

**Testimony of Harvie Branscomb, harvie at electionquality.com 4/6/2021 Carbondale, CO**

To the esteemed members of the Colorado Senate State Veterans and Military Affairs Committee on the occasion of consideration of SB21-188:

Today Secretary Griswold's press release says: "election accessibility and security can go hand-in-hand" and Colorado has the "most accessible and secure elections in the country." I would like to see substantiation of those remarks in the content of the SB-188.

SB21-188 may allow self-identified disability voters to return voted ballots via electronic means. Self-identification of disability is both compassionate and convenient but no official will prevent a voter from using this method.

What remains hidden is that Colorado's several electronic transmission methods used to assist disability (and emergency and UOCAVA) voters aren't well tested or certified or even reported on.

Standard presumably less accessible major voting methods of in-person paper or BMD and remote voting with preprinted paper ballots sent to all active voters are subject to certification and logic and accuracy tests. The alternative internet-traversing electronic methods do not receive the same kinds of tests or certification prior to purchase. In fact, Colorado has no existing requirement to at least report on the usage of these electronic methods in an election. Four primary functions currently provided by three vendors are:

electronic fulfillment of blank ballot image to a remote voter,  
voter intent capture by a remote voter's computer or cell phone,  
return of voted ballot image to tabulation, and  
cure of a rejected or missing signature via a smart phone app.

The change resulting from the SB-188 may result in not just 200 (as in November) but potentially tens of thousands of self-identified disability voters depending on voted ballots traversing the internet. In addition, voter authentication with these methods is still easily defrauded when there is no face-to-face interaction. Some of the risks originate with voters, some with insiders and some from anyone on the internet. Colorado must do more to substantiate the SOS's claims and SB-188 is the most immediate and convenient of the possible platforms.

Please amend SB-188 to include appropriate security and quality provisions before opening up the method to larger numbers of voters.

**Detailed analysis followed by proposed amendment text:**

CO SB21-188 presumably allows users of Democracy Live remote ballot marking to return PDF images of voted ballots in the same manner already in place for emergency and UOCAVA users of Democracy Live. This seems harmless at first glance. Only 200 self-identified disability voters used Democracy Live in November 2021. Over 20,000 used it for military and overseas voting.

Contrary to a press release as recent as today, Colorado's voting methods need additional work to achieve the security and accessibility (and privacy) that is compatible with the phrase "gold standard election."

Both Emergency and UOCAVA opportunities to vote by remote ballot marking are limited through an application process that means these usages will remain limited although counties do not have the authority to remove the UOCAVA designation from the registration list as I understand it.

The disability option is legally open to anyone who agrees to the statement "I am a voter with a disability". Since there is no possible way to determine who is eligible and who is not, it is conceivable that hundreds of thousands of voters might take advantage of this opportunity. But in 2020, only 200 did so in CO. Misuse will not be a serious problem until the method is advertised. But it will be.

Were many voters to choose this alternative method, the ballot duplication function at each election facility would likely be overwhelmed regardless of whether the pdf was returned or the paper was returned.

I have personally experienced all electronic voting in Colorado by use of Democracy Live, Linoma/HelpSystems Secure Ballot Return (SBR) and TEXT2CURE. My report of that process is shown here:

<http://electionquality.com/2021/04/voting-in-colorado-via-electronic-methods/>

This record shows how complicated the process is. It includes putting one or more signatures onto both an affidavit and an application that must either be digitally applied or printed, signed and scanned into pdf before sending the pdf via the SBR system. It is more than clear that this would be difficult for a voter having difficulty with vision to accomplish.

Remote ballot marking is not being covered by existing certification requirements but deserves a definition and a process of quality assessment prior to purchase and implementation in Colorado.

It also deserves a requirement that performance reports from each election be made public such as how many individuals are receiving remote blank ballots, how many are using electronic ballot marking and how many ballots or more correctly ballot sheets are returned electronically as well as how many voters have used electronic return. One voter might return more than one version of a ballot.

The C.R.S. and SOS Election Rules ought to subject any technology that will participate in establishing eligibility or converting cast voter intent into election outcomes to a testing program reminiscent of what the standard voting systems endure. An added focus on security is required because these systems are generally connected to the public network.

Here is suggested legislative language for consideration in the form of an amendment:

"DEFINITION " REMOTE ELECTRONIC ASSISTIVE VOTING TECHNOLOGY" MEANS A DEVICE OR SOFTWARE OR COMBINATION OF BOTH THAT IS USED TO ASSESS

ELIGIBILITY OF A PERSON, AUTHENTICATE A VOTER, CAPTURE VOTER INTENT, RETURN VOTES FOR TABULATION AND CURE SIGNATURE ISSUES WHEN SUCH DEVICE OR SOFTWARE IS ASSISTING FOR PURPOSES OF CRS 1-XYZ ( THIS STATUTE).

THE COLORADO LEGISLATURE RECOGNIZES THAT VOTERS USING REMOTE ELECTRONIC ASSISTIVE VOTING TECHNOLOGY PROVIDED BY THE DEO DESERVE EQUAL PROVISION FOR INTEGRITY TO VOTERS THAT HAVE NOT CHOSEN TO USE THE TECHNOLOGY. THE SECRETARY OF STATE IS THEREFORE REQUIRED TO CERTIFY AND MAY ADD CONDITIONS FOR USE OF REMOTE ELECTRONIC ASSISTIVE VOTING TECHNOLOGY PRIOR TO APPROVING THE ACQUISITION OF SUCH SYSTEMS.

FOR PURPOSES OF ASSISTING VOTERS WITH DISABILITIES THE SECRETARY OF STATE SHALL ESTABLISH A TESTING PROGRAM THAT WILL ASSESS THE ACCURACY OF CAPTURE OF VOTER INTENT, THE AUTHENTICITY AND ELIGIBILITY OF THE VOTER, SECURITY AGAINST INTRUSION, BALLOT ANONYMITY, AND USABILITY FOR SPECIFIC DISABILITIES. THE SOS SHALL PROMULGATE RULES CONTAINING CRITERIA FOR ACCEPTANCE THAT DEPEND UPON THE ASSESSMENT METRICS THAT ARE DEVELOPED PURSUANT TO THIS PARAGRAPH. THE SOS SHALL PUBLISH ON ITS WEBSITE THE RESULTS ANY SUCH ASSESSMENT AND WILL ALSO PUBLISH DATA QUANTIFYING USAGE OF REMOTE ELECTRONIC VOTING TECHNOLOGY IN EACH ELECTION APPLICABLE TO THE STATE. USAGE DATA SHALL INCLUDE NUMBER OF VOTERS AND NUMBER OF APPLICABLE BALLOT SHEETS REPORTED BY DISTRICT FOR EACH PHASE OF ELECTRONIC ASSISTANCE: BALLOT FULFILLMENT, MARKING, RETURN AND CURE. "

Here is a set of reference documents and some commentary about SB-188.

Here are links to existing product vendors:

Democracy Live: Omniballot <https://democracylive.com/>

Election experts Specter and Halderman have written an analysis of Democracy Live Omniballot (server side vote capture version). PDF download linked here <https://internetpolicy.mit.edu/omniballot> (note CO uses a version that runs client side only while voting)

Linoma or Helpsystems Go Anywhere: <https://www.goanywhere.com>

used to implement Secure Ballot Return (as seen in my report on electronic voting linked above).

<https://www.txt2vote.com/> is the website related to the TEXT2CURE app used in Colorado

I attach a letter from blind election quality specialist Noel Runyon:

Hi,

I'd like to clarify that I don't think we should be currently legislating any systems that allow electronic return of ballots.

We currently do not have solutions that can assure adequate ballot privacy or that can limit electronic ballot return to only voters who would need accessible voting.

There are safer mechanisms for voters with personal ballot printing in abilities to manage to vote. One alternative is for elections officials to take an accessible BMD to the individual voters something like what is done for curbside voting.

Given the national concerns about unauthorized voters, multiple voting by individuals, and inadequate transparency in voting procedures, now is absolutely the wrong time for disability voting advocates to be pushing for electronic ballot return, something that would further complicate and muddy the waters. Electronic ballot return for anyone will provide even more reason for voters and candidates to doubt the integrity of any challenged elections results.

I also worry that voters with disabilities have not considered the invasion of and trampling of their personal privacy that can result as a consequence of a direct challenge to their own need to having used electronic ballot return.

Might they suddenly find themselves facing criminal charges of voting fraud, if they cannot prove sufficient inability to print or otherwise vote accessibly? (Note the Texas felony charges against Crystal Mason for attempting to vote provisionally.)

Respectfully,

Noel

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Noel H. Runyan

Email: [Noel@PersonalDataSystems.com](mailto:Noel@PersonalDataSystems.com)

Phone: 1-408-866-7564

Harvie Branscomb's recommendations for improvement of Colorado Elections:

1. Colorado voters deserve an evidence-based public election with **access to the evidence** Both CORA and election law include obstructions and need to be updated for current equipment and methods
2. The Risk Limiting Audit is an unfinished masterpiece but is already being prematurely cloned
3. In-person voters using BMD are rarely encouraged to verify the votes recorded on paper.
4. Some Colorado ballots are handled such that voters can be identified including by officials.
5. Colorado ballots are withheld from the public when some are identifiable and need not be.
6. Precinct reporting of precinct ignorant districts creates splits and rare styles that harm voter privacy and annoy officials. Coordination of many incompatible districts on a ballot does the same.
7. Remote voters cast ballots without accountability and have reasons to fear ballots will not count.
8. Drop boxes could be attended or otherwise made to account for casting. Security video can't substitute.
9. Ballots could be approved for counting when the already marked "mail-in" ballot is returned inside a center instead of dropped in the box outside to wait for a signature check
10. The signature database is burdened with new low credibility signatures every election and those that are inaccurate remain as references for future elections. Voters ought to be providing reference signatures in person with wet signature on a regular but infrequent basis and old, and mismatching signatures can be removed from the database. The cure process needs a rewrite.
11. Watching of signature verification is now legal but challenges are borderline impossible and even obstructed. Signature verification devices require certification testing, much improved security and report functions. Appointed watchers and accredited signature experts alike need access to filtered selected signature pairs both accepted and rejected before the eligibility decision is finalized. LAC should authorize a between elections comprehensive audit of the process of eligibility determination.
12. Canvass boards and watchers are insufficiently supported by statute when asking difficult questions such as how many ineligible votes are counted and how many potentially eligible votes were not counted (eg. naked ballots dropped in unattended boxes and non-responded attempted cures).
13. Be cognizant of nose under the tent expansion of inauspicious internet voting via Democracy Live, Linoma (SBR) and 2VOTE.com (TXT2CURE).
14. Colorado recount law is defective and also does not match with the RLA. The trigger's denominator is misleading and causes recounts to be unreasonably rare with multiple candidates and extra undervotes

# Testimony for Colorado SB21-188

by Noel Howard Runyan

As a blind electrical engineer and computer scientist, I have been working for over 15 years to try to improve voting system accessibility and security. In addition, my wife and I care greatly about elections in Colorado because she was born there, and her great grandfather (in 1859) and great grandmother (in 1861) each moved to Colorado in covered wagons.

I feel the need to testify that I don't think we should currently be legislating **any** systems that allow electronic return of ballots.

We currently do not have solutions that can assure adequate ballot privacy nor solutions that can limit electronic ballot return to only the voters who need accessible voting and cannot personally print their ballot.

Implementing an electronic ballot return system might serve some of the tech savvy elite of folks with the skills, equipment and available Internet access, but it would not serve the larger number of voters with disabilities who are not fortunate enough to have the needed skills and resources.

At this time there are no effective ways to limit the number of people using electronic ballot return. And we also have no systems for certifying that someone is "disabled enough," and also incapable of ballot printing, to be allowed to use electronic ballot return. Allowing voters to self-identify themselves as needing electronic ballot return could lead to an uncontrollable voting fraud disaster.

There are safer mechanisms for voters with personal ballot printing disabilities to manage to vote. One alternative is for elections officials to take an accessible BMD to the voters, similar to current curbside voting.

To avoid a disastrous attempted implementation, SR-188 would need to include specification of a substantial process, and budget, for thorough testing of the complete system, to assure usability, security, reliability, and privacy.

It is concerning that voters with disabilities may not have carefully considered the possible invasion and trampling of their personal privacy that could result as a consequence of a direct challenge to their attempts to use electronic ballot return. They might suddenly find themselves facing criminal charges of voting fraud if they cannot prove sufficient inability to print or otherwise vote accessibly. (Note the Texas felony charges against Crystal Mason who is now faced with a five-year prison term for attempting to improperly vote with a provisional ballot.)

Given the national concerns about unauthorized voters, multiple voting by individuals, and inadequate transparency in voting procedures, now is absolutely the wrong time for disability voting advocates to be pushing for electronic ballot return, something that would further complicate and muddy the waters. Electronic ballot return for anyone will provide even more reason for voters and candidates to doubt the integrity of elections results.

Respectfully,

Noel Howard Runyan



## **SB21-188 Testimony**

### **Concerning Allowing A Voter with A Disability Who Receives A Ballot Through an Electronic Voting Device to Return the Ballot Electronically**

Senate State, Veterans, and Military Affairs Committee

- Good afternoon Madam Chair, Mr. Vice Chair, and members of the committee. My name is Deborah Jordy, and I am the executive director of the Scientific and Cultural Facilities District, the SCFD. Thank you for letting me speak today in support of Senate Bill 188 which allows voters with disabilities to return their ballots electronically.
- As most of you know, the district I represent provides funding to arts, culture, and science endeavors across the seven-county metro area. We do this by collecting a single penny on every \$10 in sales tax. Last year, we provided \$63 million in funding to over 300 organizations representing organizations from your favorite small local theater troop to regional festivals to world-class, national museums and everything in between.
- I am submitting this written testimony today because the spirit of this bill aligns with the central elements of the SCFD: Diversity, Equity, and Inclusion and voter support.
- On voter support: The SCFD recently passed its thirtieth year as an organization. In that time, we have more than doubled the number of organizations we support and nearly tripled the funding we are able to provide. None of that would have been possible without voters.
- Over the more than three decades since the district was created by voters in 1987, voters have reauthorized – by consistently sizable margins -- the reauthorization of the district. These are voters from across the metro area, in every county in every neighborhood.
- We have voters to thank for our longevity as a national model for arts funding and a local catalyst for the vibrant cultural community we all enjoy today.
- On diversity, equity and inclusion: The SCFD has thrived because our focus is and has always been “Culture for All” The diverse offerings we support and the open access to all people has made the SCFD what it is.

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- Recently, our board of directors reaffirmed this foundational commitment to “Culture for All” by passing a resolution that states: “The SCFD Board of Directors is committed to identifying and supporting efforts to strengthen and support diverse organizations and diverse programming to encourage cultural opportunities for all district residents, including members of historically or currently underserved or marginalized people or groups that include race, ethnicity, gender; those who are differently abled, LGBTQ, veterans, geographically underserved, socio-economically disadvantaged; technologically disadvantaged, and people of all ages; and
- Surely, the ability to access the ballot electronically should be included in the diversity we support and encourage in our state. I know at the SCFD, we want all the communities in which we support arts, culture, and science to ensure the SCFD continues for generations to come.
- I appreciate the opportunity speak on behalf of SB 188 and urge your YES vote.



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**Written Testimony**

SB 21-188 Ballot Access for Voters with Disabilities

Tuesday, April 6, 2021

Good afternoon Chair Gonzales and distinguished members of the State, Civic, Military and Veterans Affairs Committee. I am the Honorable Paul D. López, Clerk and Recorder of the City and County of Denver.

I want to thank Senator Danielson for her leadership on this bill. I'd also like to thank the constituency groups who have been working so diligently this past year to improve the accessibility of our ballot model here in Colorado.

We believe in continuing to improve our Denver model by working to make it more accessible to all our voters. We support SB-188.

The current mechanism for our voters with disabilities is only partially accessible since it requires voters to print out their ballots to be able to return them. This creates an additional, unnecessary burden on the voter.

Our military and overseas voters currently enjoy a two-way electronic ballot return process that doesn't require printing and we believe our voters with disabilities should have the same option to return an electronic ballot while providing a copy of an acceptable form of identification.

We understand that some constituency groups may be wary of the security of an electronic ballot and we can assure them that we take cybersecurity very seriously and are confident that this option will be secure. Additionally, providing a copy of identification is already required for voters who don't provide identification when they register to vote. We don't feel this place additional undue burden. If a voter doesn't provide identification, their vote isn't counted.

We have worked closely with our community of voters with disabilities over the years including making sure they were at the table when we piloted the accessible voting system that is now in use in the bulk of Colorado's 64 counties. We agree with the compromises made with the Secretary of State and that are supported by the National Federation of the Blind Colorado.

Thank you for your time.

Sincerely,

Honorable Paul D. López  
Clerk and Recorder of the City and County of Denver



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Thank you for your time.

Sincerely,

Honorable Paul D. López  
Clerk and Recorder of the City and County of Denver



## **Support for SB-188 Ballot Access for Voters with Disabilities**

April 2, 2021

My name is Olivia Pilcher and I am submitting written testimony on behalf of Colorado's Protection and Advocacy Agency, Disability Law Colorado. As the Protection and Advocacy agency for the state of Colorado we are charged with protecting the rights of people with disabilities across our state. We represent people with disabilities whose civil rights have been violated based on disability discrimination, including civil rights violations related to the election process.

Disability Law Colorado strongly supports Senate Bill 21-188. This legislation allows voters with a disability who use the electronic voting device the option to return their ballot electronically. Without this legislation voters who use this system are required to print and mail their ballots to the county clerk's office in the appropriate jurisdiction.

Voters with disabilities are twice as likely to report difficulty voting and experience numerous barriers in the election process. For many voters with disabilities the requirement to print their ballot can be, and is, an added barrier to voting and successfully submitting a ballot. Many individuals- with and without disabilities- do not have a printer at home. Offering electronic voting with the requirement that a ballot is printed is an unnecessary impediment. For some voters who are able to print their ballots additional barriers may arise due to being unable to independently verify the printout. Voters with visual impairments may require assistance to verify their ballot printout is correct. The assistance that may be needed to verify a printed ballot does not provide all voters the opportunity to vote privately and independently. Electronic return is the only method available which allows individuals with disabilities the opportunity to vote privately and independently as required by the Help America Vote Act.

While there is no one size fits all approach that makes voting accessible for all individuals with disabilities this bill encourages equal participation in the election process by increasing accessibility. Which ultimately results in less disability-based discrimination and disenfranchisement of the disability community.

For all these reasons, Disability Law Colorado strongly supports SB21-188.

Respectfully submitted,

Olivia Pilcher, MSW, LSW  
Rights Advocate  
Disability Law Colorado  
970-241-6371  
opilcher@disabilitylawcolorado.org

State, Veterans, & Military Affairs Committee  
Colorado Senate  
200 E Colfax Avenue  
Denver, CO 80203  
via electronic submission

April 2, 2021

RE: Verified Voting Opposition to Senate Bill 21-188

Dear Committee Members,

On behalf of Verified Voting, I write in opposition to Senate Bill 21-188 regarding ballot return via the internet. Verified Voting is a nonpartisan nonprofit organization with a mission to strengthen democracy for all voters by promoting the responsible use of technology in elections. Since our founding in 2004 by computer scientists, we have acted on the belief that the integrity and strength of our democracy rely on citizens' trust that each vote is counted as cast. It is with this in mind that we oppose allowing voted ballots to be returned electronically through insecure means, a dangerous practice that SB 21-188 regrettably expands.

Multiple cybersecurity experts have concluded that internet voting is unsafe. The National Academies of Sciences, Engineering and Medicine released a report in 2018 stating that the technology to return marked ballots securely and anonymously over the internet does not exist.<sup>1</sup> Additionally, in the lead up to the 2020 General Election, the Department of Homeland Security, the Election Assistance Commission, the Federal Bureau of Investigation, and the National Institute of Standards and Technology told states and election officials that electronic ballot return "creates significant security risks to the confidentiality of ballot and voter data (e.g., voter privacy and ballot secrecy), integrity of the voted ballot, and availability of the system. We view electronic ballot return as high risk. **Securing the return of voted ballots via the internet while ensuring ballot integrity and maintaining voter privacy is difficult, if not impossible, at this time** [emphasis added]."<sup>2</sup> Nothing has changed; no new internet technology has been created to mitigate this risk.

The City of Denver participated in an electronic ballot return pilot for UOCAVA voters in 2019. The Massachusetts Institute of Technology performed a security analysis of the vendor chosen to conduct that pilot and found that the vendor "has vulnerabilities that allow different kinds of

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<sup>1</sup> National Academies of Science, Engineering, and Medicine, 2018. "Securing the Vote: Protecting American Democracy." Washington, DC: The National Academies Press. <https://doi.org/10.17226/25120>.

<sup>2</sup> DHS Memo. <https://www.politico.com/f/?id=00000172-9406-dd0c-ab73-fe6e10070001>

adversaries to alter, stop, or expose a user's vote, including a sidechannel attack in which a completely passive network adversary can potentially recover a user's secret ballot."<sup>3</sup>

We must also point out that the actual device (e.g. smartphone) that voters cast their votes on has security vulnerabilities. The voter's device may already be corrupted with malware or viruses that could interfere with ballot transmission or even spread that malware to the computer at the elections office on the receiving end of the online ballot. Unlike other internet transactions, voting must simultaneously maintain ballot secrecy while still providing a verifiable record of the voter's intent. Internet voting does not allow the voter to verify that the record received by the elections office in fact reflects the voter's choices and thus those votes are not auditable.

### **Blockchain does not solve the security issues inherent to internet voting.**

The National Academies report states that "blockchain technology does little to solve the fundamental security issues of elections, and indeed, blockchains introduce additional security vulnerabilities." Blockchain technology is designed to keep information secure once it is received. It cannot defend against the multitude of threats to that information before it is entered in the blockchain, and voters cannot verify their votes are entered into the blockchain correctly without compromising ballot secrecy. Recording ballots on a blockchain also risks ballot secrecy if encryption keys are not properly protected or software errors allow decryption of individual ballots.

We understand the profound challenges you face to assure every voter's ability to vote. Verified Voting strongly supports interventions to assure voters' equal opportunity and access to cast their vote -- securely and verifiably. Electronic return fails to confer this equality, and it threatens the trustworthiness of the election itself. Recognizing that no current solution is ideal for all voters, we support thoughtful consideration of other secure innovations. We would be happy to participate in further discussions of how to meet the standard of equal access and uncompromised security.

We realize that Colorado UOCAVA voters are currently permitted to return their voted ballots via fax or email. We regard this as a dangerous precedent to be reversed, not expanded. At a time when election security and public confidence are under attack, electronic return of voted ballots presents a slippery slope to vulnerable and insecure elections. We therefore urge that SB 21-188 be rejected.

Respectfully submitted,

Mark Lindeman  
Acting Co-Director

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<sup>3</sup> Massachusetts Institute of Technology, 2020. "The Ballot is Busted Before the Blockchain: A Security Analysis of Voatz, the First Internet Voting Application Used in U.S. Federal Elections." [https://internetpolicy.mit.edu/wp-content/uploads/2020/02/SecurityAnalysisOfVoatz\\_Public.pdf](https://internetpolicy.mit.edu/wp-content/uploads/2020/02/SecurityAnalysisOfVoatz_Public.pdf)