Subject Area of Nomination:

Continuing to Eliminate Barriers to the Ballot Box: West Virginia’s statewide electronic ballot return technology successfully implemented a completely secret ballot option for voters with qualifying disabilities.

Using tested and secure electronic ballot return technology to intersect the essential goals of security and accessibility to our e-ballot delivery options, West Virginia expanded deployment of electronic ballot technology in statewide elections to enfranchise voters with certain physical disabilities that prevent them from casting a secret ballot in a polling location or by mail. The opportunity to cast a secret ballot for all voters had never been provided to all West Virginia citizens until a change in state law opened the option of electronic ballot marking and return for voters with qualifying disabilities in the 2020 Primary and General Elections.

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History

The inspiration for West Virginia’s implementation of electronic ballot return technology stemmed from one of West Virginia Secretary of State Mac Warner’s first priorities when he assumed the role of Chief Elections Officer in 2017: to provide a more accessible voting option under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to deployed service members and overseas citizens who have been historically disenfranchised. As recently as 2016, the estimated voting participation rate for U.S. citizens living overseas was 6.9% compared to the 72% participation of voting-age citizens living inside the United States.

Secretary Warner experienced the lack of accessibility provided by traditional absentee voting methods to soldiers on deployment through his own career in the military, which saw him serve on four continents over a span of 23 years. Secretary Warner reported that while deployed in both 2012 and 2014, he could not cast a ballot due to the lack of reliable mail service and alternative transmission methods where he was stationed.

To eliminate these longstanding complications for UOCAVA voters, a series of pilot projects were conducted in West Virginia on a limited scale to test the implementation of electronic voting through mobile devices using electronic ballot return technology. While most military service members have access to a cell phone or tablet, traditional electronic voting methods require access to reliable postage, printers, scanners, or fax machines which are not readily available in remote locations.

Comprehensive audits conducted by nationally renowned security companies deemed the first pilot, limited to only two West Virginia counties in the 2018 Primary Election, a success. Each absentee ballot delivered electronically produces a paper-ballot which is then audited and verified. The mobile voting option was then expanded to 24 counties for the 2018 General Election, in which 144 West Virginia voters securely cast ballots from 31 different countries.

With the implementation of electronic ballot return, West Virginia made history by becoming the first state in the nation to allow overseas and military voters the option to use a mobile device to vote in a federal election. After the success of the pilot project, Secretary Warner worked with the legislature to extend this same voting option to disabled voters, another population with limited access to the polls who cannot vote privately without assistance.

Through the 2020 legislative session, Secretary Warner and staff members worked closely with state lawmakers to craft bipartisan legislation that aimed to extend the franchise of limited e-voting to voters with qualifying disabilities. The effort to expand the electronic voting initiative was introduced as WV Senate Bill 94 and received a unanimous vote of approval in the state legislature before promptly being signed into law by the Governor.
Significance

Prior to the law change, voters with qualifying disabilities were permitted to receive and return an absentee ballot via U.S. mail, email, or fax. However, each of those options requires voters to print the ballot for marking and return. For voters who are visually impaired or do not have the ability to mark a ballot without assistance, traditional absentee options were not accessible and required those voters to waive their right to vote independently.

WV Senate Bill 94, sponsored by both Republicans and Democrats, garnered unanimous support as both parties acknowledged electronic ballot return technology provides an increase to both voter accessibility and security compared with traditional absentee voting. Providing a voting option that intersects these two goals was a net gain for voter confidence and the enfranchisement of qualified voters living with disabilities.

The electronic ballot return technology implemented by West Virginia in 2020 was developed by the company Democracy Live Inc., and the tool is referred to as OmniBallot. There are multiple companies in the industry that provide, or are working to provide, electronic ballot services and mention of one specific company here is not actually or intended to be construed as an endorsement whatsoever.

The technology provides the ability to certain disabled voters to vote privately without assistance. The technology is ADA and MOVE Act compliant and can be used on most electronic devices including smart phones, tablets and computers. The move to electronic voting for disabled voters in West Virginia was also praised for its accessibility by advocacy groups such as Disability Rights of West Virginia, a non-profit organization that represents the interests of disabled voters in the mountain state.

For security, the technology incorporates a substantial amount of added protections compared with the less secure, traditional electronic voting methods such as fax and unencrypted email attachment transmissions. The technology stores a voter’s completed ballot in the Amazon AWS cloud, which is FedRamp certified and used by numerous federal agencies for the storage of highly sensitive and classified information. Some of the federal agencies that use the AWS cloud for secure information storage include the CIA, FBI, Department of Homeland Security and Department of Defense.

For auditing purposes, each electronic ballot submission is retrieved from the AWS cloud and printed on paper by the county clerk. The technology also allows voters to record their signature electronically using their finger or stylus with touchscreen devices, a computer trackpad or mouse. According to Democracy Live, the digital signatures on the electronic ballot have a slightly higher match rate with signatures in voter registration databases due to most current signatures having been recorded by voters electronically while registering either online or at the Division of Motor Vehicles. This added feature provides a higher fidelity rate for election officials trying to authenticate signatures on electronic absentee ballot materials.
While the significance of providing an additional voting option to a particularly vulnerable
group of voters cannot be understated, electronic ballot return also guarantees the privacy
of voters who cannot submit a traditional absentee ballot without assistance. Until the
passage of WV Senate Bill 94, voters with certain mobility and visual disabilities that
prevent them from returning a ballot without the help of a second party had never been
afforded the ability to exercising their constitutional right to a secret ballot. The successful
implementation of electronic ballot return guarantees that certain disabled voters can now
receive, complete, and submit their secret ballot independently from the privacy of their
home.

**Impacts/Results**

West Virginia has officially become the first state in the nation to provide voters with
qualifying physical disabilities the ability to electronically and independently receive, mark
and return a ballot in a federal election.

In West Virginia’s 2020 Primary Election, 195 voters cast an electronic ballot, 20 of whom
had qualifying disabilities. In the 2020 General Election, nearly 1,500 voters cast an
electronic ballot, 271 of whom were voters living with a qualifying disability.

The success of the program’s expansion was due in part to the education efforts of our
office in conjunction with Disability Rights of West Virginia and the National Federation of
the Blind of WV. The coordinated public education campaign consisted of the
development of flyers, rack cards, and online material which were distributed across the
state to raise awareness for the new accessible method of absentee voting.

Our office also recently partnered with the West Virginia State Election Commission to
publish a comprehensive voter guide embossed in braille. Along with information on
electronic absentee voting, this braille voter guide includes information on voter
registration and other online voter tools available on our elections webpage. To start,
these guides have been distributed to the West Virginia School for the Deaf and Blind
and are readily available at the office of every county clerk in the state.

The successful expansion of our office’s limited electronic absentee voting project in the
2020 elections also garnered national recognition from the U.S. Election Assistance
Commission. The West Virginia Secretary of State’s office was named a 2020
Clearinghouse Award winner for improving accessibility for voters with disabilities.
Commonly referred to as a “Clearie,” this national award celebrates the accomplishments
of election officials across the United States.
In the upcoming election cycle and beyond, our office looks forward to continuing to provide voters with qualifying disabilities a safe, secure, and convenient means of returning a ballot electronically and independently. Through this initiative, West Virginia has demonstrated to the nation that electronic ballot return technology can become a bipartisan solution to eliminate voting barriers while maintaining voter confidence. Our office plans to champion this initiative and continue to lead the conversation regarding the applications of limited electronic voting at the state level.

Submitted by:

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**Supporting Documents:**

West Virginia Secretary of State 2020 Clearinghouse Award Winner

West Virginia Senate Bill 94

The West Virginia Mobile Voting Pilot

Release: Warner Pleased with Participation in Test Pilot for Mobile Voting

Release: 24 Counties to Offer Mobile Voting Option for Military Personnel Overseas

Release: WV Electronic Absentee Voting Technology to be Provided by Democracy Live in Primary Election

Release: U.S. Election Assistance Commission recognizes West Virginia for electronic access to ballot box for voters with certain physical disabilities

Release: WV Voter Guide for voters with a visual impairment published by Secretary of State Mac Warner

**Educational Materials:**

VIDEO: Electronic Voting Using Democracy Live

Electronic Absentee Voting Flyer

Electronic Absentee Voting Rack Card