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SENATE JOINT RESOLUTION NO. 37

Offered January 12, 2022

Prefiled January 12, 2022

Requesting the Secretary of Administration to oversee and develop a charter and directives for the State Board of Elections to form a working group to study implementation of electronic return of voted military-overseas ballots. Report.

Patron—DeSteph

Referred to Committee on Rules

WHEREAS, the federal Uniformed and Overseas Citizens Absentee Voting Act permits overseas voters, including uniformed-service voters, to vote by absentee ballot; and

WHEREAS, the Code of Virginia currently requires such absentee ballots to be returned by mail; and

WHEREAS, mail from overseas is subject to delay, and many voted military-overseas ballots are not counted due to ballots being received after Election Day; and

WHEREAS, for the general elections from 2010-2014, 53 percent of absentee ballots requested by uniformed-service voters stationed overseas were never returned; in comparison, nine percent of absentee ballots requested by general public voters were never returned; and

WHEREAS, the Secretary of State of the State of Texas has approved a method of transmitting and receiving secret ballots for persons on a space flight during an election period; and

WHEREAS, a solution is needed that increases the successful and secure return of voted military-overseas ballots and that ensures the integrity of the ballots and the process as well as the confidentiality of the voted ballot and the identity of the voter; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Secretary of Administration be requested to oversee and develop a charter and directives for the State Board of Elections to form a working group to study implementation of electronic return of voted military-overseas ballots. The study shall focus on implementation of electronic return of voted military-overseas ballots first as a limited pilot program in 2023 and later on a statewide basis.

In conducting its study, the State Board of Elections with the working group shall study and develop initial instructions and procedures that (i) consider issues related to accessibility, auditability, authentication, verification, and security through encryption, in order to ensure that any process implemented would guarantee the accuracy and integrity of voted military-overseas ballots, and (ii) recommend (a) security measures necessary to reasonably secure the transmission, processing, and storage of voter data from interception and unauthorized access; (b) methods for verifying and authenticating the identity of the voter electronically when registering to vote and when requesting a ballot from and returning a ballot to the voter's jurisdiction; (c) methods for the encryption of voted ballots; and (d) a procedure for security reviews after an election.

Participants in the working group shall include the Secretary of Veterans and Defense Affairs or his designee, the Commissioner of Elections or his designee, and local electoral board members and general registrars. The State Board of Elections with the working group may request the assistance of other state, local, and federal agencies; legislative representatives; veterans service organizations; and other entities with technical expertise relevant to the study.

Technical assistance shall be provided to the State Board of Elections by the Department of Elections, the Virginia Information Technologies Agency, and the Secretary of Public Safety and Homeland Security. All agencies of the Commonwealth shall provide assistance to the State Board of Elections for this study, upon request.

The State Board of Elections with the working group shall complete its meetings by November 30, 2022, and shall submit its findings and recommendations to the Secretary of Administration. The Secretary of Administration shall have final approval of the charter, report, rules, and directives developed for implementation as a pilot program and then on a statewide basis and shall submit to the Governor and the General Assembly an executive summary and a report of the working group's findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2023 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

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