarity on their results.
 - b. Weeks after the election had concluded and been certified, there were still discrepancies between the Richmond City and State websites on vote totals.
- Some have criticized DPVA's call for Ms Showalter to resign or be terminated -even going as far as to say leave the donkeys and the elephants at the door. Let me make this clear: we work with Registrars every day – and don't know their political viewpoints. And we have found them – particularly this year to be incredibly helpful, accessible and strong partners in making sure voters had good reliable information in a safe and accessible manner. Overall, this election went smoothly and on behalf of DPVA, I commend all involved. Thank you for your time.

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APPENDIX: C

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Nancy Rodrigues, Former Secretary of Administration

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Background

As a result of a lawsuit against the Office of the City of Richmond General Registrar for the Absentee Ballot Processing I was asked by the State Board of Elections Chair, Robert Brink, to observe the voting operations at the City of Richmond General Registrar's Main Office located at 2134 West Laburnum Ave starting Sunday, November 1 through the end of Election Day activities. I received permission of the Commissioner of Elections, Chris Piper, the Richmond City Electoral Board represented by its chair, Jim Nachman, and the Richmond City Registrar, Kirk Showalter to observe for this period of time.

Those working were made aware of my role and I took care not to interfere with the work going on and under no circumstances handled any ballots.

Overview

Elections, in today's environment, require a multi-faceted approach. I was struck that the City of Richmond General Registrar's Office was organized so that every stage of the election had to wait its turn rather than allow for multiprocessing at the same time. This process caused other activities to slow down or be halted.

The staff was under a great deal of pressure and was concerned that any errors or delays as a result of this process would be unfairly attributed to them.

I expected much better organization from an experienced General Registrar.

Observations

By decision of the General Registrar, the processing of Absentee Ballots received by mail had to wait until the Sunday before the Election, November first to be logged into the printed poll books, separated from the B envelope, unfolded and fed into the voting machine. This processing delay resulted in a backlog of 20,702 ballots waiting to be processed.

Please note that the ballots had been scanned into VERIS and some ballots were identified and placed on the Cure list but more were found in need of "Curing" once the process began.

I attended the 9AM training on Sunday Morning and despite being knowledgeable on the topic I had moments of confusion. The participants were given handouts, one of which was 22 pages but no time to actually read the paperwork. Also superfluous information was given out which lead to confusion, such as information about overseas voters/handwritten ballots was discussed though these ballots were not in the mix.

While the General Registrar was extremely knowledgeable, the transfer of that information varied. Some of the Elections Officials were experienced but there were a number who were new and were concerned about making a mistake. Most of the teams had never worked together before. The training took over an hour and four election officials did not show up to work resulting in management staff pulling staff from other duties to complete the ten teams.

It became apparent early on that the Election Officials did not agree on what was said in the training. Having been present for the training I did hear the General Register say if an envelope was missing information and needed to be cured, set it aside and immediately call for her or the AB coordinator.

However, ballots were just set aside either because the Election Officials did not hear the last part of the instructions or because the GR and AB Coordinator were out of the room. Clearly there was too much emphasis placed on seeking counsel from just two individuals especially when those individuals were not present all of the time. The problem was later remedied by having a runner checking with each team for possible cure ballots and having that person hand them to another staff member who could double check the envelope and research the problem.

The goal for the day was set to process 10,000 ballots with ten Teams of three Election Officials each. Each team was being asked to process 1,000 ballots. By 11 am on Sunday the teams were still being established and staff went in search of letter openers, red pens and gloves. This begged the question as to why tables were not set up with all the materials needed to do the task (red pens, rulers, paper clips etc.) and teams assigned as they came into the room.

By 12:15 on Sunday all ten teams began working. The teams were told to wait until 100 ballots were processed before taking them to the ballot room to be processed. However, by 3:04 PM only 200 Ballots had been run through the voting machine.

Some of the teams stopped their work if a member had to use the facilities or go on a lunch break. There were no floaters available to take over for a missing staff member. Time was also taken from the Team on that first Day to transport the ballots to the Ballot Counting Room.

Only one Team was able to achieve the 1,000 goal and that was a very experienced team who had worked together at a Polling Place for a number of years. One Team barely processed 300 ballots.

In the Ballot Counting room it quickly became apparent that the time it took to unfold the ballots to place into the Voting Machine was not fully taken into account in the planning stage. In timing three different counters unfolding ballots it took 19 to 25 minutes to unfold 100 ballots. So at 6PM knowing that there were at least 17,000 ballots still to unfold by the end of Election Day the following math showed that more Election Officials were needed than the three in the room doing this task:

17,000 Ballots in 100 Stakes is 170 Stacks.

The unfolding of those stacks would take 3,400 minutes or 56-57 hours of labor.

This mathematical equation and the fact that the first day fell well short of the 10,000 goal (2,476 in the Voting Machine at 6PM) caused Management to bring in additional resources for Monday's Work Load and rethink the teams that were redesigned to Teams of Two instead of

Three. 14 Teams were formed and Election Officials asked to come in as early as their schedules would allow.

Even by the morning of Election Day the backlog of the AB had not been addressed. Two teams arrived at 5:30AM and there were 12 Teams in place by 7:30AM. The Ballot room opened at 7:15 AM and had to wait for pre-processed ballots to unfold.

The office stress level was high because of the unnecessary delay in processing the Absentee Ballots. This would have been alleviated if the process had started days earlier.

VERIS

This software was introduced for the first time in 2006. The first use of VERIS in a General Election occurred in November of 2007 when I served as Secretary of the State Board of Elections. Thus I am very aware of VERIS' limitations and a very experienced Registrar should be as well. It should not have come as a surprise to ANY Registrar that the system would be slowed on the day before the election when every locality was running poll books. Waiting so late to process AB only guaranteed a slowdown in the processing times.

My understanding is that improvements are being planned for VERIS and as a result of my experiences I suggest two problems be addressed:

- 1.) Currently VERIS freezes a voter's address to the address on the AB application even if the Voter correctly submitted a voter registration form to update their address. This created confusion in checking AB in the poll books because the addresses were not matching up.
- 2.) VERIS should be able to accommodate using an electronic poll book to mark in AB rather than relying on printed poll books.

Problems on Election Day

Voting equipment- three precincts called to say that they were missing the key necessary to open the Scanners (701, 702 and 806.) GR staff pointed out that it was the responsibility of the Chiefs to check their materials. However no one on staff could explain how three bags were missing the necessary keys. Why was there not better quality control at the GR's Office? In checking with staff I was told that law enforcement was on its way to the polling places with the keys. However when checking directly with law enforcement who were present at the office, only two of the polling places had keys on the way. It became clear that despite asking staff on the remedies to the problems, it was necessary to verify the information that the information that was given was correct.

Precinct 708 needed to be called and told to let in observers and told that observers did not need a "seal" on the letter.

Several Precincts received complaints that Election Officials did not know the new ID requirements; this showed an issue with training of Election Officials.

On Election Day, the Code of Virginia allows for the counting of handwritten ballots to begin at 3:00PM. I requested that the General Registrar start the process. However it was clear that the General Registrar made no preparations for this process of the counting. The counting team had to be pulled from the Ballot Room and it took until 4PM before the General Registrar had the instructions printed and was available to give directions and swear the counters in. In talking with the counters they felt ill prepared to handle the task which had to be shut down at 8PM because of exhaustion of the counters. Again this begs the question, why was the team not assembled and trained prior to Election Day and asked to come in at 2:45PM on Election Day to begin the task with fresh eyes and clear direction?

Communication Issues Between City Hall and the General Registrar's Office

Phones were not installed in the Elections Call Center: The request for additional Verizon lines was made ten days in advance but were still not implemented on Election Day. Supposedly Verizon never received the request from the IT Department at City Hall. When asked why the phones were not operational I was told the request has been made. However no one could tell me if follow up calls were made to the IT Department to ensure the installation would be done on time.

Polling locations in schools were asked that the heat to be left on overnight so that Election Officials would not be cold. This has been a constant problem throughout the years. Precincts in schools reported no heat. Also Blackwell Elementary received additional complaints that outside poll workers were not being able to use the restrooms and the attitude of the janitor. These complaints are not new for this precinct but the General Registrar's Office has failed to correct this systemic problem.

The General Registrar stated that IT cut off access to the City's webpage late at night so no Elections results could be posted on the City's site after midnight. Again if this problem was known why wasn't there better communication between the General Registrar's Office and the IT Department?

Communication Issues Between Staff and the General Registrar's Office

According to the General Registrar the staff updates of the City's Website would automatically update the results in VERIS. However according to members of the staff and the Department of Elections the results of the election were entered into VERIS and VERIS could not accept an automatic update from another program. VERIS required manual input into the system. This situation also led to different results showing on the Department of Elections and the City's websites.

Also if the In Person Voting Machine Scanners at Satellite Offices were allowed to be reported separately from the Mail In Ballots the results on Election Night would not have appeared so lopsided for much of the evening.

COVID

Despite lip service being done to the need to socially distance, wear a mask and wash hands there was little evidence of Management enforcing the COVID Restrictions. This concerned me so much that a volunteer and I stepped forward to take temperatures of everyone on Election Day. Only one staff member refused to have her temperature taken and that employee was the first to test positive on staff.

Also on Election Day I asked if the desks where the Election Officials worked on Monday had been wiped down since new Election Officials were coming. The answer was no so I put on gloves and wiped down all the desks, rulers and pens.

I never saw the tables in the Cafeteria wiped down or staff encouraged to wipe down the tables before using them.

Despite a mask order, I repeatedly saw members of the Management without their masks in their offices. They put masks on when someone asked to enter but by then the COVID virus was in the air. I also witnessed two members of the Management Team in an office without masks. Also a member of the Management Team along with lower level staff were not wearing masks in the Staff member's office. The General Registrar herself was not wearing a mask in her office but put one on when someone entered her office.

In conclusion

The recent General Assembly changes should have prompted every General Registrar to rethink their business processes. This clearly did not happen in the City of Richmond. If anything the General Registrar depended too much on the past without embracing the changes.

The Electoral Board depended on the experience of the General Registrar and that dependence lead to unnecessary stress and demands on the staff.

Elections will never be the same as they were in the past. Relying on past procedures will continue to result in more and more problems. It is vital that the operation of the City of Richmond General Registrar Office be thoroughly examined in preparation for 2021's General November Election.

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APPENDIX: D

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Elizabeth Butler, Ames Russell, Barbara Zelder, and Starlet Stevens, representing the

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Richmond City Republican Committee

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Richmond City Republican Committee

Reagan Building, 25 East Main St, Richmond, VA 23219

February 15, 2021

Members of the Virginia State Board of Elections:

Robert H. Brink

John O'Bannon

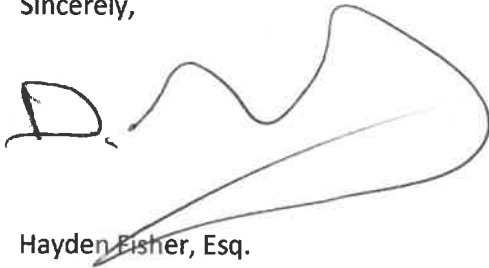
Jemilah D. LeCruise

Commissioner Christopher Piper:

I am writing today to notify you of a pattern of improper actions taken by certain members of the Richmond City Electoral Board during and since the November 2020 election. I urge you to investigate these matters and to request the replacement of James Nachman and Joyce Smith with new Electoral Board Members who will faithfully and impartially uphold their duties as Electoral Board members.

I am attaching a summary of the improper actions for your review. Please feel free to contact me at haydenfisher@mac.com if you have any questions.

Sincerely,



Hayden Fisher, Esq.

Richmond City Republican Committee, Chairman

Richmond Electoral Board – Recent Improper Actions

- 1. Electoral Board members James Nachman and Joyce Smith opened sealed returns of some precincts in the early morning hours of November 4th, without a proper meeting of the Electoral Board and without observers. Joyce Smith subsequently lied about her participation. Code of Virginia 24.2-671**

The Electoral Board is supposed to meet at the Registrar's office before 5pm on the day after the election to ascertain the results of the election.

Statement of Ames Russell: I am resident of the city of Richmond, Chief Election Officer of Precinct 115. I have served as an officer for over 8 years.

When we canvassed our Precincts results the morning after the election, we found signed seals broken, crucial machine print outs of results missing and another Precinct material among ours.

I later learned Electoral Board Members Mr. Nachman and Ms. Smith opened our sealed envelopes and removed our tapes in the middle of the night, in violation of the Code of Virginia.

Despite video evidence, Ms. Smith claimed:

"The Board didn't open those envelopes. We know NOT to do that. Kirk is using the board to cover herself. She does that to others as well to cover her mistakes."

I contacted Registrar Showalter with this information, and she said:

"contrary to Ms. Smith's assertions, it was she and Mr. Nachman who opened those envelopes. I was not present at the time nor were they opened at my direction."

My questions - why did Mr. Nachman and Ms. Smith knowingly disregard Code, and why did Ms. Smith flat out lie about their conduct and falsely blame Ms. Showalter.

I feel this matter requires a thorough and impartial review to ensure the integrity of our electoral process and hold our officials accountable for their conduct.

- 2. The canvass of results which is supposed to be an official meeting of the Electoral Board was not overseen by the Electoral Board, but by a single member. Also, part of the canvass was conducted at Chairman Nachman's home without a proper meeting of the Electoral Board and without observers. Code of Virginia 24.2-671, 24.2-107**

The Canvass began at 8am at the Richmond Registrar's office on November 4th, the day after the general election. Joyce Smith did not come into the office until 12:00 noon and Chairman Nachman arrived at the Registrar's office approximately between 12 noon and 1pm. Until noon, Starlet Stevens was the only Electoral Board member present.

Statement of Starlet Stevens: "I came into the Registrar's office on Wednesday morning, November 4 to start the canvass for the election. Until approximately 12:00 noon, I was the only board member present. I did not expect Jim Nachman because in previous years, he usually has to go to court for one of his clients.

I did expect to see Vice Chair, Joyce Smith but she did not come into the office until about 12:00 noon. I made repeated phone calls to her with no response.

When she finally came into the office, she stated that she and Chairman Jim Nachman had been in the office until 3:30 a.m. going through the #2 envelopes. I told her that ideally, all 3 Board members needed to be present for the start of the canvass on Wednesday after Election Day. She said that Chairman Nachman said she didn't need to be there for the canvass to start.

Chairman Nachman arrived at the office approximately between 12:00 and 1:00 and said that he had been at the office on election night until 3:30 a.m. because he and Joyce were going into the #2 envelopes looking for missing tapes."

Chairman Nachman completed the canvass of results at his home on the evening of November 8th without a proper meeting of the Electoral Board, without other members of the Electoral Board, and without observers.

Statement of Starlet Stevens: On Sunday evening, November 8, I received a call from Chairman Nachman. He said that he and his wife, Kelly were doing the canvass at their house on Stuart Av. He indicated that Registrar Showalter had sworn Kelly in and she was assisting him in reviewing the tapes and the SOR's from Tuesday's election.

I questioned why this was being done at his house and Jim indicated that our whole office was shut down due to COVID-19. No one was allowed in the building due to this. At this point in time, I did not discuss any further. I was so ill that it was an effort to talk on the phone or even to get out of my bed."

3. Jim Nachman was verbally aggressive and disrespectful towards Starlet Stevens during the Richmond Electoral Board meeting on Feb 1, 2021.

Statement of Starlet Stevens: When we go into closed session, our Executive Assistant, Adriene Davis gives me a statement to read which states that the Board is going into closed session to discuss personnel matters. It also cites the Code of Virginia law that this relates to.

As I was ready to start reading said statement, Chairman Nachman stopped me and handed me a different statement to read. I asked why I was being asked to read something different and he gave me no answer. He said something to the effect of "just read it". I refused to do this without an explanation from him. He then removed the statement from me and handed it to Co-Chair, Joyce Smith who struggled to read it.

The recorder was turned off by Adriene and she along with staff members Jerry Ingram, Liz Wilson, Johanna McKee left the room.

At this point, Jim shouted across the room to Kirk's attorney, Linda Woods that she also must leave. Ms. Woods stated that she was there to represent Kirk and she would not leave.

I spoke up and said "Jim, Ms. Woods has a right to be here, let her stay." He yelled at me to "shut up, you stay out of this!" My response was, "I will not stay out of this, I have a duty to be here." I added that Kirk had a right to legal representation in this proceeding.

Jim again yelled loudly at me to "shut up" or he would make me leave the meeting. I said no way would I leave the meeting.

At this time, Jim got up and went into the hallway to make a phone call. He also at this time ordered the Security Officer to get the RPD officer and for them to remove Ms. Woods from the building. I spoke to the officers and asked them not to do this and added that Kirk had a right to have her lawyer there. I even added that if they were in a similar scenario, wouldn't they also want their attorney present? They agreed with me and Jim again yelled at the officers to get Ms. Woods out of the building.

Jim yelled at me to "shut up and stay out of this." I said "no way" and he said he would have me removed from the building also. My response was, "I would advise you against doing that ". During this, Jim was on the phone and it was my understanding that he was talking with Attorney Tabrika who is with the City of Richmond.

Jim again ordered the officers to remove Ms. Woods and if she refused, they were to arrest her. I said I was not going to allow this to happen. It was apparent to me that the officers really had no interest in going to the extremes that Jim was ordering.

I then suggested it would be a good idea for the Board to come out of closed session and go back into open session and take care of the last two items on the meeting agenda. I suggested we schedule another meeting to address the issue of whether or not to remove Kirk. Jim yelled "no way, this is going to get done tonight!"

After Jim's outburst, I asked him if he had higher aspirations in mind for himself other than being on the Electoral Board? He ignored my question and would not look at me. I then asked him "what are you getting out of this?" He said, "I don't have to answer that!" My response was, "I really want to know and others in Richmond do also.

Jim finally ended the call he was on and I can only surmise that he was advised that Ms. Woods could stay.

This whole scenario lasted about 30 minutes.

We then went back into the closed session and Jim announced how it would proceed. He was going to speak first, then Joyce, myself, Ms. Woods and Kirk.

Jim had several pages of handwritten notes of every infraction that Kirk had ever done. I might note that none of them would warrant her being removed from office. Many of the things he was citing were issues that had been resolved years ago. It was apparent that he was desperate to plead his case to be rid of Kirk as Registrar.

He also read a report from Nancy Rodrigues who was in our office prior to November's election to observe our process. Bob Brink, who is a SOV Electoral Board member requested Nancy to do this.

Joyce Smith had no comment to make.

When I spoke, I questioned the litany of complaints that Jim had just reeled off. I mentioned the fact that in Kirk's last performance review that the Board did last summer that we all agreed that her performance was superior and we also recommended she get the maximum salary increase.

I added that I thought that they (Jim and Joyce) were rushing to judgment to remove Kirk from office without hearing all the facts.

I questioned Joyce about her interfering with Kirk's staff starting last June during the primary. I reminded her about her talking with me in the parking lot about disgruntled employees and I stopped the conversation. I told her it was not proper procedure for two Board members to be discussing such matters outside of a public meeting. I recommended that she have this out on our upcoming meeting to discuss with Kirk in a closed session. She said OK and the conversation ended.

She never put this on the agenda for the next meeting and I figured that was the end of it.

I brought up the fact about the anonymous emails that had been sent in September to Commissioner Chris Piper which he forwarded to all 3 Board members. Another anonymous email came later in the fall to the Board.

I said the troubling nature of these emails telling about the toxic environment at the Registrar's office where concerning but I had an issue that no one would put their name on them and essentially "own" them.

I further stated that the City of Richmond HR Department had a grievance policy in place and that was how this employee should proceed if these allegations were indeed happening.

I stated that Ms. Showalter had a right to know whom she had offended or mistreated so she could properly address it. An anonymous email is very cowardly and did not properly address the alleged infractions.

I brought up the allegation of Kirk being racist in some of her words. Again, I asked Jim and Joyce that if Kirk was guilty of being racist, didn't they think HR should be handling this? At the very least, Kirk should be given the chance to tell her side of the story and if she was indeed guilty of this, sensitivity training would be in order. I got no response to any of this.

I admonished both of my fellow Board members in their rush to judgment. I addressed Jim and said that he as attorney should know that there are two sides to every story but in this case, he and Joyce were reacting to these anonymous emails which I find totally unacceptable.

I also reminded Joyce that it was not the Board's responsibility to interfere with Kirk's staff. I also cited an Attorney General's opinion from 1977 which states that a local electoral board should not intervene in personnel matters concerning a registrar and employees of his or her office. This statement was met with a blank stare from Joyce. Jim looked at me and rolled his eyes with no verbal response.

I also brought up the issue of Chief Ames Russell's precinct in that at the canvass on Wednesday morning, he noticed that the seal was broken on his #2 envelope, opened, his tapes were missing and they found tapes from another precinct in said envelope. I said both of them denied participation or any knowledge of this initially. I said "Jim you couldn't remember who was present during this, you thought maybe I was there?" Wrong, I had gone home for the night at about 12:30 am and I had no idea that you and Joyce were still at the office.

I said "Joyce, you out and out lied about this, stated that the Board knew not to do this and you placed the blame on Kirk. This was all captured in your email to Ames and also Kirk's response that she was not present. Kirk also noted that she had observed the security camera footage from the early morning hours of Wednesday and you and Jim were opening the #2 envelopes."

I also told them there was no reason to go into #2 envelopes for precinct 115 because he had called his numbers in to our office.

I will note that while I was speaking, Jim and Joyce were texting on their phones the whole time. Were they texting each other, who knows?

After I spoke, Attorney Linda Woods spoke and covered a lot of what I had brought up and repeatedly mentioned that Kirk was not being given due process in this proceeding. She also said that if Kirk was removed that she should remain in her position until a replacement was found for her.

The last person to speak was Kirk and she talked about how she had been mistreated by her Board. She mentioned the fact that had been brought up by some of the local candidates and their campaigns that she was "rude and condescending". Kirk stated that was not her intent to come across like that and it was her nature to address people in a direct, concise manner.

Again, I will note that Jim and Joyce never looked at Linda or Kirk while they were speaking. They were both on their phones texting. It was apparent to me they had made up their minds before the meeting started and did not listen to what I, Linda or Kirk said.

After Kirk spoke, we went back into open session. A vote was taken and Kirk was removed from her position.

- 4. After the public Electoral Board meeting on the evening of Feb 1, 2021, Chairman Nachman and Joyce Smith held a subsequent improper meeting of the Electoral Board to name an Interim Registrar. This meeting was held without notification to Starlet Stevens or the public. During this improper meeting, Jerry Richardson, who is not a resident of the City of Richmond was named Interim Registrar violating Code of Virginia 24.2-110**

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APPENDIX: E

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Retired Colonel John Mills

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TO: Virginia Board of Elections
ATTN:
Chairman of the Board – Robert H. Brink
Vice Chair of the Board – John O’Bannon
Secretary of the Board – Jamilah D. LeCruise

February 18, 2021

Christopher E. “Chris” Piper, Commissioner
Virginia Department of Elections

FROM: John R. Mills, COL, US Army (Ret)
Professor
President, National Election Integrity Association (NEIA) (A Virginia Association)
5469 Loggerhead Place
Woodbridge, VA 22193

SUBJECT: Request for urgent audience with the Commissioner, Virginia Department of Elections
and the Virginia Election Board
Foundationally flawed nature of on-going Virginia Risk Limiting Audit, Announced
February 15, 2021

REF: October 16, 2020 letter to Board (no response received) Letter attached

Dear Sir and Madam

We are a simple group of Virginia citizens – we are your constituency regardless of party or political affiliations. We are not funded or representing any political movement; in addition to our other responsibilities, including providing for and raising our families and doing our best to be good citizens of Virginia, we have one focus: election integrity in Virginia.

The Risk Limiting Audit (“the audit”) announced on February 15, 2021, is appreciated but is fundamentally flawed. It will not have merit, nor be respected, unless the following issues (listed below) are substantively addressed. Without addressing these matters in a holistic and transparent manner, a cloud of suspicion will linger, grow, and undermine election integrity in Virginia in all future elections. I can assure you that the NEIA and others will be relentless at returning to this topic over and over again until there is full transparency on the election process in Virginia. I have reviewed a statement from an Election Official, and the procedures for this event are flawed from the beginning, unless the matters identified below are properly and holistically addressed.

We request an urgent in-person or video conference meeting with the Commissioner and at least two of the Board Members before tangible internal progress is made on this audit. We assure the Commissioner and the Board, we, along with others, will ensure this audit is characterized appropriately if conducted without a complete response answering our questions and concerns below, raised well before the audit findings are released.

Here are the matters we seek a complete response from the Commissioner and/or the Board, post haste, before the RLA is brought beyond the initial phase:

1. There is factually established evidence, based on sampling from Prince William County, of significant numbers of unlawful voters on the rolls. 8% is the minimum based on court records cross referenced with voter rolls. These are potential violations of 18 USC.

2. Demonstration that the Virginia voting registration system is RealID-compliant and uses network and database connectivity that establishes real time validity of key identifiers, such as social security numbers and other forms of identification at point of registration, and is capable of identifying, alerting, and remediating erroneous identifications. In addition, the system should be auditable to identify previous registrants that may have inadvertently been added with either non-valid identifications or registration errors. Example, a Social Security number and an Individual Taxpayer Identification Number (ITIN) provided to undocumented immigrants, both having nine digits, can be used to apply for and receive a Virginia Driver's License. In the same application, one can register to vote. To vote in a Federal election, it is Federal Law that the person must be a U.S. Citizen (18 USC).
3. Transparency, status, role, scale, and scope of involvement of Demtech, what we characterize as an "Election Management Services" company for the Commonwealth of Virginia.
4. Remediation and response status of Department of Elections (and your Board) to the 2018 Joint Legislative Audit and Review Commission (JLARC) Report deficiencies.
5. Public access to a reasonable sample of Election Machines and their audit logs and features in the following counties (this will include a 3rd party forensic audit by a firm chosen by NEIA and will be done in a fully public manner, in-person with observers of the Government of Virginia and the NEIA. Other observers and the public may join virtually): Prince William, Fairfax, Loudon, Arlington, and Chesterfield Counties. We are aware of the Election Assistance Commission records and their reporting on Virginia Election Machine usage.
6. Public access to a reasonable sample of actual submitted/scored paper ballots for optical scanning in the following counties (this will be done by a firm chosen by NEIA and will be done in a fully public manner, in-person with observers of the Government of Virginia and the NEIA. Other observers and the public may join virtually): Prince William, Fairfax, Loudon, Arlington, and Chesterfield Counties. This is to establish their heritage in accordance with Virginia voting laws.
7. Public access to left over unused blank official ballots in the following counties for review, optical scanning, and counting purposes: Prince William, Fairfax, Loudon, Arlington, and Chesterfield Counties. This is to establish a true holistic count of the entire official ballot numbers.
8. The flurry of legislation enacted by the Governor in 2020, often citing COVID-19 as the basis, created a new blurred category of "Absentee" and central vote counting centers. There was previously, what we characterize as "classic" "Absentee" voting, but now it's unclear and potentially conflicting guidance exists on "classic" "Absentee" and the more informal term of "Drop Off" or "Mail In" ballots. Further, it is unclear what control measures were, and are, in place to validate in-coming ballot authenticity before scanning and recording. This is an absolutely reasonable control measure. We have helped guide, counsel, and advise on elections in Bosnia, Iraq, and Taiwan. Taiwan conducted a model, transparent election in January 2020. We seek more information on the correct terms, procedures, and ballot control measures for this new, unclear category of voting.
9. There was an apparent pause in Virginia vote tallying on November 4th, 2020. What was the reason for this occurrence? According to the Carter Center, considered the Gold

Standard in election integrity, pauses in vote counting are a significant indicator of malfeasance.

10. Application of the Virginia Court decision on the Reed/Hess case represented by the Public Interest Legal Foundation. The public needs to see the quantitative effect of this court ruling on the election of November 2020. Also attached.

None of these topics are meant to be the foundation for overturning results of the November 2020 election in Virginia. However, without full transparency on these topics, a cloud of suspicion will linger and grow over Virginia and your Board, and the NEIA and others will return to this topic again and again.

I personally took my Oath of Office as a Federal Official very seriously. We respect and appreciate your service as sworn officials for the Commonwealth. It is our belief that the solemn duty of Sworn Officials of the Commonwealth of Virginia is to be fully transparent and sharing in all aspects of their duty. Thank you for your time and we look forward to meeting very shortly. We are free on Monday (Feb 22) until 130pm, Tuesday (Feb 23) all day except for 11-12, and Thursday (Feb 24) until 1030.

V/R



John R. Mills
COL, US Army (Ret)
Professor
President, NEIA
5469 Loggerhead Place
Woodbridge, VA 22193
John5.17@verizon.net
571-340-2148

FROM: John R. Mills, President
National Election Integrity Task Force Association

TO: Robert H. Brink
Chairman of the Board
Virginia Election Commission
Washington Building, First Floor
1100 Bank Street, Richmond 23219

10/16/2020

SUBJECT: Letter of Concern over integrity of Virginia voting process

1. Court evidence of large number of unlawful voters on the Virginia Voter Rolls
2. Grave concern over foreign hosting of Virginia Election Data
3. Virginia is possibly in violation of the 1965 Voting Rights Act and denying voting rights to African Americans
4. Deficiencies identified in 2018 Joint Legislative Audit and Review Commission Report

Mr. Brink,

Thank you for your service on our Virginia Election Commission. I wanted to bring four urgent matters to your attention that undermine the integrity of the Virginia Election System.

First, based on data provided under a Freedom of Information Act (Attachment A) to the Virginia 31st Circuit Court on those rejected for Jury Duty in 2019, disturbing data is presented. Per the Virginia Court System Guidance, the list of names for Jury duty comes primarily from the Virginia Voting Rolls. Taking the data from the FOIA, the following is established assuming the total of 12,841 jury duty candidates are a reasonable sample of the population, the following is statistically demonstrated in the Virginia Voting Rolls:

- 2.7% of the Virginia Voting Roll consists of non-citizens,
- .9% of the Virginia Voting Roll consists of felons,
- 1.8% of the Virginia Voting Roll consists of non-English speakers (to be a naturalized US Citizen, one must demonstrate they can speak English)
- 5.9% of the Virginia Voting Roll is of great concern due to the lack of response to the Jury call (it is a crime in Virginia to not respond to Jury Duty).


With this data, it is not unreasonable to question the validity of the entire Virginia voting roll and combined with other categories on the data provided, declare that 12% of the Virginia registered voters are unlawful. As you know, [18 USC § 611](#), [8 USC § 1227](#), [8 USC § 1182](#) all reference the legal statute requirement to be a lawful U.S. Citizen to vote in a Federal Election. What is the plan to ensure that only lawful voters for Federal Elections are on the Virginia voting rolls for the November 3rd, 2020 election?

Second, I have great concern over the contractor DemTech working for the State Election Commission. We have lawfully obtained, network forensic information that reflects DemTech shares and hosts Virginia Election data in the Amazon Web Services environment and also partners with ScytI. There is very likely foreign ownership and involvement in these election service companies, and also very likely Virginia election data is stored, processed, and tabulated overseas. This is unacceptable and violates the joint Department of Justice and Department of State effort to identify and neutralize election meddling by foreign powers and groups. What is the plan to ensure all Virginia election data, tabulation, and storage resides in the United States?

Third, as you know, Virginia is still under portions of the 1965 Voting Rights Act. In essence, this Federal Law was enacted to protect Black Americans that were having their votes stolen, nullified, or deterred. I assert the first two points I raise bring reasonable question as to whether the State of Virginia is once again nullifying the votes of African Americans. What is the plan to make sure Virginia is in compliance with the active elements of the 1965 Voting Rights Act?

Fourth, I'm sure you are aware of the deficiencies identified in 2018 Joint Legislative Audit and Review Commission (JLARC) Report. In the Executive Summary, the first major issue regards concerns over the Information Technology systems and the second one regards weak oversight which does not provide full assurance of election integrity and uniformity. Although the work of the Election Commission and its employees are appreciated, the 2018 JLARC Report overall paints a stark picture of the election integrity environment of Virginia. Simply put – what is the action plan for the Election Commission to raise the confidence of the citizens of Virginia that every vote will count and that only lawful voters are participating for the November 3rd, 2020 election?

Very Respectfully,



John R. Mills, President
National Election Integrity Task Force Association
571-340-2148
John5.17@verizon.net

VIRGINIA

IN THE CIRCUIT COURT OF THE COUNTY OF FREDERICK

Thomas P. Reed,

and

Robert Hess,

Plaintiffs,

v.

Virginia Department of Elections, and
Jamilah D. Lecruise, John O'Bannon, and
Robert H. Brink, in their official capacity as
members of the Virginia State Board of
Elections,

Defendants.

Case No. 20-622

ORIGINAL RECEIVED & FILED
FREDERICK COUNTY CIRCUIT COURT
DATE: 10-9-2020 P.M.

COMPLAINT

Comes now the Plaintiff, by Counsel, and moves the Court for declaratory and injunctive relief against the Defendants for the following reasons:

1. Defendants have issued election guidance to county boards of election, including to Plaintiff Reed, that is in direct conflict with Virginia code regarding the acceptance of absentee ballots (the "Conflicting Instructions").
2. Plaintiff Thomas P. Reed is a member of the Frederick County Board of Elections pursuant to powers conferred by Virginia Code §24.2-115.
3. As a member of the Frederick County Board of Elections, Reed exercises various power over the conduct of elections including instructing the officers of election in Frederick

County pursuant to Virginia Code §24.2-115, training election officials regarding the proper conduct of elections and certifying that the training occurred pursuant to Virginia Code §24.2-115.2, preparing an abstract with absentee ballot results for the State Board of Elections pursuant to Virginia Code §24.2-709(C), as well as the extensive obligations in handling, processing and counting absentee ballots pursuant to Virginia Code §24.2-710.

4. Plaintiff Robert Hess is the Chairman of the Winchester Republican Committee and a legal and qualified voter in the City of Winchester. The Winchester Republican Committee is a local party committee of the Republican Party of Virginia, Inc. The Republican Party of Virginia, Inc., is a political party as defined in § 24.2-101 of the Code of Virginia.

5. As the Chairman of a local political party, Plaintiff Hess has the authority to make recommendations to the circuit court for appointments to the local electoral board pursuant to Virginia Code § 24.2-106, to make nominations to the electoral board for appointment of officers of election pursuant to Virginia Code § 24.2-115, to certify its candidates to appear on general election ballots pursuant to Virginia Code § 24.2-511, to authorize representatives to remain in the room in which an election is being conducted, including the central absentee voter precinct pursuant to Virginia Code § 24.2-604.4, to receive notice of and be present for the final testing of voting machines pursuant to Virginia Code § 24.2-633, to appoint representatives to be present for the ascertainment of results at each precinct pursuant to Virginia Code § 24.2-655, and to authorize a representative to be present during the local electoral board's provisional ballot hearing Virginia Code § 24.2-653.01.

6. Hess is affected by the issuance of the Conflicting Instructions, and any guidance from the Defendants that conflicts with state statute, because must train election observers and other representatives authorized by Virginia statute to participate in the electoral process, as well as participate in the selection of election officials who will administer the conduct of elections.

7. The Defendants constitute the three members of the Virginia State Board of Elections and the Department of Elections.

8. This Court has jurisdiction to hear this claim pursuant to Virginia Code § 17.1-513 and § 8.01-184.

9. Venue is proper in this Court under Virginia Code § 8.01-261(1)(a)(1), § 8.01-261(1)(a)(2) and § 8.01-261(1)(a)(3).

The Conflicting Instructions

10. In any conflict between Virginia statutory law and guidance issued by the Defendants, Virginia statutory law is superior and guidance issued by the Defendants is void. The State Board of Elections, through the Department of Elections is charged with supervising and coordinating the work of county and city electoral boards. Those local electoral boards in turn "shall follow (a) the election laws and (b) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law." Virginia Code § 24.2-103. Additionally, giving effect to the guidance would violate the anti-suspension clause of the Constitution of Virginia. Va. Const., art. I, § 7.

11. On March 11, 2020, Governor Northam approved House Bill 238, which amended Virginia Code § 24.2-709 of the Code of Virginia to provide for an exception to the existing rule that "Absentee ballots shall be returned to the general registrar before the closing of the polls." The amendment added a new paragraph (B) codifying that exception:

Notwithstanding the provisions of subsection A, any absentee ballot (i) returned to the general registrar after the closing of the polls on election day but before noon on the third day after the election and (ii) *postmarked on or before the date of the election* shall be counted pursuant to the procedures set forth in this chapter if the voter is found entitled to vote. For purposes of this subsection, a postmark shall include any other official indicia of confirmation of mailing by the United States Postal Service or other postal or delivery service. (emphasis added) Acts of Assembly Ch. 288; codified at 24.2-709(B)

12. The new paragraph B became effective as law on July 1, 2020. The effect of the amendment was that for the first time in Virginia, the postmark on an absentee ballot return envelope became relevant for whether or not an absentee ballot could be counted because prior to the amendment, all absentee ballots had to be returned by election day to be counted.

13. At a meeting on August 4, 2020, the Defendants took up a regulatory action, "Processing Absentee Ballots with Missing or no Postmark" and adopted a motion "that the Board approve the Department's proposal for regulatory action related to processing absentee ballots with missing or no postmarks." August 4 Meeting Minutes (attached as Ex. A) proposing an amendment to 1 Va. Admin. Code 20-70-20. Material Omissions from Absentee Ballots.

14. The amendment from August 4, 2020 added paragraph 11 to section C, the list of immaterial omissions. The list of immaterial omission are errors that would not render a ballot invalid. Specifically, the amendment's language was "The ballot is received by the general registrar's office by noon on the third day after the election pursuant to § 24.2-709 of the Code of Virginia, but does not have a postmark, or the postmark is missing or illegible." Board Memo (attached as Exh. B).

15. The effect of the amendment from August 4, 2020, was to instruct county electoral boards and the public, including Plaintiffs Reed and Hess, that absentee ballots were to be counted that do not comply with Virginia Code § 24.2-709(B).

16. The existence of a postmark on or before the date of election is an explicit statutory condition precedent for the acceptance of any absentee ballot in Virginia. Defendants have no authority to issue guidance in conflict with explicit state statute on the very matter at issue.

17. On August 13, 2020, the Department of Elections issued Conflicting Instructions that are contrary to Virginia Code. Namely, the Defendants sent out an "Official ELECT Advisory." (ELECT is the short hand reference employees of the Department use for the

agency). The August 13, 2020 advisory went to general registrars and local electoral boards, including to Plaintiff Reed, with the subject "New Regulations Adopted by State Board of Elections." The August 13 Advisory listed, *inter alia*, an amendment to the Material Omission from Absentee Ballots regulation, noting "The effect of the amendment is if a General Registrar receives an absentee ballot in the mail after Election Day but before noon on Friday that does not have a postmark, or the postmark is missing or illegible, **the ballot can be counted. The missing or illegible postmark is not a material omission.**" Memo (attached as Ex. C)(emphasis added).

18. The August 13 advisory was wrong and in plain conflict with Virginia Code Virginia Code § 24.2-709(B).

19. The August 13 memo went further and listed as an action item: "If your office receives an absentee ballot in the mail after Election Day but before 12:00 p.m. noon on the Friday after the election, and the postmark is missing or illegible on the mailed ballot envelope, the ballot can still be counted **if there is no other reason to reject the ballot.** This does not apply for ballots that are delivered by the voter to the General Registrar's office. Ballots delivered by the voter must still be received by the General Registrar by the time the polls close on Election Day." Id.

20. The action item example, namely that a ballot that did not comply with Virginia Code § 24.2-709(B) can still be counted nullifies an explicit statute passed by the Virginia General Assembly and signed by the Governor of Virginia. Contrary to the action item, the lack of a postmark is the reason to reject the ballot.

21. The Conflicting Instructions harm the Plaintiff Reed because they command him to disregard Virginia statute and to accept absentee ballots that lack any indication that they were cast in accordance with Virginia law, namely on or before election day. Plaintiff Reed is also

harmful in that the Conflicting Instructions also command him to train and teach election officials to conduct the election contrary to Virginia law.

22. The Conflicting Instructions harm the Plaintiff Hess because they impair his ability to train observers and authorized individuals in the proper procedures for conducting an election in Virginia. The Conflicting Instructions sow confusion and uncertainty in the process of organizing and mobilizing his volunteers and assisting affiliated candidates.

23. Virginia has a long tradition for respecting the rule of law and the supremacy of the authority of the Virginia General Assembly over administrative actors. "Under fundamental constitutional principles, administrative officials and agencies are empowered to act only in accordance with standards prescribed by the legislative branch of government. To hold otherwise would be to substitute the will of individuals for the rule of law." *Cochran v. Fairfax County Bd. Of Zoning*, 594 S.E.2d 571 at 577, 267 Va. 756 (2004). *Thompson v. Smith*, 155 Va. 367, 379, 154 S.E. 579, 584 (1930); *Bell v. Dorey Electric Company*, 248 Va. 378, 380, 448 S.E.2d 622, 623 (1994); *York v. City of Danville*, 207 Va. 665, 672, 152 S.E.2d 259, 264 (1967); *Assaid v. City of Roanoke*, 179 Va. 47, 50, 18 S.E.2d 287, 288 (1942).

24. The emergency provisions of Virginia Code §24.2-713 do not apply to the Conflicting Instructions because there is sufficient time for the "distribution and handling of absentee ballot applications and absentee ballots." Moreover, "nothing in [Section 713] shall authorize the counting of any absentee ballot returned after the polls have closed." *Id.*

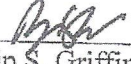
WHEREFORE the Plaintiff moves the Court for declaratory and injunctive relief that:

1. Declares that the Conflicting Instructions issued by Defendants conflict with Virginia statutes including Virginia Code § 24.2-709(B).

2. Enter a Declaratory Judgment that a postmark on or before election day is required to accept an absentee or mail ballot pursuant to Virginia Code § 24.2-709(B).
3. Enter a Declaratory Judgment that data from the Intelligent Mail Barcode (IMb) is an official indicia of mailing by the United States Postal Service and can be used to verify that an absentee ballot was mailed on or before the date of the election in the case of a missing or illegible traditional postmark.
4. Enjoin the Defendants from issuing any instructions in conflict with Virginia Code § 24.2-709(B) in regards absentee or mail ballots requiring a postmark from on or before election day to be counted.



By _____
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★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Commissioner's Report

BOARD WORKING PAPERS
Christopher Piper
Commissioner



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Delegation of Va. Code § 24.2-307

BOARD WORKING PAPERS
Ashley Coles
ELECT Policy Analyst



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Memorandum

To: Chairman Brink, Vice-Chair O'Bannon, Secretary LeCruise
From: Ashley Coles, Policy Analyst
Date: March 31, 2021
Re: Amendment to Delegations of Authority 2019

Suggested Motion

I move that the Board approve the proposed Amendment to the Delegations of Authority 2019 relating to Virginia Code § 24.2-307 from the State Board of Elections to the Department of Elections.

Delegations Background

The State Board of Elections (“Board”) is authorized to prescribe standard forms for voter registration and elections, and to supervise, coordinate, and adopt regulations governing the work of local electoral boards, registrars, and officers of election. The Department of Elections (“Department”) is authorized to establish and maintain a statewide automated voter registration system to include procedures for ascertaining current addresses of registrants; to require cancellation of records for registrants no longer qualified; to provide electronic application for voter registration and absentee ballots; and to provide electronic delivery of absentee ballots to eligible military and overseas voters. The Department conducts the Board's administrative and programmatic operations and discharges the Board's duties consistent with delegated authority.

Needed Revisions

The General Assembly passed SB 740 during the 2020 General Assembly session. The bill amended Va. Code 24.2-307 with the goal of eliminating split precincts. However, localities can apply to the Board for a waiver under certain circumstances.

Because of the extensive administrative process and the volume expected, ELECT recommends that the Board delegate the authority to grant these waivers to the Department.

Attachments and References

- Amended Delegations of Authority 2019 Chapter 3 with added language specifically referencing § 24.2-307
- [Va. Code § 24.2-307](#)

Recommendation of Staff

Staff recommends the Board adopt the amendment Delegations of Authority 2019 as presented.

Virginia State Board of Elections: Delegation of Authority 2019 (Amended Chapter 3)

<u>Code §</u>	<u>Code Responsibility</u>	<u>Authority</u> B=Board D=ELECT	<u>Date</u>	<u>Comments</u>
24.2-307	... If a governing body is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts, it shall apply to the State Board for a waiver to administer a split precinct. The State Board <u>may grant the waiver or direct the governing body to establish a precinct with fewer than the minimum number of registered voters as permitted by § 24.2-309.</u>	D	3/31/21	<i>Amended Delegation</i>
24.2-309	The State Board <u>shall make regulations setting procedures by which elections may be conducted in precincts in which all voters do not have the same choice of candidates at a general election.</u>	B	10/29/19	
24.2-309.2	If a change in the boundaries of a precinct is required pursuant to clause (i), (ii), (iii), or (iv), the county, city, or town shall comply with the applicable requirements of law, including §§ <u>24.2-304.3 and 30-264, and send copies of the ordered or enacted changes to the State Board of Elections and the Division of Legislative Services.</u>	D	10/29/19	
24.2-310	C. Polling places shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (§ 51.5-1 et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board <u>shall provide instructions to the local electoral boards and general registrars to assist the localities in complying with the requirements of the Acts.</u>	D	10/29/19	
24.2-310	D. If an emergency makes a polling place unusable or inaccessible, the electoral board or the general registrar shall provide an alternative polling place and give notice of the change in polling place, including to all candidates, or such candidate's campaign, appearing on the ballot to be voted at the alternative polling place, <u>subject to the prior approval of the State Board.</u>	D	10/29/19	
24.2-310	F. Any local government, local electoral board, or the State Board may make monetary grants to any non-governmental entity furnishing facilities under the provisions of 24.2-307 or 24.2-308 for use as a polling place. Such grants shall be made for the sole purpose of meeting the accessibility requirements of this section. Nothing in this subsection shall be construed to obligate any local government, local electoral board or the State board to appropriate funds to any non-governmental entity,	D	10/29/19	



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Certification of Special Election – Senate of Virginia 38th District

BOARD WORKING PAPERS
Paul Saunders
Elections Administration Supervisor



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Chairman Brink, Vice Chair O'Bannon, and Secretary LeCruise
From: Paul G. Saunders, III, Elections Administration Supervisor
Date: March 31, 2021
Re: **Certification of Results for the March 23, 2021 Special Election**

Suggested Motion For A Board Member To Make:

"After reviewing the Abstract of Votes Cast in the March 23, 2021 Special Election for Member, Senate of Virginia District 38, I move that the Board certify the results as presented and declare the winner."

Applicable Code Sections:

- Va. Code § 24.2-679.
A. "... The Board shall... make statements of the whole number of votes given... The Board members shall certify the statements to be correct and sign the statements. The Board shall then determine those persons who received the greatest number of votes and have been duly elected to each office. The Board members shall endorse and subscribe on such statements a certificate of their determination."

B. "The State Board shall meet as soon as possible after it receives the returns for any special election held at a time other than the November general election to ascertain the results of the special election in the manner prescribed in subsection A."
- Va. Code § 24.2-680.
"Subject to the requirements of § 24.2-948.2, the State Board shall without delay complete and transmit to each of the persons declared to be elected a certificate of his election, certified by it under its seal of office... The names of members elected to the General Assembly shall be certified by the State Board to the clerk of the House of Delegates or Senate, as appropriate."

Attachments:

Abstract and winner Certificate of Election for Member, Senate of Virginia District 38.

Background:

- The Senate of Virginia District 38 seat became vacant and a Special Election to fill the vacancy was called by the Governor of Virginia, The Honorable Ralph S. Northam, to be held on March 23, 2021.
- There are eleven (11) localities in the 38th Senate of Virginia District; Norton City, Radford City, Bland County, Buchanan County, Dickenson County, Montgomery County, Pulaski County, Russell County, Smyth County, Tazewell County and Wise County.
- Upon completion of the election, local General Registrars entered all relevant election data into the Virginia Election and Registration System (VERIS).
- In accordance with Va. Code § 24.2-671, local electoral boards conducted provisional ballot meetings and canvasses to ascertain and certify election results for their localities.
- Upon completion of canvass, General Registrars forwarded their localities' certified Abstracts and, when applicable, Write-Ins Certifications, to the Department of Elections.
- Upon receipt of the localities' Abstracts and Write-Ins Certifications, ELECT's Elections Administration staff checked them for errors and accepted the ascertained results as presented.

ELECT Staff Recommendation:

ELECT staff recommends that the Board certify the results as presented and declare the winner.

ABSTRACT of VOTES

Cast in the 2021 March Special - Senate of Virginia Election held on 03/23/2021 for,

Member Senate of Virginia

38th District

NAMES OF CANDIDATES ON THE BALLOT

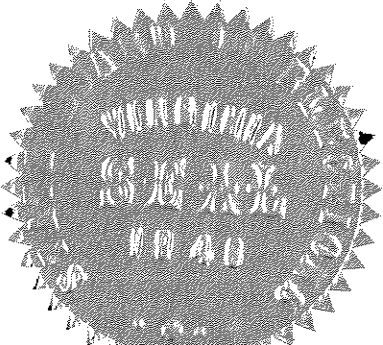
*TOTAL VOTES RECEIVED
(IN FIGURES)*

T. Travis Hackworth - Republican	18100
Laurie A. Buchwald - Democratic	5629
Write-in	39
Total Number of Overvotes for Office	0

We, the undersigned State Board of Elections, upon examination of the official abstracts of votes filed with the Department of Elections for the election held on 03/23/2021, do hereby certify that the above is a true and correct abstract of votes cast at said election for the Member Senate of Virginia and do, therefore, determine and declare that the following person(s) has received the greatest number of votes cast for the Member Senate of Virginia.

T. Travis Hackworth - Republican

Given under our hands this _____ day of _____, _____



_____, Chairman
_____, Vice Chairman
_____, Secretary
_____, Acting Secretary

COMMONWEALTH Of VIRGINIA

TO ALL TO WHOM THESE PRESENTS SHALL COME - GREETING:

This is to certify, that at a meeting of the State Board of Elections, held in Richmond, Virginia on Wednesday the thirty first day of March, two thousand and twenty one, an examination of the official abstracts of votes on file with the Department of Elections, it was determined that at the special election held on the twenty third day of March, two thousand and twenty one,

T. Travis Hackworth

was duly elected

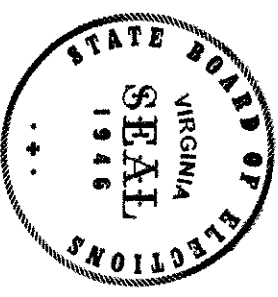
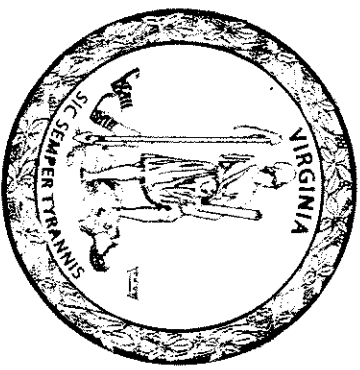
*Member, Senate of Virginia, 38th District,
for a term expiring on January 9, 2024.*

Witness the following official signatures and the seal of the State Board of Elections at Richmond, this Wednesday the thirty first day of March, two thousand and twenty one, in the two hundred and forty-sixth year of the Commonwealth.

_____ Chairman

_____ Vice Chairman

_____ Secretary





★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Drawing for Candidate Ballot Order

BOARD WORKING PAPERS
Paul Saunders
Elections Administration Supervisor



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Memorandum

To: Chairman Brink, Vice Chairman O'Bannon, and Secretary LeCruise
From: Paul G. Saunders, III, Election Administration Supervisor
Date: March 31, 2021
Re: Ballot order for candidate names for June 2021 Primaries

Suggested motion for a Board member to make:

“I move that the Board certify the determinations by lot of the order of candidates on the ballot for primary elections to be held on June 08, 2021.”

Applicable Code Section: § 24.2-529. Primary ballots.

The primary ballots for the several parties taking part in a primary shall be composed, arranged, printed, delivered, and provided in the same manner as the general election ballots except that at the top of each official primary ballot shall be printed in plain black type the name of the political party and the words "Primary Election." The names of the candidates for various offices shall appear on the ballot in an order determined by the priority of the time of filing for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board or the State Board as in the case of a tie vote for the office. No write-in shall be permitted on ballots in primary elections.

OFFICE	CANDIDATE
Governor - (Democrat)	Terry R. McAuliffe Jennifer L. McClellan Jennifer Carroll Foy
Lieutenant Governor - (Democrat)	S. “Sam” Rasoul Sean Perryman Hala Ayala Elizabeth Guzman Andria P. McClellan
Attorney General - (Democrat)	Mark R. Herring Jerrauld C. "Jay" Jones

OFFICE**CANDIDATE**House of Delegates 9th District – (Republican)Charles D. Poindexter
Wren M. WilliamsHouse of Delegates 31st District - (Democrat)Roderick Hall
Elizabeth Guzman
Kara PitekHouse of Delegates 45th District - (Democrat)Elizabeth Bennett-Parker
Mark H. LevineHouse of Delegates 68th District – (Democrat)Dawn Marie Adams
Kyle R. ElliottHouse of Delegates 69th District - (Democrat)Betsy B. Carr
Michael J. Jones
(Drawing not necessary if
deadline extension is not
granted)House of Delegates 86th District - (Democrat)Irene Shin
Ibraheem Samirah
(Drawing not necessary if
deadline extension is not
granted)House of Delegates 47th District – (Democrat)Patrick Hope
Matt Rogers
(Drawing not necessary if
deadline extension is not
granted)



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STATE BOARD *of* ELECTIONS

Consideration of Candidate Filing Extension (VA. Code § 24.2-503)

BOARD WORKING PAPERS
David Nichols
Elections Services Director



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STATE BOARD *of* ELECTIONS

Memorandum

To: Chairman Brink, Vice Chair O'Bannon, and Secretary LeCruise
From: Dave Nichols, Elections Services Manager
Date: March 31, 2021
Re: Candidate Filing Extension

Motion if Board DOES GRANT Extension:

Move that the Board *grant* an extension pursuant to Virginia Code § 24.2-503 for candidates to file the Certificate of Candidate Qualification and/or Statement of Economic Interests in relation to the June 2021 Primary Elections.

Motion if Board DOES NOT Grant Extension:

Move that the Board *does not grant* an extension pursuant to Virginia Code § 24.2-503 for candidates to file the Certificate of Candidate Qualification and/or Statement of Economic Interests in relation to the June 2021 Primary Elections.

Applicable Code Sections: Va. Code § 24.2-501 and Va. Code § 24.2-503

Background: Pursuant to Va. Code § 24.2-501, an individual that wants to be a candidate for office must submit a Certificate of Candidate Qualifications and a Statement of Economic Interests. As these required elements of candidate filings, failure to submit one or both documents would prohibit an individual from having their name printed on the ballot and becoming a candidate.

Pursuant to Va. Code § 24.2-503, the State Board of Elections may grant an extension of the filing deadlines for the Certificate of Candidate Qualifications and a Statement of Economic Interests. Any extension granted may only be for a 10 day time period from the time the Department of Elections sends the notice of extension to affected candidates. If the State Board of Election grants an extension, the Department of Elections must notify all candidates who have failed to file one or both of the documents of the extension.

At this time, the Department of Elections has received two requests for an extension from candidates. These letters are attached as part of your Working Papers. The Elections Administration Division has also compiled a list of candidates who are required to file with the Department of Elections and would be permitted to file paperwork by the extension. This list does not include any candidates for local offices who may need to file documents with their local General Registrar.

Virginia Board of Elections
Washington Building
1100 Bank Street, First Floor
Richmond, VA 23219

RE: House of Delegates Candidate Filing in Virginia's 93rd District

March 29, 2021

Dear Members of the Virginia Board of Elections,

I write this letter with hopes that you will consider granting me an extension to the filing deadline for the Certificate of Candidate Qualifications. Due to a clerical error and some miscommunication at the local level, I misfiled the form with my local registrar's office. Moreover, I am urgently submitting this letter along with the original form that was incorrectly filed with the Newport News Registrar's Office.

On March 9th, 2021, I visited the Registrar's office in Newport News, Virginia where I submitted the Certificate of Candidate Qualifications form and received a signed receipt from the office. Initially, I was under the impression and understanding that this form could be filed with the local office based on the simple fact that the office took the form, issued a receipt, and created a candidate file for use within the office. Subsequently, Vicky Lewis, General Registrar of Newport News, reached out to me with a correction to this error in filing on March 11, 2021. In her email communication to me, she informed me the qualification form should be sent to the state instead of being filed at the local level.

Unfortunately, I made the mistake of not including the re-filing of the paperwork when I mailed off the Statement of Organization or the Statement of Economic Interests. For this, I would like to personally apologize and ask for your grace in this situation.

Moreover, I humbly ask you to consider the following facts in making your decision:

1. I did initially file the Certificate of Candidate Qualification with the local registrar's office given the office's initial guidance to me as a first-time candidate.
2. I do have, and have included, the certified receipt of the Newport News Registrar's acceptance of said Certificate of Candidate Qualification.
3. I have postmarked the corrected paperwork within the same timeframe (three business days) that the initial certificate was accepted, but later reversed, from the Newport News Registrar.

Again, I apologize for this my oversight and for this mistake. Seeing that I was the only candidate to file any paperwork for the Republican Party Primary in the 93rd House of Delegates district, It is my hope that Board of Elections will consider and understand the full extent of situation and graciously grant an extension for filing my Certificate of Candidate Qualification. Thank you for your time and consideration, and please do not hesitate to contact me with any questions or concerns.

Humbly,

Jordan M. Gray

727 Bellows Way Apt. 303 | Newport News, VA 23602
757-759-6867 | grayfordelegate@gmail.com

State Board of Elections
1100 Bank St
Richmond VA 23219

VIA E-mail ea@elections.virginia.gov

Dear Board Members,

I write pursuant to section 24.2-504 of the Code of Virginia to request an extension for the filing of my Certificate of Candidate Qualification and my Statement of Economic Interest. On March 29, I filed both forms by FedEx and e-mail.

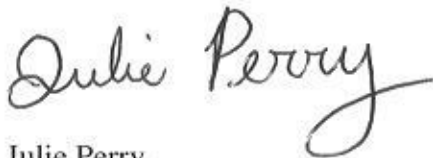
With respect to the Certificate of Candidate Qualification, I filed this form with the Legislative District Chair for my Party along with the other items required to be submitted to her. I apologize for the error.

With respect to the Statement of Economic Interest, I completed this form in early February. At the time, there was a note on the Candidate Forms page of the Department's website indicating it could be filed online. I had asked my treasurer, Chris Marston, to file it using that option. When he first tried to file, he received an error message and intended to try again, but failed to do so. We understand that the link for online filing has been removed and that is not an option. I apologize for this error as well.

As these forms have been filed now, I note that there is no public disclosure issue as no candidate filings have yet been made public.

For these reasons, I respectfully request an extension.

Sincerely,

A handwritten signature in cursive script that reads "Julie Perry". The signature is written in black ink and is positioned to the right of the typed name.

Julie Perry



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Risk Limiting Audit Report

BOARD WORKING PAPERS
Karen Hoyt-Stewart
Voting Technology Program Manager



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Chairman Brink, Vice Chair O'Bannon, and Secretary LeCruise
From: Karen Hoyt-Stewart, Voting Technology Program Manager
Date: Wednesday, March 31st, 2021
Re: 2021 Risk Limiting Audit Report

Overview:

The first statewide Risk-Limiting Audit (RLA) in Virginia was a great success and reaffirmed ELECT's dedication to ensuring secure and accurate elections. ELECT partnered with VotingWorks, a non-profit organization that hosts an open-source audit software, to assist with the technical side of the audit process and perform the statistical analysis. Ballots were chosen at random across all 133 localities to test a risk-limit of 10%. The audit confirmed with over 99% confidence the original count of votes accurately reflected the winners in Virginia for both the United States Presidential and Senate race. A full report describing the process and findings has been submitted to the Board.

Key Findings and Facts:

- **The US Presidential Race** sampled 1,372 votes. Of those votes, Biden received 756; Trump received 572, Jorgensen received 25; and Write-ins received 8. This resulted in a **.00000065117%** chance that the outcome of the Presidential election in Virginia was inaccurate, meaning that election officials are over **99% confident** in the reported outcome.
- **The US Senate Race** sampled 990 votes. Of those votes, Warner received 559; Gade received 417; Write-Ins received 1. This resulted in a **.00000424172%** chance that the outcome of the US Senate race was inaccurate, meaning that election officials are over **99% confident** in the reported outcome of the election.
- Of the 133 localities that uploaded a manifest, **122 localities were randomly selected for the RLA**. The following eleven localities did not have to retrieve ballots during the first statewide RLA: Bath, Dickenson, Floyd, Greensville, Highland, Lunenburg, Prince Edward, Richmond County, Emporia, Floyd, Lexington and Radford.

Recommendations:

Future RLAs should be selected based on the following criteria:

- Turnout. If a race has a low turnout, it makes more sense to do a manual recount.
- Margins greater than 2%. Races with smaller margins increase the number of ballots that need to be sampled and reduce the efficiency of the RLA process. If 15% of the total ballots in a race need to be audited, a full recount is recommended.
- In order to comply with §24.2-671.1 of the Code of Virginia, races that have localities which have not participated in a RLA at-least once within the last five-years should be prioritized either by targeting smaller races within these localities or statewide contests.



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Risk-Limiting Audit Report

March 31st, 2021

Executive Summary

On Tuesday March 2nd, Virginia Department of Elections (ELECT) announced the resounding success of their first statewide Risk-Limiting Audit (RLA). The audit confirmed the results of the 2020 Presidential Election and US Senate race with over 99% confidence. The following memo provides a detailed overview of a.) Risk-Limiting Audits, b.) Risk-Limiting Audits in Virginia, c.) Design and Implementation of the first statewide Risk-Limiting Audit in Virginia, d.) Results and Conclusions of the first statewide Risk-Limiting Audit in Virginia.

Brief Introduction of RLA

A RLA is a type of post-election audit that utilizes statistical methods and a manual review of paper ballots to check that the voting equipment accurately reported the correct outcome of an election. RLAs provide strong statistical evidence that the declared winner of a contest actually received the most votes.

RLAs provide a more cost effective and efficient alternative to other forms of post-election audits by reducing the number of paper ballots needed to confirm election results. In order to conduct a RLA, a voting system must be in place that produces paper ballots. RLAs analyze a random sample of hand-counted ballots to confirm election results. If the margin of an election is wide, less ballots are audited; if the margin is narrow, more ballots will be audited until enough evidence can confirm the results of the contest.¹ The margin of an election also determines the *risk-limit* of the audit. A *risk-limit* is the maximum chance that the audit will fail to correct an incorrectly reported outcome. For example, a 10% risk-limit means that there is as a 90% chance that the audit will correct an incorrect outcome.

There are two main types of risk-limiting audits: *ballot-comparison* and *ballot-polling audits*. *Ballot-comparison* audits manually examine randomly selected paper ballots and the results to the voting system's interpretation of the same ballot. *Ballot-polling audits* manually review a random sample of ballots to determine if the overall outcome of an election was correctly reported. Ballot polling requires more ballots to be audited, although it is simpler to complete; while ballot comparisons audit fewer ballots and require more data. Calculations for both ballot-polling and ballot-comparison audits are meant to be simple and can be independently verified by the public, allowing for more transparency in the auditing process.²

While RLAs may be conducted without software, technology is necessary when conducting a RLA on a statewide level to help manage the data. Software programs can assist with collecting

¹ Risk-Limiting Audits, Postelection Audits, A Summary, <https://www.ncsl.org/research/elections-and-campaigns/risk-limiting-audits.aspx>

² A Gentle Introduction to Risk-Limiting Audits, Mark Lindeman and Phillip B. Stark, IEEE Security and Privacy, Special Issue on Electronic Voting, 012, <https://www.stat.berkeley.edu/~stark/Preprints/gentle12.pdf>

local ballot manifest, estimating the sample size, selecting ballots for audit, recording discrepancies in audited ballots, as well as determining the scope of the audit.³

Risk Limiting Audits in Virginia

Throughout the United States, risk-limiting audits are attracting attention and gaining in popularity with election administrators. Virginia is one of four states, including Colorado, Rhode Island, and Nevada, who have adopted a statutory requirement to coordinate risk-limiting audits annually, while several states, like Michigan, Georgia, New Jersey and Indiana, have administered pilot programs.⁴

In 2017, the Virginia General Assembly passed legislation that amended the Code of Virginia to include risk-limiting audits of ballot scanner machines in use in the Commonwealth (*to reference the full text please see appendix*).⁵ Pursuant to § 24.2-671.1., the changes went into effect on July 1st, 2018 and stipulated that:

- The localities shall be chosen at random with every locality participating in the Department’s annual audit at least once during a five-year period.
- The audit will have no impact on the election results.
- No audit will be conducted until after an election has been certified and the period to initiate a recount has expired.
- Audits will be conducted by the local electoral boards and general registrars in accordance with guidelines established by ELECT.
- Candidates and political parties may have representation observe the audits.⁶

Over the past two years, Virginia has held ten risk-limiting audit pilots in thirty-five localities in the Commonwealth.

Statewide Audit: Design and Logistics

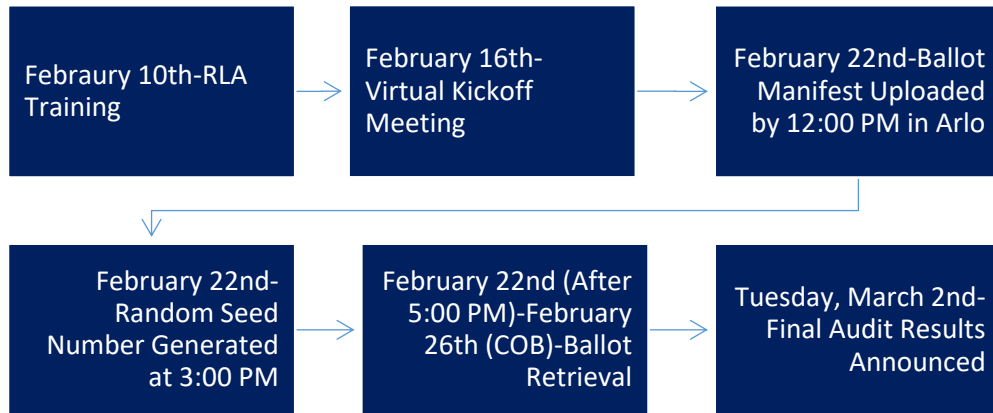
On January 12th, 2021, ELECT announced that the first statewide post-election risk-limiting audit would take place in February. The RLA would examine both the 2020 Presidential Election as well as the US Senate Race. The following is an illustrated example of the timeline of the audit:

³ National Conference of State Legislatures, Risk-Limiting Audits, <https://www.ncsl.org/research/elections-and-campaigns/risk-limiting-audits.aspx>

⁴ National Conference of State Legislatures, Risk-Limiting Audits, <https://www.ncsl.org/research/elections-and-campaigns/risk-limiting-audits.aspx>

⁵ Code of Virginia, 24.2-671.1 Audits of ballot scanner machines, <https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-671.1/>

⁶ Code of Virginia



ELECT partnered with VotingWorks, a non-profit organization that hosts an open-source audit software called Arlo, to assist with the technical side of the audit process. Due to high margins in both the Presidential (10.11%) and US Senate Race (12.08%), fewer ballots were needed to conduct the audit. Arlo uses the BRAVO ballot polling method of measuring risk and estimating how many ballots need to be examined.⁷ The tool and associated code is open source and may be reviewed here: <https://github.com/votingworks/arlo> and in the appendix. It was estimated that a sample size of 1,423 ballots would be needed to test a risk-limit of 10%.

This RLA was conducted using the *ballot polling method*. Ballot polling methods check if the outcome of an election is correct, whereas the ballot comparison method assesses if the tabulation was correct. Ballot polling audits are simpler to implement because they require little preparation and virtually nothing from the voting system. They are the most obvious option for any jurisdiction that produces a paper trail. Typically, ballot polling reviews the smallest amount of ballots necessary to produce strong evidence that a reported outcome is correct. Ballot polling methods also work best when elections have margins that are greater than 2%⁸, which made it an ideal option in Virginia for auditing both the Presidential and US Senate race. Overall, the ballot polling method was the most practical option for conducting a statewide risk-limiting audit in Virginia.⁹

The following steps were taken by ELECT and election administrators to conduct the audit:

Submit an ELECT 659: Prior to the audit, localities were required to submit an ELECT-659 form. An ELECT-659 is a request to Inspect Sealed Election Materials sent to ELECT for

⁷ VotingWorks, Arlo, <https://github.com/votingworks/arlo>

⁸ Pilot Implementation Study of Risk-Limiting Audit Methods in the State of Rhode Island, Report on the Rhode Island RLA Working Group, August 2019, <https://www.brennancenter.org/sites/default/files/2019-09/Report-RI-Design-FINAL-WEB4.pdf>

⁹ Bravo: Ballot-polling Risk-Limiting Audits to Verify Outcomes, Mark Lindeman, Phillip B.Stark, Vincent S. Yates, Department of Statistics, University of California Berkeley, <https://www.usenix.org/system/files/conference/evtwote12/evtwote12-final27.pdf>

signature authorization to present to the Clerk of the Circuit Courts to access ballots from the 2020 November General Election.¹⁰ A copy of this form is listed in the appendix.

Create a Ballot Manifest: Registrars created a *ballot manifest*. A *ballot manifest* is a two column spreadsheet that includes a list of the “Batch Name” (column A) and the “Number of Ballots” (column B). All types of ballots are included (in person, mail-in, provisional, etc.) in the manifest. The ballot manifest creates an inventory of every ballot in a locality.

Batch Name	Number of Ballots
Pct 101	75
Pct102	112

Upload the Ballot Manifest: Once the ballot manifest was created, localities saved the manifest as a csv file and uploaded the spreadsheet into Arlo, VotingWorks’ audit software. General registrars/Director of Elections were automatically enrolled in the open-source software to complete the audit.

Generating a Random Seed Number & Ballot Selection: ELECT and VotingWorks held a virtual public meeting to generate the random seed number. The number was generated by four ELECT staff members rolling a ten-sided die five-times each to create the 20 digit number. The random seed number was entered into the audit system software to generate the list of ballots needed to be examined by each locality.

Ballot Retrieval Lists: Localities, who were selected in the random sample, received a list of ballots to review directly from Arlo. The lists included which batches to open and which ballot to audit. See below:

Batch Name	Ballot Number
Pct 101	17
Pct 102	88

The ballot number reflects the numerical order of a specific ballot. In order to locate ballot number 17, a member of the audit board must count, starting at the top of the stack of ballots, each stored ballot until they reach the 17th ballot in the batch.

Ballot Retrieval Process: Localities had four days to host a public meeting, where ballots were retrieved, tallied and uploaded into Arlo. An Audit Board, consisting of one Democrat and one Republican, retrieved each specified ballot and recorded the results for the office on a tally sheet. The Audit Board inputs the results of the tally sheet into the audit software and submits their results. Some localities in the Commonwealth did not have any ballots pulled in the random sample and therefore did not have to audit any ballots. These localities are listed in the result section of this memo.

¹⁰ Virginia Department of Elections, Memo RE: Statewide Risk Limiting Audit, February 8th, 2021

Public Announcement of Results: A public meeting was held on Tuesday, March 2nd, where Commissioner Christopher Piper, announced the results of the statewide audit.

Results/Findings

The audit confirmed that the original count of the votes accurately reflected the winners in Virginia for both the United States Presidential and Senate races. The risk limit for the audit was met for both races with results falling significantly below the 10% risk limit.

In the US Presidential Race, 1,372 votes were sampled. Of those votes, Biden received 756; Trump received 572, Jorgensen received 25; and Write-ins received 8. This resulted in a .00000065117% chance that the outcome of the Presidential election in Virginia was inaccurate, meaning that election officials are over 99% confident in the reported outcome.

Similarly, the US Senate Race sampled 990 votes. Of those votes, Warner received 559; Gade received 417; Write-Ins received 1. This resulted in a .00000424172% chance that the outcome of the US Senate race was inaccurate, meaning that election officials are over 99% confident in the reported outcome of the election. ¹¹

Discrepancies

While 1,423 ballots were pulled, some of the ballots retrieved did not include votes for each contest. In a Presidential election year, it is not uncommon for many people to only vote for a candidate for President. Similarly, of the ballots pulled for the US Senate Race, 51 of them did not vote for a Presidential candidate.

Of the 133 localities that uploaded a manifest, 122 were randomly selected for the RLA. The following eleven localities did not have to retrieve ballots during the first statewide RLA:

Bath	Greensville	Lunenburg	Richmond County
Dickenson	Highland	Prince Edward	Emporia
Floyd	Lexington	Radford	

Future Audits

ELECT has access to Arlo, the software used to conduct the 2021 statewide audit, and VotingWorks' services until the end of the calendar year. After the end of the year, ELECT must decide if they will continue use of the VotingWorks software and support to conduct future RLAs.

¹¹ Results of Risk-Limiting Audit of Nov. 3, 2020 General Election in Virginia, https://www.elections.virginia.gov/rla-results_nov-3-2020/

If ELECT would like to conduct additional RLAs in 2021, it is important to keep the following considerations in mind when selecting a race to be audited:

- The margin of the race.
- Number of ballots in the race.
- Ballot storage across multiple jurisdictions.

ELECT RECOMMENDATION:

VotingWorks suggests that if the number of ballots to be sampled exceeds 15% of the total number of ballots cast than a full hand-recount is recommended. ELECT should focus on RLAs for larger contests as opposed to smaller contests because smaller contests pose challenges due to sample size. For example, the January 5th, 2021 Southampton election for Mayor only had thirty-six ballots cast. In this instance, it makes sense to do a full manual recount. Additionally, ELECT should target races with margins greater than 2%. Smaller margins increase the number of ballots that need to be sampled. Statewide races are also great options for future RLAs because they provide opportunities for all 133 localities to participate. A list of suggested races to audit, along with the pros and cons of each are listed in the appendix.

Conclusion

The first statewide Risk-Limiting Audit in Virginia was a great success and reaffirmed ELECT's dedication to ensuring secure and accurate elections. The results reflect the hard work of election administrators and further exemplifies the integrity and validity of the 2020 November General Election. RLA's are an important tool in reassuring the public that every vote counts and provide an excellent check on the democratic process.

Appendix

i. § 24.2-671.1. Audits of ballot scanner machines.

A. The Department of Elections shall coordinate a post-election risk-limiting audit annually of ballot scanner machines in use in the Commonwealth. The localities selected for the audit shall be chosen at random with every locality participating in the Department's annual audit at least once during a five-year period. The purpose of the audits shall be to study the accuracy of ballot scanner machines.

B. No audit conducted pursuant to this section shall commence until after the election has been certified and the period to initiate a recount has expired without the initiation of a recount. An audit shall have no effect on the election results.

C. All audits conducted pursuant to this section shall be performed by the local electoral boards and general registrars in accordance with the procedures prescribed by the Department. The procedures established by the Department shall include its procedures for conducting hand counts of ballots. Candidates and political parties may have representatives observe the audits.

D. The local electoral boards shall report the results of the audit of the ballot scanner machines in their jurisdiction to the Department. At the conclusion of each audit, the Department shall submit

a report to the State Board. The report shall include a comparison of the audited election results and the initial tally for each machine audited and an analysis of any detected discrepancies.

2008, c. 565; 2014, cc. 540, 576; 2017, c. 367.¹²

ii. **ELECT 659 – Request to Inspect Sealed Election Materials**

The screenshot shows a web form titled "ELECT 659 - Request to Inspect Sealed Election Materials" from the Virginia Department of Elections. The form includes the following fields and options:

- Election Date:** 2020-11-03
- Election Type:** General
- Date of Request:** 2021-03-17
- Name of Requester:** (empty text box)
- Position:** (empty dropdown menu)
- Email Address:** (empty text box)
- Phone Number:** (empty text box)
- Confirm Email Address:** (empty text box)
- Locality:** (empty dropdown menu)
- Precinct Name:** All Precincts
- Precinct #:** All
- Specific Envelope which needs to be inspected:** Any and all envelope(s) and/or container(s) labeled 3 and/or 3A
- The Envelope needs to be inspected to determine:** Statewide Risk Limiting Audit

At the bottom right, it says "Powered by formsite" and there is a blue "Submit" button at the bottom center.

¹² Code of Virginia, § 24.2-671.1, <https://law.lis.virginia.gov/vacode/title24.2/chapter6/section24.2-671.1/>

iii. Code

main ▾ 17 branches 2 tags Go to file Code ▾

MorganLove testing delete of csv files (#1090) ✓ 1133568 14 hours ago 🕒 1,484 commits	
📁 .circleci	Fixing cypress (#1074) 14 days ago
📁 .vscode	Reorganize server files (#604) 9 months ago
📁 client	testing delete of csv files (#1090) 14 hours ago
📁 docs	oauth hack instead of auth bypass 10 months ago
📁 images	Readme updates (#200) 16 months ago
📁 scripts	Script to parse XML CVRs (#1084) 19 hours ago
📁 server	Filter Minerva round sizes by contest (#1089) 2 days ago
📄 .coveragerc	Support sampling all ballots (#884) 4 months ago
📄 .gitignore	Batch tallies file upload (#686) 7 months ago
📄 .pylintrc	Draw sample in background (#1019) last month
📄 .slugignore	Fix .slugignore pattern for testUtilities.tsx (#618) 9 months ago
📄 LICENSE	Initial commit 2 years ago
📄 Makefile	Run server tests in parallel (#917) 4 months ago
📄 Pipfile	Use votingworks/consistent_sampler fork (#1056) 28 days ago
📄 Pipfile.lock	Use votingworks/consistent_sampler fork (#1056) 28 days ago
📄 Procfile	Add gunicorn preload option (#1039) last month
📄 README.md	Add support env vars to README (#1002) 2 months ago
📄 alembic.ini	Migration tests (#636) 8 months ago
📄 app.json	Making changes requested by @jonahkagan 9 months ago
📄 arlo.code-workspace	Remove flask-sqlalchemy (#623) 9 months ago
📄 mypy.ini	Support Tools interface (#977) 2 months ago
📄 package.json	Multiple user types per route (#742) 6 months ago
📄 pull_request_template.md	Simplify PR template, move checklist to Contribution Guidelines doc 12 months ago
📄 pytest.ini	Draw sample in background (#1019) last month
📄 run-dev.sh	Draw sample in background (#1019) last month
📄 yarn.lock	Update lint-staged to avoid file lossage (#548) 10 months ago

iv. 2021 RLA's: Potential Races

Locality	Contest	Date	Outcome	Analysis
7 th Congressional District	US House of Representatives 7 th Congressional District	November 3 rd , 2021	Total: 454, 339 Spanberger: (50.8%) 230,893 (W) Freitas: (49.0%) 222,623 W/I: (.2) 823	<ul style="list-style-type: none"> • Larger number of ballots would need to be pulled in order to reach the risk limit for this race. • To reach a 90% risk limit, the initial ballot sample would have to include at a minimum 13,928 ballots. It is assumed, due to the close margin, that multiple samples would have to be conducted thus doubling and tripling this number.¹³ • May be quicker to do a full manual tally of this race, due to small margin of victory • Any locality with a split in congressional districts may have stored their ballots within the same batch. The ballot manifest may therefore

¹³ Tools for Ballot-Polling Risk-Limiting Election Audits, <https://www.stat.berkeley.edu/~stark/Vote/ballotPollTools.htm>

				include ballots from other races. The sample has the potential to pull ballots that may not have the race on them further complicated the RLA process.
Norfolk City, Prince William County, Stafford County, Virginia Beach County	House of Delegates 002; House of Delegate Race 090	January 5 th , 2021	002: 4,451 (51.74%), 4,143 (48.16%), W/I 9 (.10%) 090: 3,691 (63.52%), 2,114 (36.38%) W/I 6 (.10%)	A full-hand count makes more sense in this race, given the limited number of ballots
Prince William County	Commissioner of Revenue; Treasurer; School Board	February 2 nd , 2021	Commissioner of Revenue: 843 (83.7%), 76 (7.55%), 64 (6.36%), W/I 24 (2.38%) Treasurer: 217 (19.85%), 871 (79.69%), W/I 5 (6.46%) School Board for 4th District: 175 (99.77%), W/I (2.23%)	A full-hand count makes more sense in this race, given the limited number of ballots
Southampton	Mayor	February 9 th , 2021	Mayor: 36 (100%)	A full-hand count makes more sense in this race, given the limited number of ballots
Bland, Buchanan, Dickenson, Montgomery,	38 th Senate District	March 23 rd , 2021	TBD	This race would make an ideal candidate. It includes Dickenson County, which was not

Norton City, Pulaski, Radford City, Russell, Smyth, Tazewell				previously audited. This audit could be concluded before the 2021 November Election and after results are certified. Possible complications include small turnout and unknown margin.
Culpeper	Clerk of Court	March 30 th , 2021	TBD	Margin unknown at this time.
Statewide	June Republican and Democratic Primaries	June 8 th , 2021	TBD	Margin unknown at this time.
Statewide	Gubernatorial, Lieutenant Governor and Attorney General	November 2 nd , 2021	TBD	Margin unknown at this time.

v. **Glossary of Terms**

Incorrect Outcome means an electoral outcome that differs from the outcome that would be found by a full manual tabulation of the votes on all ballots validly cast in the election.

Post-election Audit means a process conducted after an election to confirm the accurate reporting of the results of the election

Pre-Certification Audit means a post-election audit conducted prior to the state certification of the election results.

Risk-Limiting Audit of an election is a post-election, pre-certification audit with a pre-specified minimum probability of requiring a full hand tabulation of votes on all ballots validly cast in an election contest if the outcome reported by the voting system is incorrect. It involves hand-to-eye examination of printed ballots until there is strong statistical evidence that the reported election outcome is correct, or in the absence of such evidence, escalates to a full manual count of ballots to determine the election outcome.

Risk Limit of a risk-limiting audit is the largest probability that the audit will fail to correct an election outcome that is incorrect.

Ballot Manifest is a two column spreadsheet created by localities that includes a list of the “Batch Name” (column A) and the “Number of Ballots” (column B). All types of ballots are included (in person, mail-in, provisional, etc.) in the manifest. The ballot manifest creates an inventory of every ballot cast in a locality.

Random Seed Number A random number sequence that is created and used to generate the ballots selected for auditing.

Ballot-Polling Audit a type of RLA in which individual paper ballots are randomly selected to confirm that the overall results of an election were correctly reported.

Ballot-Comparison Audit a type of RLA in which individual paper ballots are randomly selected, the voter intent is manually interpreted and compared with the voting system’s interpretation of the same ballot, as reflected in the cast vote records.

vi. **Arlo Results**

Contest Name	Sample Size	Risk Limit Met?	P-Value	Audited Votes
President	1372	Yes	6.51E-06	Biden: 2413568; Trump: 1962430; Jorgensen: 64761; Write-In: 19765
US Senate	990	Yes	4.24E-05	Warner: 559; Gade: 417; Write-In: 1



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Voting System Certification

BOARD WORKING PAPERS
Karen Hoyt-Stewart
Voting Technology Program Manager



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Memorandum

To: Chairman Brink, Vice Chair O'Bannon, and Secretary LeCruise
From: Karen Hoyt-Stewart, Voting Technology Program Manager
Date: March 31, 2021
Re: Voting Systems Upgrade Timeline Recommendations

Background:

In the Commonwealth, localities have over 7,000 voting equipment units, supported by four voting system vendors, and over 8,000 electronic pollbooks, supported by five vendors. The Code of Virginia requires a voting system to be in compliance with Federal and State Certification Standards.

In 2020, the Voting Systems Certification Standards were reviewed, updated and approved by the State Board of Elections (SBE). Due to the impact on localities during a presidential year, the approval directed compliance by July 2021.

Currently, vendors for voting equipment systems and electronic pollbooks are in the certification process and are scheduled to be completed by the July 2021 deadline.

State Certification Change Impact:

There were many changes in the Commonwealth's new standards directed at the internal and external security of the voting systems and electronic pollbooks. These changes are best summarized by the following:

- All media used in voting systems must be wiped to Department of Defense (DOD) standards. This requirement was put in place to ensure the media is clean from any software, malware, or viruses.
- All voting systems must create a cast vote record (CVR), which is a permanent digital record of the ballot image.
- Localities are upgrading to security standards, procedures and processes for all EPBs.
- Electronic Pollbooks must provide secure connectivity for use in satellite locations.
- Other changes include: password requirements, penetration reports, source code reports, and upgrades to the new certified versions.

EAC: VVSG 1.1 to VVSG 2.0 Impact

First established by the U.S. Election Assistance Commission in 2005, the Voluntary Voting System Guidelines outline specifications that voting systems can be tested on. VVSG 1.0 came out in 2005 and modification VVSG

1.1 was released in 2015. On February 10th, 2021 the Election Assistance Commission (EAC) passed updated Voluntary Voting System Guidelines (VVSG 2.0). Since Virginia is one of nine states (as well as D.C.) that requires testing to federal standards, these new guidelines will further strengthen the Commonwealth's Voting System Standards in the near future.¹

VVSG 2.0 focuses on improvements to usability, accessibility, security, and interoperability. It is structured differently than previous guidelines and offers a more thorough revision of certification standards. Major updates between 2.0 and 1.1 are outlined in the appendix section of this memo. Key changes include:

- Software programming language requirements and design.
- Identifiers on ballots and cast vote records (CVR).
- Wireless connections are allowed for ADA voters solutions.
- Requires multi-factor authentication for critical operations.
- Addresses transparency from the point of view of documentation.
- Requirements dovetail with cybersecurity in areas.
- Requires using only those exposed physical ports that are essential to voting operations.
- Requires digital signatures or allow listing for voting systems.

Currently, the EAC is developing the test assertions for the VVSG 2.0. This could take anywhere from 18 to 24 months. After the test assertions are complete, the voting system vendors will be testing to the new standards. Since the vendors are still reviewing and analyzing the changes required to meet the new standards, the financial impacts of these changes will not be known for at least a year or two. We would expect the impact of VVSG 2.0 to be realized in late 2023 or early 2024. This allows ELECT time to plan for these changes.

Analysis:

Over the years, localities operated with past certified versions of voting systems and upgraded only when the locality had available funds. Last year, SBE directed that all voting systems must be upgraded to a uniform baseline certified version or higher. This guidance resulted in one locality having to purchase a new voting system to meet the baseline certification standard. All of the voting system versions in the localities currently are certified, tested, and secure. All patch updates that were not independently verified have been eliminated. This accomplishment goes a long way toward ensuring the reliability and confidentiality of voting systems throughout the Commonwealth.

The Commonwealth's Voting System Standards requires new certifications every four years. Vendors, who are currently being certified, will have to recertify in 2025. With VVSG 2.0, major changes in the software/firmware of the voting systems is expected. The financial impact on localities with the changes could be substantial. At the minimum, upgrades will be required.

The current standard will provide localities with: cast vote records (digital ballot images), updated laptops or computer systems to support these newly certified voting systems, and new processes, such as DOD wiping standards, which will provide enhanced security for the media. The new certified versions may require additional training for the election officials as well as updating training manuals on operating newly certified equipment for the pollworkers.

The upgrade of the new certified voting systems will have a financial impact on the localities. The associated costs for these upgrades are unknown at this time. A few localities will have to upgrade their voting system hardware to comply with the new certification requirements. Eight localities with the ADA AutoMark units will

¹ Voluntary Voting System Guidelines (VVSG): An Overview, February 11th, 2021, <https://crsreports.congress.gov/product/pdf/IN/IN11592>

have to replace them this year since they are at end of life and are not being recertified. Most localities will be able to keep the current hardware but all will have to upgrade to the new software/firmware versions, the financial impact estimates range from \$200 to \$500 per voting unit. The EPB certification standards could require the purchase of new pollbooks, tablets or laptops and security software based upon the vendor selected.

The accessible time to upgrade (around ten weeks) does not allow enough time, if it would have to take place after the June primary and before the November General Election (or special elections). It would be impossible for all 133 localities to upgrade the voting units to the new certified versions by the end of 2021. When manufacturing and staffing technicians are factored in, vendors would also be taxed to upgrade by December 2021.

Recommendations:

ELECT recommends the following:

- Due to tight timelines and financial constraints, localities should be allowed to continue use of the current uniform baseline certified versions of voting equipment and electronic pollbooks (only non-satellite locations) through July 2022.
- EPBs should be allowed to continue to be used for Election Day. Most localities use the EPBs for Election Day check-in and do not connect to any network for processing,
- EPBs used for check-in at satellite locations must be certified to the new standards to provide the additional security requirements for connecting to VPN or the Cloud. To be clear, if using EPBs for satellite locations, they must be certified by July of 2021.
- Localities can upgrade to the voting systems/electronic pollbooks as soon as the 2021 Certifications are approved by SBE, if localities choose and have available funds.
- Localities should be allowed to delay upgrades for the voting systems or electronic pollbooks, as long as the vendor who supports the systems are certified in July to the new standards.
- Localities must have the voting systems and electronic pollbooks upgraded to the certified versions by July of 2022.

Conclusion:

With these recommendations, localities have the opportunity to leverage their annual maintenance agreements to reduce the labor costs of the upgrades. Additionally, with the extended timeline, Commonwealth localities may be able to more effectively budget any associated costs related to upgrades of voting systems. The current certified versions of voting systems are secure and tested and have been independently tested. We have confidence that the voting systems in the Commonwealth will continue to provide secure elections with the current certified systems.

Appendix:

“Major changes from VVSG 1.1 to VVSG 2.0

Principle 1 - High Quality Design

- Functional equipment requirements are organized as phases of running an election:
 - Election and Ballot Definition.
 - Pre-election Setup and logic and accuracy (L&A) testing.
 - Opening Polls, Casting Ballots.
 - Closing Polls, Results Reporting.
 - Tabulation, Audit.
 - Storage.

- Requirements dovetail with cybersecurity in areas including:
 - Pre-election setup.
 - Audits of barcodes versus readable content for ballot marking devices (BMDs).
 - Audits of scanned ballot images versus paper ballots.
 - Audits of Cast Vote Record (CVR) creation.
 - Content of various reports.
 - Ability to match a ballot with its corresponding CVR.
- Guidance relevant to testing and certification has been moved to the EAC testing and Certification manuals.

Principle 2 - High Quality Implementation

- Adds requirement to document and report on user-centered design process by developer to ensure system is designed for a wide range of representative voters, including those with and without disabilities, and election workers.

Principle 3 – Transparent

- Addresses transparency from the point of view of documentation that is necessary and sufficient to understand and perform all operations.

Principle 4 - Interoperable

- Ensures that devices are capable of importing and exporting data in common data formats.
- Requires manufacturers to provide complete specification of how the format implemented.
- Requires that encoded data uses publicly available, no-cost method.
- Uses common methods (for example, a USB) for all hardware interfaces.
- Permits commercial-off-the-shelf (COTS) devices as long as relevant requirements are still satisfied.

Principle 5 - Equivalent and Consistent Voter Access

- Applies to all modes of interaction and presentation throughout the voting session, fully supporting accessibility.

Principle 6 - Voter Privacy

- Distinguishes voter privacy from ballot secrecy and ensures privacy for marking, verifying, and casting the ballot.

Principle 7 - Marked, Verified, and Cast as Intended

- Updates voter interface requirements such as font, text size, audio, interaction control and navigation, scrolling, and ballot selections review.
- Describes requirements that are voting system specific, but derived from federal accessibility law.

Principle 8 - Robust, Safe, Usable, and Accessible

- References, *Section 508 Information and Communication Technology (ICT) Final Standards and Guidelines [USAB18]* and *Web Content Accessibility Guidelines 2.0 (WCAG 2.0) [W3C10.]*
- Updates requirements for reporting developer usability testing with voters and election Workers.

Principle 9 - Auditable

- Focuses on machine support for post-election audits.
- Makes software independence mandatory.
- Supports paper-based and end-to-end (E2E) verifiable systems.
- Supports all types of audits, including risk-limiting audits (RLAs), compliance audits, and ballot-level audits.

Principle 10 - Ballot Secrecy

- Includes a dedicated ballot secrecy section.
- Prevents association of a voter identity to ballot selections.

Principle 11 - Access Control

- Prevents the ability to disable logging.
- Bases access control on voting stage (pre-voting, activated, suspended, post-voting).
- Does not require role-based access control (RBAC).
- Requires multi-factor authentication for critical operations:
 - Software updates to the certified voting system
 - Aggregating and tabulating.
 - Enabling network functions.
 - Changing device states, including opening and closing the polls.
 - Deleting the audit trail.
 - Modifying authentication mechanisms.

Principle 12 - Physical Security

- Requires using only those exposed physical ports that are essential to voting operations.
- Ensures that physical ports are able to be logically disabled.
- Requires that all new connections and disconnections be logged.

Principle 13 - Data Protection

- Clarifies that there are no hardware security requirements (for example, TPM (trusted platform module)).
- Requires Federal Information Processing Standard (FIPS) 140-2 [NIST01] validated cryptographic modules (except for end-to-end cryptographic functions).
- Requires cryptographic protection of various election artifacts.
- Requires digitally signed cast vote records and ballot image.
- Ensures transmitted data is encrypted with end-to-end authentication.

Principle 14 - System Integrity

- Requires risk assessment and supply chain risk management strategy.
- Removes non-essential services.
- Secures configurations and system hardening.
- Exploit mitigation (for example, address space layout randomization (ASLR) data. execution prevention (DEP) and free of known vulnerabilities.
- Requires cryptographic boot validation.
- Requires authenticated updates.
- Ensure sandboxing and runtime integrity.

Principle 15 - Detection and Monitoring

- Ensures moderately updated list of log types.
- Detection systems must be updateable.
- Requires digital signatures or allow listing for voting systems.
- Requires malware detection focusing on backend PCs.”²

² Voluntary Voting System Guidelines VVSG 2.0 (pg 14),
https://www.eac.gov/sites/default/files/TestingCertification/Voluntary_Voting_System_Guidelines_Version_2_0.pdf



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