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Oppose HB 796 - Absentee Voting -Electronic Ballot Return

February 1, 2024

Dear Legislators:

Thank you for your work to expand and enhance voting access for Virginia voters. We share your commitment to ensuring that all voters, including those with disabilities and military voters overseas, can exercise their right to vote.

We believe the goals of such an effort—among other things, to foster independent, private voting by voters with visual impairments and other print disabilities—are laudable. If passed at this time, however, the legislation will put the security of Virginia’s election infrastructure at risk and undermine public confidence in election results. Instead, we specifically urge the legislature to adopt alternative, more secure mechanisms, which we detail below.

Significantly, according to four government agencies, ballots electronically returned over the internet *can be intercepted, deleted and altered at scale and can therefore change election results*. In 2020, the U.S. Cybersecurity and Infrastructure Security Agency (CISA), Federal Bureau of Investigation (FBI), NIST, and the U.S. Election Assistance Commission (EAC) issued a bulletin assessing electronic ballot return as “high” risk, saying it “faces significant security risks to the confidentiality, integrity, and availability of voted ballots. These risks can ultimately affect the tabulation and results and can occur at scale.”^[1]

At a time when the integrity and veracity of election results are continuously called into question and foreign actors have accessed state election infrastructure, it is not the moment to adopt technology deemed high risk and insecure.

Even beyond the four-agency government report, there is broad consensus that electronic ballot return presents severe security risks to the integrity of our elections because, as stated above, *ballots cast over the internet can be intercepted, deleted and altered at scale – and can therefore change election results*.

- In December 2022, experts convened by the University of California’s Berkeley Center for Security in Policy concluded *it was not feasible* to create standards for online ballot return to be done securely and privately. “When internet ballot return is employed,” the Working Group wrote, “it may be possible for a single attacker to alter thousands or

even millions of votes. And this lone individual could perpetrate an attack from a different continent from the one where the election is being held – perhaps even while under the protection of a rogue nation where there is no concern of repercussions.

- NIST --a federal agency that issued the December 2022 report *Promoting Access to Voting* on ways to enhance accessibility for voters with disabilities and that is responsible for issuing cybersecurity standards-- notably did not include electronic ballot return among its recommendations because, as it concluded, “there remain *significant security, privacy, and ballot secrecy challenges.*”
- In 2019, the bipartisan U.S. Senate Select Committee on Intelligence determined that “*states should resist pushes for online voting*” in light of findings that foreign governments were actively trying to attack American election systems. According to the Committee, “While the Committee agrees states should take great pains to ensure members of the military get to vote for their elected officials, no system of online voting has yet established itself as secure.”

Accessibility issues, especially for voters with print disabilities, are real and need to be addressed. We urge the legislature to invest resources in examining alternative accessible absentee voting methods. The Commonwealth can start by considering the two NIST recommendations that address the needs of those with print disabilities: (1) Implementation of alternative attestation methods for voters who cannot sign their mail-in ballot oaths; and (2) inclusion of tactile marks, such as punched holes, to guide blind voters where to sign. In addition, Virginia can look to practices in other jurisdictions, like bringing poll workers and accessible systems to voters who need them. San Francisco County, CA; Multnomah County, OR; the State of Arizona, and the State of Vermont all offer in-person accessibility assistance in voters’ homes²¹– and we would be happy to provide you with more information about those programs.

Virginia also can and should take steps to improve voting accessibility more generally, as recommended in the NIST report, by:

- ensuring that county elections websites are accessible;
- providing election-related information in accessible formats, through a variety of channels including social media, radio, text and phone, and other necessary features;
- providing physical descriptions of each polling place, indicating accessible entrances, exits, public transit, and parking;
- providing voting education classes for voters with disabilities in collaboration with local disability support agencies;
- establishing a workgroup or task force made up of representatives from voting and disability rights communities to explore and recommend additional accessibility improvements that are secure; and
- establishing curbside voting.

We are very interested in working collaboratively and creatively to identify reforms that are both accessible and secure.

We would welcome the opportunity to provide you – or other lawmakers – further information about the technical aspects and unavoidable and severe inherent risks of electronic ballot return. We would also welcome the opportunity to collaborate with you on implementing accessibility improvements that do not present security risks.

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[1] *Risk Management for Electronic Ballot Delivery, Marking, and Return* (May 2020), available at https://s.wsj.net/public/resources/documents/Final_%20Risk_Management_for_ElectronicBallot_05082020.pdf?mod=article_inline

[2] *Casting Votes Safely: Examining Internet Voting's Dangers and Highlighting Safer Alternatives* (Verified Voting, October 2023), available at <https://verifiedvoting.org/wp-content/uploads/2023/10/VerifiedVoting-CastingVotesSafely-2023-FIN.pdf>