

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 spoke. The former Secretary of Administration, Nancy Rodrigues asked to have her  
200 statement entered into the minutes. Her statement appears as Appendix B

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

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

212 Chairman Brink – Aye

213 Vice Chair O'Bannon – Aye

214 Secretary LeCruise – Aye

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

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

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

229 roll call vote was taken:

230 Chairman Brink – Aye

231 Vice Chair O’Bannon – Aye

232 Secretary LeCruise – Aye

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

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

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

236 C. Retired Colonel John Mills addressed the Board and asked to have his statement entered

237 into the minutes. His statement appear as Appendix D. Jen Goetz and Cheryl Driscoll spoke.

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

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

240 Chairman Brink – Aye

241 Vice Chair O’Bannon – Aye

242 Secretary LeCruise – Aye

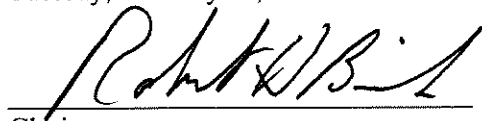
243 The meeting adjourned at 3:10 P.M.

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

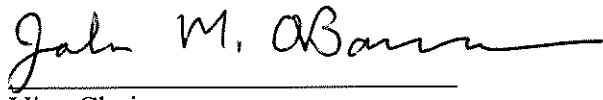
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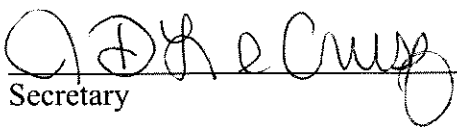


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Vice Chair

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Secretary

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