NIST Draft Report Recommendations

Overall, the draft report *Promoting Access to Voting: Recommendations for Addressing Barriers to Private and Independent Voting for People with Disabilities*, as required by Executive Order (EO) 14019 includes a robust overview of access barriers to voting for people with disabilities. In many areas, helpful recommendations are made to address access barriers. However, a number of general gaps and recommendations are identified especially as relates to the voting systems used for in-person and remote voting. A set of overarching issues and recommendations are provided first along with a supportive set of specific edits to the report by page and line number.

Expand content to ensure understanding of the legal right of voters with disabilities to vote privately and independently.

The final report should provide an expanded framework for understanding the basic civil rights of voters with disabilities to equal access and voting privately and independently. The report currently provides only a cursory overview of applicable statutes and does not provide any information about the myriad of court decisions, binding settlement agreements and similar that provide a robust understanding of what those laws mean and how they directly impact legal rights for voting accessibility. This legal underpinning including relevant litigation decisions is critical for inclusion in the final report.

Eliminate content that overstates the impact of VVSG 2.0 on accessibility.

The final report should avoid overselling VVSG 2.0 as having a significant impact on accessibility that voters with disabilities will see in real life. Wording needs to be carefully vetted as phrases like "VVSG 2.0 will ensure" are not technically accurate because the guidelines do not ensure anything. The following limitations of the VVSG need to be clear to readers of the report:

- The VVSG only applies to in-person voting systems, remote voting systems are not covered. Any statements about VVSG need to carefully separate in-person voting from all other voting.
- VVSG only provides standards for required access features that the in-person voting system must be able to deliver. Just because a system is able to deliver required access features, does not mean it will be configured or deployed to actually do that. Many current "accessible" voting systems are configured and/or deployed in ways that negate available access features and VVSG 2.0 does nothing to change that. Swapping out a 1.0 certified system with one certified to 2.0 might improve access features available, but if configured/deployed the same way the old system means actual accessibility may not improve at all.
- VVSG 2.0 as a whole, because of significantly increased security requirements, will ensure increased reliance on paper based voting (and expanded use of hand-marked paper ballots) which will have a negative impact on accessibility rather than improving accessibility.
- VVSG has no mandatory upgrade date meaning that existing "accessible voting devices" can continue to be used for as long as voting jurisdictions can keep them functional. It is entirely possible that no voting system will be certified to 2.0 at all as there is no reason for vendors to produce it.

Avoid using platitudes about equally providing security and accessibility.

It is disingenuous to claim that both security and accessibility can work together and be equally delivered for all types of voting when that is technologically impossible. The directive of the Executive Order (EO) for this report is to identify access barriers and recommend solutions. The EO never mentions security. The report should ensure broad understanding of the currently unresolvable conflict between conforming to a desired security "gold standard" of voter verified printed ballot ballots while also meeting the legal rights of voters with disabilities to vote privately and independently. It should not shy away from the difficult acknowledgement that eliminating access barriers may increase security vulnerabilities.

Refrain from using the term Remote Accessible Vote by Mail (RAVBM).

This term as used in the report is describing something that would accurately be called Remote Accessible Ballot Marking. When a paper ballot must be printed by the voter and returned by mail it cannot be remote accessible voting. Including an unqualified use of the word "accessible" in the term RAVBM is inaccurate. Using the term RAVBM misleads readers into thinking that only providing remote digital ballot marking is delivering fully accessible remote voting. Courts have consistently agreed that prohibiting voters with disabilities from using electronic ballot return is denying equal access to private and independent voting. And when UOCAVA voters can return ballots electronically, prohibiting voters with disabilities from doing so has been ruled discriminatory. If there is a reason to describe a process of digital blank ballot delivery with inaccessible return of a printed ballot (by mail or otherwise), then that process must have a more accurate name that does not suggest it is a fully accessible voting option.

Recommend electronic ballot return for remote voting accessibility.

While this report does acknowledge that paper is inaccessible, it does not include recommendations to comprehensively solve that problem. Instead, it acquiesces to security concerns and does not recommend electronic options be made available for remote voting ballot return even though that is the only option for accessibility. The report can certainly acknowledge the perceived security risk associated with such a recommendation, but to not recommend it at all means that accessibility has been sacrificed for security. The report should recommend cyber security experts work to identify what is best practice in securing electronic ballot return now since jurisdictions are using electronic return anyway. UOCAVA voters and voters with disabilities who must use electronic ballot return to exercise their right to vote deserve the most secure vote possible, yet few cybersecurity experts are willing to support that effort and instead advocate for NO electronic return while waiting for some magic solution to materialize for accessibility.

Make concrete recommendations that can directly improve access.

The report should strive to make bold, concrete recommendations designed to have a direct impact on accessibility. Most of the current recommendations are process in nature such as forming work groups, supporting development of technical assistance materials, conducting research, etc. While these recommendations are good, they do not propose actions that will directly increase accessibility. Most would take extended time to yield outcomes and results would be limited in scope (individual jurisdictions opting to avail themselves of materials). Voters with disabilities are done waiting for actions that improve accessibility. Decades of undelivered promises of accessibility require bold systemic change recommendations.

Examples of recommendations included in the detailed comments are establishing/funding a National Voting Access Research Center to tackle the issue of accessible paper verification and paper handling mechanisms for BMDs and directing the EAC and Access Board to issue guidelines to prevent segregated voting where all voters hand-mark paper ballots and only a few people with disabilities use the "segregated" BMD.

Reduce content overlap and clarify header structure.

The structure of the report has a significant amount of overlapping and duplicative content between Sections *2. Systematic Barriers to and Recommendations for Voting Accessibility, 4. Voting by Mail* and *5. Voter Technology* that makes it difficult to ensure comments edit all relevant content. Reducing content overlap especially in recommendations would be especially helpful. In addition, the major section headers *4. Voting by Mail* and *5. Voter Technology* do not accurately communicate the current existing or needed content. Section 4 title should be *Remote Voting because it includes* more than just paper ballots mailed back and forth as "vote by mail" suggests (covers absentee requests, drop boxes, fully electronic remote voting, etc.) The Section 5 title should be *In-Person Voting Technology* as that accurately communicates the content of that section (it does not address remote voting technology content as that is in Section 4).

Establish a formal process to work with disability and accessibility stakeholders to develop consensus on final content of the report.

The EO directed this report to identify access barriers and recommend solutions to those barriers. The disability community is the stakeholder group that will directly gain or lose access as a result of report recommendations. Input from disability and accessibility experts/advocates must be considered with due diligence and rejected only when justification can be provided. The final report must guard against overinfluence of input from stakeholders whose interest and expertise are not disability and accessibility. Far greater resources /expertise is devoted to cybersecurity than accessibility in all aspects of election work. NIST must commit to collaborating with disability and accessibility experts to craft a final report that is not rejected out-of-hand by those it is designed to help.

The extent of content that the attached detailed comments address suggests the need for extensive time to develop a final report. In addition, the current draft is incomplete with many references, definitions, and appendix material missing which makes it impossible to provide comprehensive feedback on the complete report. More time than is currently allocated to developing a final report may be needed to ensure the final report comprehensively addresses all accessibility issues. While it is important for the final report to be completed in a timely manner, disability and accessibility stakeholder support for the report is essential.

Detailed Comments and Recommended Edits

NEW TEXT - BOLD CAPS, ~~[Deleted text]~~ – Bracketed red with strikethrough

Recommended edits to Page 3

Line 183: Privacy, independence, and equal access are **RIGHTS PROTECTED BY THE AMERICANS WITH DISABILITIES ACT AND THE HELP AMERICA VOTE ACT, AS WELL AS** of utmost importance to voters with disabilities.

Rationale: The edit above clarifies that the concepts of privacy, independence, and equal access in voting are protected by existing federal law, not merely a preference for voters with disabilities.

Recommended edits to Page 4-5

Line 187 Text Box: 5. Accessibility **MUST BE OF EQUAL IMPORTANCE AS CYBERSECURITY; CYBERSECURITY CANNOT COME FIRST AND ACCESSIBILITY BE DELIVERED ONLY AFTER SECURITY REQUIREMENTS ARE MET** [~~and cybersecurity must work together~~].

Line 218 Text Box: Design of security solutions **ARE PRIORITIZED OVER** [~~may not consider~~] accessibility **NEEDS**.

Rationale: The edits above are to stop continued statements about cybersecurity and accessibility "working together" which sound good but simply are not doable when paper ballots are required. It must be acknowledged that a security requirement for printed paper ballots makes accessible remote voting impossible to deliver. The aspirational goal must shift from cybersecurity and accessibility somehow peacefully coexisting to cybersecurity no longer being prioritized over accessibility. Both must be of equal importance and if electronic ballot return is the ONLY way to provide accessible remote voting, then that must be allowed to happen or policy makers must admit that security was prioritized over accessibility.

Line 220 Text Box:
Create guidance to **SUPPORT COMPLIANCE WITH [**~~help address meeting~~] federal standards, laws and guidelines **THAT REQUIRE VOTING ACCESS**.
Conduct research and development to **IMPROVE EFFICIENCY AND EFFECTIVENESS OF** [~~promote]~~ access**IBLE** [~~to~~] voting.

Rationale: Line 220 first edit clarifies that the goal of guidance produced is to support compliance with legal requirements for accessibility. Second edit focuses R&D on improving accessible voting beyond the baseline level of "accessible" as defined in VVSG 2.0 to include best practice accessibility.

Recommended edits to Page 6

Line 256: **VOTING ACCESSIBLITY FOR THE ELDERLY AND HANDICAPPED ACT (VAEHA)**

Rationale: The addition to the bulleted list of federal laws protecting voters with disabilities acknowledges the continued importance of the Voting Accessibility for the Elderly and Handicapped Act, which all polling facilities must be accessible to all individuals with

disabilities and that if "no accessible location is available to serve as a polling place; voters must provide an alternate means of voting on Election Day," as well as creating a right to request to move up in line for voters with disabilities.

Recommended edits to Page 8

Line 297: Web information on where to vote, what forms of identification are accepted, voter guides and accessibility and language options often **ARE NOT** [~~do not~~] fully [meet ADA] accessible[~~ity~~] (**DO NOT MEET WCAG 2.0 WHICH IS USED AS THE NATIONALLY ACCEPTED WEB ACCESS STANDARDS TO DETERMINE IF A WEBSITE IS ACCESSIBLE UNDER THE ADA)**

Rationale: Line 297 edit adds reference to WCAG as the standard used by ADA to determine web site accessibility as the ADA has no web access standards itself.

Line 318: Marking, writing-in candidates, **VERIFYING**, and handling a paper ballot is difficult **OR IMPOSSIBLE** for voters with print disabilities.

Rationale: Line 318 edit adds verification to the list of actions voters with print disabilities are typically unable to do with a paper ballot and clarifies that it is not just difficult, but actually impossible for most people with print disabilities to vote privately and independently when paper ballots are used.

Recommended edits to Page 9

Line 320: While accessibility of voting machines **THAT PRODUCE** [~~to mark, verify, and cast~~] a paper ballot **HAS** [~~is~~] improv**ED** in **SOME** newer designs, voters with disabilities **USING CURRENTLY DEPLOYED VOTING SYSTEMS ALMOST ALWAYS** [~~**often**~~] need to still handle a paper ballot to verify and submit their vote.

Rationale: Line 320 as originally written is internally inconsistent as it first says accessible verification and casting is improving but then says that voters still have to handle paper which means verification and casing is still inaccessible. Statement is edited to accurately reflect that only a few existing machines are capable of delivering accessible verification and casting (specifically VSAP, Express Vote if configured with ballot box attached, and maybe a Dominion BMD that can be attached to precinct counter but is not currently used in any US voting jurisdiction.) Deployment of these few systems is extremely limited reaching perhaps 2% of registered voters in the US (calculated based on percent of LA County registered voters to all US registered voters.) That means the vast majority of voters are using BMDs that do not deliver this accessible verification and casting of paper ballots.

Line 323: Returning a paper form or ballot is difficult for voters with [~~manual dexterity~~] **ALL TYPES OF MOTOR** disabilities [~~especially~~] when paths to locations are not accessible or locations themselves are not accessible (e.g., polling place, ballot drop box, mailbox, etc.).

Rationale: Line 320 is edited to clarify that all motor disabilities not just manual dexterity limitations create barriers for returning a paper ballot when path of travel barriers exist. If the goal of the statement was to address more inclusively all barriers to ballot return including basic transportation issue, then that would need to reference all types of disabilities since a myriad of health, motor, vision, stamina and other limitations impact transportation accessibility.

Line 327-329: It is important to note that the use of paper is the barrier. Where paper is used, **ELECTION OFFICIALS MUST EITHER PROVIDE FULLY ACCESSIBLE OPTIONS INCLUDING ELECTRONIC RETURN OF REMOTE MARKED BALLOTS OR ACKNOWLEDGE THAT FULLY ACCESSIBLE VOTING IS NOT AVAILABLE.** [~~it is up to the states to ensure that there are accessible alternatives to provide equal opportunity to voters with disabilities consistent with the law~~].

Rationale: Line 327 as originally written asks states to ensure the impossible. If paper is required for remote voting, then there is no accessible alternative that provides equal access to private and independent voting. The proposed edit attempts to make a statement that is accurate about what states need to acknowledge if they use paper and do not provide full access. Another option would be to revise the statement to say "It is important to note that the use of paper is the barrier. Where paper is used, election officials must understand and acknowledge which parts of their in-person and remote voting systems are accessible and which are inaccessible."

Recommended edits to Page 9

Lines 333-335: For example, the return to hand-marked paper ballots and electronic ballot markers to address security [~~problems~~] **CONCERNS** with fully electronic voting systems [~~often~~] creates new barriers, especially for voters with print disabilities.

Rationale: The edits above emphasize that new barriers created are widespread and acknowledge concerns raised by elections security advocates, while deescalating them from "problems," given that there have been no known hacks to voting systems while in use to determine the outcome of an election in the United States. Problems with accessible voting systems remain theoretical.

Lines 349-353: **MANY** [~~Some~~] voters with disabilities have difficulties obtaining a driver's license or state identification. Some of these voters cannot drive or may have difficulties finding accessible transportation to the DMV; they may also have challenges paying any fees associated with the identification, as there are higher unemployment **AND UNDEREMPLOYMENT** rates for people with disabilities**, APPROXIMATELY THREE-FOURTHS OF PEOPLE WITH DISABILITIES**. **FURTHER, THE EXTENT TO WHICH ALL IDENTIFICATION-ISSUING OFFICES ARE COMPLIANT WITH FEDERAL ACCESS LAW IS UNKNOWN.** Without identification, they may be unable to cast their vote.

Rationale: Revisions reflect the extent to which many voters the disabilities lack appropriate identification to vote according to estimates by Rutgers University School of Management and Labor Relations. Additional edits highlight that existing infrastructure, such as DMVs and licensing offices, outside of election administration are not necessarily compliant with federal law so that voters with disabilities can meet requirements to vote. Additionally, the unemployment and underemployment of people with disabilities, as tracked by the Census Bureau, cannot be understated.

Recommended edits to Page 10

Lines 359-362: It is disrespectful**,** [~~and~~] stigmatizing**, AND ILLEGAL** when voters have their right to vote independently and privately questioned, when voters have their right to choose to be aided by someone other than a poll worker be denied, and when they are segregated from other voters to use accessible voting machines set apart as distinct in a polling place.

Rationale: Edits above acknowledge that denial of these rights is demoralizing for voters with disabilities, but more importantly, recognize that they are also violations of federal law, including the Voting Rights Act of 1965.

Line 366: 2.2.1 Create guidance to **SUPPORT COMPLIANCE WITH [**~~help address meeting~~] federal standards, laws and guidelines **THAT REQUIRE VOTING ACCESS**.

Line 367: The voting process may improve for voters with disabilities if **LEGAL REQUIREMENTS FOR ACCESSIBILITY** [~~guidelines and requirements currently in national laws~~] are consistently applied across the country. Relevant national laws, **RULES, ASSOCIATED COURT DECISIONS** and guidelines include:

Rationale: Line 366-367 are revised to expand focus to include a variety of federal investments (including funding) to support meeting federal requirements beyond just statutes. Rules and associated court cases provide much needed direction for election officials on how the ADA and other laws apply to specific voting access issues. For example, there have been multiple court decisions that have ruled a state that offers electronic ballot return for UOCAVA voters MUST make that option available for voters with disabilities because to do otherwise is discrimination under the ADA.

Recommended edits to Page 11

Lines 379-380: The Voting Accessibility for the Elderly and Handicapped Act of 1984 requiring accessible polling places in federal elections or alternate means of voting on election day**, AS WELL AS ESTABLISHING THE RIGHT OF VOTERS WITH DISABILITIES TO REQUEST TO BE MOVED UP IN LINE TO VOTE.**

Rationale: The VAEHA includes the right to request to be moved up in line while waiting to vote, and election administrators would benefit from additional guidance on educating voters about this right and how to accommodate voters who request to vote up in line.

Line 384: In **MOST** [some] states there are other relevant state laws, **RULES, OR POLICIES** for accessible forms, information and online materials **THAT REFERENCE WCAC 2.0 REQUIREMENTS.**

Rationale: Line 367 statement is revised to reflect that most states have some legal requirement in place for ICT accessibility that references Section 508 (which incorporates WCAG) or directly references WCAG. Level Access provides a summary of which state has these requirements, https://www.levelaccess.com/accessibility-regulations/state-local-laws/

Line 389: To help state and local election offices meet federal requirements, federal **ENTITIES WITH EXPERTISE** [~~agencies and organizations specializing~~] in **DISABILITY,** accessibility, **AND ASSISTIVE TECHNOLOGY AND THOSE RESPONSIBLE FOR ENFORCEMENT OR IMPLEMENTATION OF VOTING LEGAL REQUIREMENTS SHOULD** [~~could~~]:

Line 392: Create repositories of guidance and open-source tools for monitoring compliance with applicable **LAWS, RULES, POLICIES, COURT DECISIONS AND OTHER** guidelines [~~and~~] that **WILL** help election official determine if **ACCESSIBILITY** requirements are met.

Rationale: Line 389 edit broadens federal entities who should be involved and specifically includes those agencies with responsibility for enforcement or implementation of voting

requirements. Line 392 edit clarifies that guidance should cover the continuum of legal requirements is more than just statutes.

Recommended edits to Page 14

Line 488: Importantly, all methods of voting **(IN PERSON AND REMOTE) AND ALL PARTS OF THE VOTING PROCESS (MARKING, VERIFYING AND CASTING A BALLOT)** must be accessible; it is not sufficient to provide only one accessible method **OR ONLY PARTIAL ACCESSIBILITY OF THE THREE PART VOTING PROCESS.**

Rationale: Line 488 edits clarify that not only to both in-person and remote voting options need to be accessible but all three parts of a voter marking, verifying and casting a ballot must also be accessible for both in-person and remote voting option. Historically, the need for accessible verification and casting has been misunderstood must be emphasized to ensure it does not continue to be ignored.

Line 500: How to **VOTE** [~~cast their ballot~~] in-person. Voters **WITH DISABILITIES MUST** [~~should~~] have the **SAME** option**S** to **VOTE** [~~cast their ballot~~] **AS VOTERS WITHOUT DISABILITIES. IF HAND-MARKED PAPER BALLOTS AND** [to cast their ballot using paper or] using an accessible voting machine **ARE OPTIONS, THEY SHOULD BE AVAILABLE FOR USE BY ALL VOTERS.** Both options should have accessibility features available **RECOGNIZING THAT THE RANGE OF ACCESS FEATURES POSSIBLE FOR HAND-MARKED PAPER BALLOTS IS LIMITED** such as [~~but not limited to~~] magnification devices for paper, physical accessibility **AND ADJUSTABLE HEIGHT** voting [system] stations. [~~for voters with mobility disabilities, and adjustable heights for voting system stations~~] As discussed earlier, VVSG 2.0 has a comprehensive list of accessibility requirements, in particular, for accessible voting machines and ballot scanners. **AT LEAST ONE ELECTRONIC INTERFACE VOTING SYSTEM MUST BE AVAILABLE FOR IN-PERSON VOTING THAT PROVIDES ACCESSIBLE BALLOT MARKING, VERIFICATION AND CASTING.**

Rationale: All through the document "cast a ballot" is used when the broader vote process of marking, verifying and casting a ballot is intended. Those have been edited as consistently as possible. As originally written, the Line 500 content seems to suggest only two options are available to vote in person – paper or accessible voting system. But BMDs as accessible voting systems use paper. It is assumed the paper reference actually means hand-marked paper. But it is not a true that all voters must have the option to hand mark paper as there are jurisdictions where all voters use BMDs for in person voting. While the original intent is unclear, the recommended revision says that if a jurisdiction gives voters a choice between hand-marking paper and using a BMD or other electronic interface then voters with disabilities must have those same choices with the hand marked paper option made as accessible as feasible (given paper is inherently inaccessible) and at least one electronic interface option that provides fully accessible ballot marking, verification and casting.

After Line 508: [Insert new text that provides parallel recommendations for remote voting to the above for voting in person]

How to vote remotely, including vote by mail. Voters with disabilities must be able to use all options available to vote by mail or vote remotely and must have at least one accessible option for such voting. If mailed paper ballots are available for remote voting, that option must be available to voters with disabilities. However, providing only mailed paper ballots will deny access to voters with disabilities. An electronic option for remote voting must be available that provides accessible

blank ballot delivery, ballot marking, voter verification of the marked ballot and ballot return/casting. Remote voting systems that require voters to print a paper ballot are unable to provide accessible verification or casting for voters with print disabilities.

Rationale: Without the additional above text, there is a glaring omission regarding accessible remote voting. Multiple ADA court cases have confirmed that just providing mailed paper ballots for remote voting is inaccessible and discriminatory. This must be clear in the recommendations.

Line 509: Whether to use an electronic option **FOR PRE AND POST VOTING FUNCTIONS.**

Rationale: Additions clarifies that the recommendations apply to functions before and after the actual in-person or remote voting experience.

Line 528-548 Text Box: Delete or revise consistent with edits provided in Appendix II and delete that Appendix.

Rationale: As noted in rationale for edits to Appendix, it is impossible to accurately describe the required features of an in-person accessible BMD without getting into the weeds of what accessible verification and casting requires for paper ballots. Just describing accessible marking continues to promote the mistaken idea that current BMDs provide fully accessible voting. And trying to include the VVSG requirements for access features on precinct counters would require even more elaborate descriptions that would completely overwhelm most readers. Either this content and that in the Appendix needs to be significantly edited and expanded to cover everything or should be scaled back as suggested in the Appendix edits and provide a realistic perspective on what is currently deployed and the actual influence of VVSG 2.0.

Recommended additions and edits to Page 16

Line 565: Recommended actions for promoting accessible voting options at the national level (by federal agencies or other organizations) [insert new text below]

- **Commit to equalizing federal investment in voting accessibility to that currently invested in voting security through staffing levels within the EAC, NIST and CISA.**

- **Establish a funding stream for the National Institutes on Disability, Independent Living and Rehabilitation Research (NIDILRR) to conduct ongoing research to increase accessible voting technology availability. Initial funding should establish a National Voting Access Research Center to --**
    - **Develop a fully accessible paper based in-person voting interface, as a non-proprietary product, that is available for use within 18 months of the grant award.**
    - **Identify and disseminate best practices for functionality of input and output access features of in-person voting systems with a goal of infusing the best qualities of current assistive technology into accessible voting systems.**
    - **Identify and disseminate best practices for accessibility of remote voting applications ensuring a reasonable range of built-in access features are available along with compatibility with commonly used assistive technology.**

    - **Partner with cybersecurity experts to identify and disseminate best practices for electronic ballot return for accessible remote voting.**

- **Establish the Office of Accessibility in the EAC to support and oversee federal, state and local efforts to ensure voter accessibility and serve as a resource for advocates and voters.**

- **Establish a new state grant program for the Office of Accessibility to administer that provides dedicated funding to states to ensure voting accessibility. To obtain funding, states would --**
    - **Designate a lead agency and identify an office within that agency to be the state's voting accessibility office responsible for coordinating the state's efforts to ensure voting access and to respond to access barriers identified.**
    - **Establish an accessible website that provides voting information and resources so voters know how and where they can register to vote, how to locate their polling place, how to request absentee ballots, what accessible voting systems are available for them to use, where they can learn to use the accessible voting system, etc.**
    - **Upgrade to VVSG 2.0 certified accessible voting systems as soon as such systems are available and appropriation levels are sufficient.**

- **Fund and create a national resource center on accessible voting to --**
    - **Conduct trainings for election officials and poll workers on how to create accessible polling places and provide a private and independent voting experience for voters with disabilities; and**
    - **Establish a National Voter Accessibility Website that provides voting information and resources so voters know how to register to vote, request absentee ballots, cast a ballot, etc. and tracks the accessibility of online voter information nationwide.**

Rationale: The additional recommendations are designed to have a direct impact on accessibility. Accessibility has been treading water for decades and we cannot accept slow incremental improvement any longer. Many of these recommendations have been discussed as legislative or policy initiatives in the past. It is time to include these in recommendations to the current Administration to see what can be accomplished as quickly as possible.

Lines 577-583: Many barriers to voting can be addressed by engaging with and integrating voters with disabilities into every step of the voting process. Widespread integration, engagement, and involvement of the disability community in the voting process will help to promote accessibility to voting for voters with disabilities**, BY LEVERAGING EXPERTISE AND LIVED EXPERIENCE WITH DISABILITY THAT MOST ELECTION ADMINISTRATORS DO NOT HAVE AND CAN INNOVATE PRACTICAL SOLUTIONS TO ACCESSIBILITY BARRIERS**. As the disability community says, "nothing about us, without us" (this motto, originally in Latin, has a long political history; the international disability rights community began using it in the 1990's).

Rationale: The recommended edit recognizes that people with disabilities are experts in their access needs at a level that nondisabled election officials simply cannot meet. Further, integrating people with disabilities into the process relieves election officials of the expectation that they can and will acquire this level of expertise in order to administer accessible elections.

Recommended edits to Page 18
Line 638: Conduct research and development to **IMPROVE EFFICIENCY AND EFFECTIVENESS OF** [~~promote]~~ access**IBLE** [~~to~~] voting.

Rationale: The recommended edits attempt to distinguish between R&D that is critical to meet minimum legal access requirements (referenced previously in new text inserted Line 565) and R&D that improves the functionality of access features (e.g., makes the audio-tactile interface more efficient using best practices of quality assistive technology products.

Recommended edits to Page 21:
Lines 736-739 Textbox: [~~Remote Accessible Vote by Mail (RAVBM) uses current technology to assist voters with disabilities in voting by mail. California is one example of many states that use this system in which voters can download and mark their vote by mail ballot from home using their own AT, and then print, sign, and return the envelope by mail or at a voting location~~.] See Sec. 4.1 for more information.

Rationale: The requirement to print, sign, and return a paper ballot is inherently inaccessible as voters with print disabilities are unable to verify or return their ballot privately and independently. The description here should be for accessible remote voting (not just accessible remote ballot making) and the example should be from a state or jurisdiction that includes electronic ballot return, to demonstrate a significantly more accessible process.

Recommended edits to Page 22
Line 754: Developing accessible and secure methods for future voting. Future research should explore how to continue to securely integrate next generation technology into the voting process. For example, electronic ballot return **IS CURRENTLY NECESSARY TO** [~~would~~] overcome many barriers faced by voters with disabilities **WHEN VOTING REMOTELY**. [~~However~~] It is vital that research **IMPROVE** security **TO THE MAXIMUM EXTENT POSSIBLE FOR ELECTRONIC BALLOT RETURN WHILE MAINTAINING ACCESSIBILITY.** [continue as electronic ballot return systems are being implemented.]

Rationale: Clarifies the goal for R&D is to ensure accessibility with the maximum level of security possible rather than provide as much accessibility as is possible with security constraints established as a higher priority.

Recommended edits to Page 24
Line 822: **PEOPLE WITH DISABILITIES USING A SCREEN READER MAY ALSO STRUGGLE WITH THE FORM THAT REQUIRES THE VOTER TO DOWNLOAD THE FORM IN ORDER FOR THE SCREEN READER TO FUNCTION PROPERLY AND ALLOW THE VOTER TO FILL IN THE FORM, FOR WHICH THE INSTRUCTIONS ARE UNCLEAR.**

Rationale: Based on user testing by disability rights organizations using more than one screen reader, tabbing through the form online does not go in order of the document. The screen reader skips the boxes that a voter must check until the very end, at which point it is unclear which responses correspond with which part of the form. A voter must download the form first to use it with a screen reader, but users seemed unclear that this was necessary during testing.

Recommended edits to page 25
Lines 831-833: Forms built on older technology may not be responsive. For example, long lines of text require a lot of additional scrolling to read each line fully; this can be exceptionally difficult for those with [~~manual dexterity~~] disabilities.

Rationale: The recommended edit broadens the parameter of who might have difficulty navigating long lines of text, as this is not a barrier exclusive to people with limited manual dexterity. For instance, long lines of text can be difficult to follow using a screen magnifier for people who have low vision.

Recommended edits to Page 30
Line 1008: **REMOTE** Voting [~~by Mail~~]
Line 1010: Barriers to **REMOTE** Vote**ING** [~~by Mail~~]

Rationale: Edited to accurately reflect this section is about more than paper ballots mailed back and forth.

Recommended edits to Page 32
Line 1052: Voters with disabilities encounter challenges **VERIFYING AND** returning **(CASTING) A PAPER** [~~the]~~ ballot.

Line 1054: **WHILE** [~~Even when~~] **SOME** voters with disabilities can privately and independently read and mark **A MAILED PAPER** [~~their]~~ ballot, they may face challenges in returning **A PAPER BALLOT** that could prevent their vote from being counted. **VOTERS WITH PRINT DISABILITIES WILL NOT BE ABLE TO PRIVATELY AND INDEPENDENTLY READ, MARK, VERIFY AND RETURN/CAST A MAILED PAPER BALLOT AND INSTEAD MUST BE ABLE TO PERFORM THESE FUNCTIONS ELECTRONCIALLY.**

Line 1056: Many voters with print disabilities do not own printers needed for them to return vote by mail ballots and other paper forms independently. **EVEN IF VOTERS WITH PRINT DISABILITIES DO OWN A PRINTER, THEIR PRINT DISABILITY WILL ALMOST CERTAINLY PREVENT THEM FROM BEING ABLE TO VERIFY AND RETURN THE PRINTED BALLOT PRIVATELY AND INDEPENDENTLY.**

Rationale: Line 1052 and Line 1054 statements skip over the major barrier of verifying a printed paper ballot. This is as much of a challenge as returning (which is in essence casting) a vote by mail ballot. Recommended edits are intended to identify both barriers of verifying and casting. Line 1056 statement is accurate but omits the fact that even if a voter does have a printer, that does not resolve the access barriers for verifying and casting a printed paper ballot. The additional sentence is needed to make sure that barrier is identified and understood.

Lines 1067-1071: In some states, voters are not allowed to have someone else, such as a family member, care provider, or other designated agent, submit the ballot on their behalf. **IN ADDITION TO VIOLATING A VOTER WITH A DISABILITY'S RIGHT TO ASSISTANCE UNDER THE VOTING RIGHTS ACT,** this may be especially problematic for voters with disabilities who cannot leave their homes, live in a long-term care facility, or are otherwise unable to independently return the vote by mail ballot package on their own.

Rationale: The recommended addition reframes the challenges of limiting who may return a ballot, not just as a barrier for voters, but as a violation of existing federal law that could potentially lead to litigation against the state or jurisdiction.

Recommended edits to Page 33

Line 1096: As of November 2020, 23 states had a remote [~~accessible~~] voting [~~By Mail (RAVBM)~~] tool statewide or in some counties. **THESE TOOLS PROVIDE DIGITAL BALLOTS THAT VOTERS USE FOR VOTING THAT IS NOT IN-PERSON AND VARYING DEGREES OF ACCESSIBILITY ARE PROVIDED.**

Rationale: Use of the term RAVBM in inappropriate. The reference to "vote by mail" which is done with paper ballots, means the tool only allows for digital ballot marking not digital ballot verification and electronic return/casting as a paper ballot must be printed and returned by mail. The accurate term for describing what these 23 entities have is a remote voting tool that can include a full range what is accessible depending on what is done digitally and what is done in paper.

Line 1098: **REMOTE VOTING TOOLS MAY NOT MEET NATIONALLY ACCEPTED ACCESSIBILITY STANDARDS (WCAG) FOR DIGITAL CONTENT AND MAY NOT ENSURE COMPATIBILITY WITH COMMONLY USED ASSISTIVE TECHNOLOGY.** [~~may suffer from poor design, such as unclear instructions for using RAVBM and poor navigation for AT.~~]

Rationale: Unclear what analysis of remote voting systems was done to say there may be poor design or other usability challenges. The more critical accessibility benchmark to be met is conformance with WCAG for accessibility of digital content and ensuring compatibility with commonly used AT.

Line 1100: According to data from 2019, ~~electronic return of the ballot is only available to voters with disabilities in Utah and Louisiana (fax return); however,~~] electronic **BALLOT** return is currently available for Uniformed and Overseas Citizen Voting Act (UOCAVA) voters in 26 states and Washington D.C. **A NUMBER OF STATES ALSO ALLOW VOTERS WITH DISABILITIES TO RETURN BALLOTS ELECTRNICALLY TO ENSURE ACCESSIBILITY. RECENT COURT DECISIONS AND SETTLEMENT AGREEMENTS REQUIRE VOTING JURISDICTIONS TO ALLOW ELECTRONIC BALLOT RETURN FOR VOTERS WITH DISABILITIES TO ENSURE EQUAL ACCESS UNDER THE ADA.** [~~Some states, such as West Virginia, have run pilots for electronic return beyond fax and email.]~~

Rationale: Deleted inaccurate information about only two jurisdictions allowing electronic ballot return for voters with disabilities. According to ACB which has been involved in much of the litigation supporting electronic ballot return, nine states currently offer electronic return to people with disabilities: Maine, North Carolina, West Virginia, Delaware, North Dakota, Colorado, Nevada, Utah, and Hawaii. States that offered electronic return in the general election last year were Maine, Massachusetts, Delaware, West Virginia, and North Carolina. States that expanded access to electronic return through legislation in 2021: North Dakota, Nevada, Hawaii, and Colorado. ACB also provides the following additional information (ACB contact person Clark Rachfal, crachfal@acb.org) .

> *West Virginia was the first state to expand state-wide access to electronic ballot return for voters with disabilities through legislation in Feb. 2020, prior to the pandemic national emergency and subsequent executive orders.*

https://www.washlaw.org/disability-advocates-commend-west-virginia-for-expanding-accessible-absentee-voting-options-for-voters-with-disabilities/

North Carolina has the most favorable ruling for the state-wide expansion of accessible absentee voting with electronic return. DRA Press Release on accessible absentee voting and electronic ballot return in North Carolina from June 17, 2021 - https://dralegal.org/federal-judge-orders-north-carolina-to-provide-accessible-absentee-voting/

Massachusetts offered electronic return in the 2020 general election. A complaint was filed with the U.S. District Court for the District of Massachusetts after the primary election in Sept., where electronic return was not offered. The court issued the following judgement on Oct. 13, 2020, requiring electronic return for the general election on Nov. 3: https://www.dlc-ma.org/wp-content/uploads/2020/10/Rivero-Order-J.-Woodlock-10.13.2020.pdf. Last month, Watertown and Boston, MA, reached a settlement to offer electronic return (Nov. 2, 2022 – Dec. 31, 2025): https://www.boston.gov/news/accessible-voting-announced-ahead-november-2-municipal-election

Utah allows voters with disabilities to receive and return their absentee ballot by email or fax. Utah County, UT, is piloting a smartphone app for voting as well - https://voteinfo.utah.gov/information-for-voters-with-disabilities/

Anecdotally, according to Democracy Live, nearly 300 voting jurisdictions are now using their electronic portal for ballot delivery and return.

This report should include a summary of litigation on the issue of electronic ballot return and should describe the legal issues in play. For example, if a voting jurisdiction allows UOCAVA voters to return ballots electronically but prohibit voters with disabilities from doing so, that will likely be found discriminatory. If voters with disabilities are denied electronic ballot return and that is the only option for voting privately and independently, that will likely be found to deny equal access.

Line 1105: Although electronic return methods currently exist **THAT WOULD ELIMINATE ACCESS BARRIERS FOR REMOTE VOTING,** [~~several~~] security [~~challenges and~~] concerns **HAVE BEEN PRIORITIZED OVER ACCESSIBILITY PREVENTING WIDESPREAD USE.** [~~should be addressed when expanding the use of electronic returns to ensure these methods are secure enough to confidently use to vote.~~]

Rationale: Line 1105 statement inappropriately prioritizes security over accessibility (e.g., a known solution to an access barrier is prohibited because of security concerns). If this is the only way to provide access, the question to be addressed should be how to make it as secure as possible so that voters who must have it to vote privately and independently are not disenfranchised. The recommended edits are intended to provide a factual description of the current access barrier which is that security concerns prevent widespread use of electronic ballot return despite the fact that is the only known option for providing accessible ballot verification and casting for remote voting for voters with print disabilities.

Recommended edits to Page 34
Line 1109: 4.2. Recommendations for **REMOTE** Voting [~~by mail~~].
Line 1110 Text Box:

- Improve access to **REMOTE VOTING INCLUDING** vote by mail.

- Expand electronic options for requesting, marking and returning ballots when facilitating **REMOTE VOTING INCLUDING** voting by mail.
- Increase accessibility for completing and returning **PAPER** ballots by minimizing physical barriers to voting by mail.

Rationale: Above edits align the header with previous changes and attempt to clarify that remote voting includes both vote by mail which is done with a marked paper ballot that is physically returned sometimes by mail sometimes in non-mail ways and electronic forms of remote voting that do NOT include marking and returning a printed paper ballot. While it is worthwhile to attempt to improve the protocols for signing and returning paper ballots so that all voters (including some with disabilities) who have sufficient functional skills can return the marked paper ballot privately and independently – it must be acknowledged that these efforts will NEVER make paper ballot marking, verifying and return/casting accessible for many voters with disabilities.

Line 1118: Improve access to **REMOTE VOTING INCLUDING** vote by mail.
Line 1120: Allow all voters to vote by mail without an excuse **AND ALLOW VOTERS WITH PRINT DISABILITIES TO USE ACCESSIBLE ELECTRONIC REMOTE VOTING.**

Rationale: Above edits continue differentiation between all remote voting options and vote by mail with paper ballots made as accessible as possible. Edits also acknowledge electronic remote voting is the only way to provide accessible ballot marking, verification and casting for many voters with disabilities.

Line 1124-1128: Allow **ALL** voters to request to vote by mail when they register **AND ALLOW VOTERS WITH PRINT DISABILITIES TO REQUEST ACCESSIBLE REMOTE VOTING WHEN THEY REGISTER.** For example, states may expand use of the Federal Post Card Application for UOCAVA voters to voters with disabilities, allowing . . .

Rationale: Continues differentiation described previously. This online form appears to be missing some field tags so unsure of the level of accessibility. Regardless, once completed it must be printed out, signed and returned by mail so even if it is accessible for electronic marking, it is inaccessible once it is printed and has the same access barriers as paper vote by mail ballots. Unsure if that is a great example of something states should be emulating without a fully accessible example also provided. NOTE: Accessibility convention is to hyperlink the text that describes the URL rather than having the actual URL in a document, thus the linked "online form" text above rather than the URL in footnote 91.

Line 1129: Allow voters **WITH DISABILITIES** to permanently request **REMOTE VOTING IN THE FORM NEEDED FOR ACCESSIBILITY. [**~~vote by mail ballot~~]. If voters **WITH DISABILITIES CAN** automatically **USE REMOTE VOTING** [~~receive their ballot by mail~~], they do not have to continually submit paper forms or go to the . . .

Rationale: Continues differentiation described previously and focuses on voters with disabilities and ensuring access to all forms of remote voting on an ongoing basis rather than promoting vote by mail be available to all voters. While it is fine to recommend vote by mail be available to all voters via a permanent request, that should be separate from and in addition to the above.

Line 1131: **A FEW STATES CONDUCT ALL MAIL ELECTIONS AND ALL VOTERS INCLUDING VOTERS WITH DISABILITIES AUTOMATICALLY GET A MAILED PAPER BALLOT. IN ADDITION, A NUMBER OF STATES HAVE SOME KIND OF PERMANENT ABSENTEE LIST WHERE A BLANK BALLOT IS AUTOMATICALLY MAILED TO VOTERS**

ON THAT LIST. STATE REQUIREMENTS TO GET ON THE PERMANENT ABSENTEE LIST VARY, BUT VOTERS WITH DISABILITIES ARE TYPICALLY ELIGIBLE. IT IS UNKNOWN HOW MANY OF THESE STATES WHO AUTOMATICALLY MAIL A PAPER BALLOT TO VOTERS WITH DISABILITIES ALSO AUTOMATICALLY OFFER FULLY ACCESSIBLE ELECTRONIC REMOTE VOTING. [~~Five states and Washington DC allow any voter to request to be added to a permanent list to receive a vote by mail ballot.~~]

Rationale: The original statement above was pulled from the NCSL website and it out of context and misleading because it focuses on 5 states and DC who allow any voter to get on the "permanent absentee list". It misses the fact that 5 states also do all voting by mail and all voter automatically get mailed a paper ballot. Plus, most voters with disabilities are familiar with permanent absentee lists that are used in many more states and that also provides automatic access to remote and/or early in-person voting for voters with disabilities. The suggested revision includes all the options that get a paper ballot automatically mailed to voters with disabilities and highlights as unknown how many also automatically offer fully accessible electronic remote voting.

<u>Recommended Edits to Page 35</u>

Line 1142: ENSURE ACCESS TO [~~expand~~] electronic options for requesting, [~~and~~] marking, **VERIFYING AND RETURNING** [~~blank~~] ballots **AS AN ACCESSIBLE ALTERNATIVE TO PAPER BASED** [~~when facilitating~~] voting by mail.

Line 1145: Provide fully accessible **REMOTE ELECTRONIC VOTING** [~~RAVBM~~]. By marking, **VERIFYING AND CASTING** the ballot at home, voters with disabilities [~~may also~~] have extra time to read and complete their ballots and use their own AT to complete a Hypertext Markup Language (HTML), fillable PDF **OR OTHER ACCESSIBLE DIGITAL** form. Current guidance exists for the design, development, and implementation of these systems **TO ENSURE ACCESSIBILITY**. [~~Examples of states that use RAVBM include but are not limited to California, Ohio, and Maryland~~].

Line 1149: Allow voters to electronically request the blank **PAPER** vote by mail ballot **OR BLANK DIGITAL REMOTE VOTING BALLOT.** Currently 14 states have an online portal to make this request, and an additional nine states have a system for electronically requesting to vote by mail.

Rationale: Continuing distinction between paper mailed ballots and digital ballots used in accessible remote voting.

Line 1154: **ENSURE AN ACCESSIBLE ELECTRONIC RETURN OPTION IS AVAILABLE TO VOTERS WITH PRINT DISABILITIES FOR ACCESSIBLE MARKING, VERIFICATION AND CASTING OF THE MARKED BALLOT. AN APPROPRIATE FEDERAL AGENCY (EAC, NIST AND/OR ACCESS BOARD) SHOULD IDENTIFY ACCEPTABLE SECURITY PROTOCOLS FOR ELECTRONIC BALLOT RETURN TO ENSURE VOTERS WITH PRINT DISABILITIES CAN VERIFY AND CAST THEIR VOTE PRIVATELY AND INDEPENDENTLY.** [~~Research is needed to explore how to expand options to support electronic ballot return.~~]

Rationale: Line 1142 statement is expanded to include entire voting process rather than partial process ending with ballot marking. It is unacceptable to ignore the access barriers for ballot verification and casting just because the solution raises security concerns. Line 1154 recommendation for research is changed to a declarative statement that an accessible means of verification and casting a remote ballot must be available to voters with print

disabilities. Asking voters with print disabilities to continue to give up their civil right to vote privately and independently while patiently wait for "research" to identify something "secure enough" for electronic ballot return is not an acceptable recommendation. That continues the status quo for the last two decades. There MUST be an accessible option provided now with research focused on improving security without denying access while that research is occurring.

Recommended Edits to Page 37
Line 1216: **IN-PERSON** Voter Technology
Line 1218: 5.1 **IN-PERSON** Voter Technology Barriers

Rationale: Revised to accurately reflect section content focused on in-person voter technology vs. remote voting addressed in previous section.

Recommended Edits to Page 39
Line 1230: Providing only one accessible voting machine per polling place creates barriers to independently and privately **MARKING, VERIFYING AND** casting a ballot.

Line 1266: **MOST** voters with **PRINT** disabilities **ARE** [~~may be~~] unable to independently verify their vote before it is scanned and cast [~~in some circumstances~~].

Line 1269: When **AN ACCESSIBLE VOTING SYSTEM** ~~[AT]~~ is unable to [~~read~~] **SCAN ALL** the **PRINTED** selections on **A PAPER BALLOT** paper **AND PROVIDE THAT CONTENT TO THE VOTER IN ACCESSIBLE FORM FOR VERIFICATION,** voters with disabilities are unable to verify their ballots **AS REQUIRED BY LAW**. This may be because **THERE IS NO SCANNING MECHANISM AT ALL IN THE VOTING SYSTEM, OR THERE IS A PARTIAL SCANNING MECHANISM WITH NO OPTICAL CHARACTER RECOGNITION CAPACITY TO SCAN WRITE-IN TEXT, AND/OR THERE IS ONLY THE OPTION FOR SCANNED CONTENT TO BE PRESENTED IN AUDIO "READ BACK" WHEN THAT DOES NOT PROVIDE ACCESS TO THE VOTER.** [~~of the design of the printed ballot that does not consider the requirements for AT to read printed information accurately.~~]

Rationale: Line 1230 statement is expanded to cover the whole voting process not just casting the ballot. Line 1266 statement is edited to reflect current status of deployed accessible BMDs. Only those BMDs using QR codes for encoding the entire voted ballot are currently providing fully accessible ballot verification. The majority of BMDs currently used are "reading" optical scan position markers to provide accessible verification of content and do not have true OCR capacity to support verifying write-in text. Many do not provide verification in the same access feature options as are available to mark the ballot. Line 1269 is edited to eliminate the reference to "AT" as these statements are about the accessible voting system used for in person voting not remote voting at home with a voters AT.

Recommended Edits to Page 40
Line 1272: If poll workers remake the ballot to be counted ([~~to~~] transfer it to a format the ballot scanners can read **BECAUSE THE ACCESSIBLE VOTING SYSTEM PRODUCES A BALLOT DIFFERENT FROM THOSE OTHER VOTERS ARE PRODUCING**), voters with disabilities are unable to verify the vote that was ultimately cast.

Line 1275: Voters with disabilities encounter additional **ACCESS BARRIERS TO INDEPENDENTLY CASTING** [~~burdens when returning]~~ their **PAPER** ballot **WHEN VOTING IN PERSON.**

Line 1277: Voters with manual dexterity **AND OTHER MOTOR** disabilities and **THOSE** who are blind or low vision have indicated **IT IS** difficult[~~y]~~ **OR IMPOSSIBLE TO** [~~with~~ independently ~~placing the ballot in a privacy sleeve and]~~ feed[~~ing]~~ the **PAPER** ballot into the ballot scanner.

Rationale: Line 1272 statement is expanded to explain to readers why a ballot produced by the accessible voting system has to be "remade" to be tabulated – because it is fundamentally different from the ballots that non-disabled voters are producing. Line 1275 statement is edited to use the term casting a ballot for in person voting rather than "returning" a ballot which usually refers to remote voting. Line 1277 statement is expanded to include all motor limitations that can impact paper handling/movement and clarify that it is not just difficult but totally impossible for some voters to handle/move a paper ballot. The reference to a privacy sleeve is removed because unless that is used for all voters (which is almost never the case) it is not appropriate as a way of providing secrecy only for voters with disabilities. It just obfuscates what is required for independent ballot casting which is an automatic paper handling mechanism.

Recommended Edits to Page 40-41: Delete Lines 1283-1329 and replace with text below

The original text does not comprehensively address the issues of in-person voting accessibility, especially paper ballot verification and casting and it includes confusing terminology related to scanning for verification and scanning for tabulation. It identifies OCR technology as a scanning mechanism for verification which is not necessarily the most useful or efficient approach. It references E2E paperless voting systems with no explanation. It also has a long discussion of software independence and says BMDs should be software independent to ensure accessibility in marking ballots. Software independence has nothing to do with accessible ballot marking or any other part of accessibility. The term does not need to be discussed in this document as it would take pages of explanation to get most readers to a reasonable level of understanding. All readers of this document would need to understand is that software independence right now equals printed paper ballot and it is far easier to just talk about what is necessary to make paper ballots accessible than initiating a discussion on software independence.

5.2 Recommendations for In-Person Voting Technology

- **Ensure accessibility for verifying and casting paper ballots.**
- **Ensure accessible voting is not segregated voting.**

Existing ballot marking devices (as accessible voting systems used for in-person voting) address many barriers voters with disabilities face marking a paper ballot in person on election day; however, only a couple of BMDs are known to have the capacity to provide accessible verification and casting of paper ballots and are deployed to provide such access. The Los Angeles County voting solutions for all people (VSAP) is an example of such a BMD that is used by a majority of voters who vote in person. In this system the ballot printed by the BMD includes a QR code that allows the voted content to be accessibly verified by the voter using access features of their choice. The marked and verified paper ballot is

automatically cast into a ballot box at the voting station without requiring voters to handle the paper ballot for either verification or casting.

Ensure accessibility for verifying and casting paper ballots for in-person voting.

- **Ensure the paper ballot output of an accessible voting system can be read by scanners and tabulators for vote verification and counting. A BMD with an encoding mechanism (such as a QR code) that allows the printed ballot to be tabulated typically uses that same encoding mechanism to provide accessible verification of the marked ballot content. When BMD produced ballots can be tabulated, there is no need for election officials to remake ballots or count them separately from other ballots (usually hand-marked). Ensuring that BMD produced ballots can be directly counted by tabulators preserves the voters' rights to ballot privacy and may increase efficiency on election day in counting votes.**

- **Ensure the accessible voting system has a mechanism that scans the vote content of the marked ballot and presents it to the voter for verification allowing the voter to use the same access features to verify as they used to mark the ballot. The entire voted ballot content must be presented for verification including voted write-in text. All access features available to mark a ballot (audio-tactile, enhanced visual display, switch input control, etc.) must be available for ballot verification.**

- **Ensure the accessible voting system has an automatic paper-handling mechanism that eliminates the need for a voter to manually handle a marked paper ballot for verification and casting. All access features available to mark and verify a ballot (audio-tactile, enhanced visual display, switch input control, etc.) must be available for ballot casting.**

Ensure in-person accessible voting is not segregated voting.

- **The EAC in collaboration with the US Access Board should issue guidance for election officials to use to ensure they have a sufficient number of BMDs available for in person voting and that a sufficient number of voters use the BMD to produce a voted ballot. If BMDs are used by a majority of voters, this ensures ballot privacy and prevents potential discrimination claims of segregated voting (able-bodied voters are hand-marking paper ballots while voters with disabilities must use a BMD that produces a distinguishably different ballot.) This guidance should encourage equitable access to using a BMD or hand-marking paper ballots. The electronic interface of a BMD not only supports access for voters with disabilities but also benefits voters without disabilities through system notifications, elimination of unintended ballot marks, etc.**

Recommended edits for Page 45
Line 1469: **POLLING PLACES AT WHICH ALL VOTERS USE THE SAME ACCESSIBLE VOTING STATIONS TO CAST THEIR BALLOTS ARE RECOMMENDED, AS THEY PREVENT MANY OF DOCUMENTED PROBLEMS WITH SEGREGATION AND FAILURE TO SET UP VOTING EQUIPMENT. WHENEVER POLLING PLACES ARE SET UP TO INCLUDE BOTH HAND MARKING OF BALLOTS AND ACCESSIBLE VOTING STATIONS, ALL VOTERS SHOULD BE ASKED BY THE POLL WORKER UPON CHECK IN WHICH**

METHOD THEY PREFER TO VOTE, TO HELP ENSURE, PROPER SET UP OF ACCESSIBLE EQUIPMENT AND TRAINING OF POLL WORKERS, AS WELL AS OBVIATING THE NEED FOR VOTERS WITH DISABILITIES TO DISCLOSE A DISABILITY OR PREVENTION OF VOTERS WITH INVISIBLE DISABILITIES FROM USE OF ACCESSIBLE VOTING TECHNOLOGY.

Rationale: The recommended addition to the bullet point list of considerations for set up of voting equipment includes proven best practices for minimizing segregated voting and known consequences of segregating out accessible voting, including lack of poll worker training and poor set up of voting stations.

Recommended edits for Page 46
Lines 1493-1495: If a poll worker cannot be dedicated to curbside voting, this should include options to alert a poll worker that they have arrived at the curbside voting area or if they need assistance**, WHICH DO NOT RELY ON THE VOTER BRINGING A PHONE OR A PERSON WHO CAN ALERT POLL WORKERS OR THEM.**

Rationale: The recommended edit stresses the onus is on election administrators to provide voters with whatever is needed to be able to successfully access their polling places, as well as mark, verify, and cast their votes.

Recommended edits for Page 50
Lines 1611-1613: For example, Contra Costa County's award-winning training "A Simple (Accessible) Path for All" includes an Accessibility Kit written in plain language and including checklists, maps, and step-by-step guides for fixing obstacles and barriers.
ADDITIONALLY, THE RESEARCH ALLIANCE ON ACCESSIBLE VOTING, A RESEARCH AND DEVELOPMENT PROJECT FUNDED BY THE EAC, CREATED ELECTION DAY JOB AIDES FOR POLL WORKERS IN THE FORM OF OVERSIZE STEP-BY-STEP GUIDES INCLUDING TEXT AND PICTURES, WHICH INSTRUCT POLL WORKERS ON THE ACCESSIBILITY FEATURES OF ACCESSIBLE VOTING TECHNOLOGY AND PROVIDING ACCOMMODATION TO VOTERS WITH DISABILITIES.

Rationale: This project is typically featured on the EAC website and provides another strong, readily available example of job aides for poll workers.

Recommended edits for Page 52-53
Line 1663: VVSG 2.0, adopted February 10, 2021 is the current version, but **ALL** [~~most~~] voting systems are currently certified to VVSG 1.0.

Rationale: There are no systems certified to anything but VVSG 1.0 at this time.

Line 1669: VVSG 2.0 [~~reflects the latest in both industry and technology best practices for accessibility and~~] includes detailed guidance **ON REQUIRED ACCESS FEATURES** for **IN PERSON** electronic voting systems **THAT CAN** [~~to~~] enable voters with disabilities to vote privately and independently, [~~ensuring their ballots are marked, verified, and cast as intended.~~]

Rationale: While VVSG 2.0 may reflect "the best we can do" in making paper ballots accessible, it is not best practice in accessibility. That is sort of like saying steps are a best practice in building access. Statement was also revised to more accurately convey that

compliance with VVSG 2.0 access requirements only means the system is capable of providing access (the features are there and meet the standards) but those systems can and frequently are deployed or configured in ways that eliminate privacy and/or independence. For example, a lone BMD used only by a few voters that produces different size/shape ballot (that may also have to be "remade") will not provide privacy regardless of the access features built-in to that BMD. Another example is a BMD which can be configured with an attached ballot box that allows a marked, verified paper ballot to be automatically and accessibly cast. However, that same BMD is more likely to be configured with voters manually removing the marked ballot from the BMD and taking it to a precinct counter for casting which will not provide accessible, private and independent ballot casting. Certification to 2.0 does not "ensure" private and independent voting is delivered.

Line 1679: The accessibility of voting systems is further governed by the Americans with Disabilities Act. **THERE HAVE BEEN A NUMBER OF LEGAL DECISIONS THAT IMPACT WHAT IS CONSIDERED TO BE ACCESSIBLE IN PERSON AND REMOTE VOTING THAT GO BEYOND VVSG STANDARDS FOR ACCESS. (A SUMMARY OF THESE SHOULD BE PROVIDED INCLUDING MULTIPLE CASES THAT HAVE REQUIRED DIGITAL BALLOTS FOR REMOTE VOTING.)**

Line 1682-1689: An accessible **IN PERSON** voting system **MUST** [~~typically~~] contain[~~s~~] a number of **ACCESS** features designed to ensure [~~accessibility for~~] voters with a range of disabilities **CAN PRIVATELY AND** ~~[to allow them to~~] independently mark, verify and cast their ballots. The most up-to-date **REQUIRED ACCESS** features **FOR IN PERSON VOTING SYSTEMS** are described in some detail in VVSG 2.0 adopted by the U.S. Election Assistance Commission under HAVA in 2021. Typically, the accessible voting machine for **PAPER BASED** in-person voting is an electronic ballot marking device (BMD) [~~or ballot marker]~~. This is a device that permits contest options to be selected and reviewed on an electronic interface **USING A VARIETY OF INPUT AND OUTPUT ACCESS FEATURES AND ONCE VOTE SELECTIONS ARE MADE IT PRINTS A** [~~produces a human-readable~~] marked paper ballot. [~~and does not make any other lasting record of the voter's selections~~.] **THERE ARE NO BMDS CURRENTLY AVAILABLE THAT ARE CERTIFIED TO VVSG 2.0 ACCESS STANDARDS AND ONLY ONE CURRENTLY DEPLOYED BMD HAS FEATURES THAT CAN PROVIDE** [~~It is~~] access[~~ible~~] throughout the process of marking, verifying, and casting the paper ballot.

Rationale: The above edits identify what is required of an accessible in-person voting system and clarify that VVSG only applies to in-person voting systems. It also identifies the BMD as the device used to provide an accessible interface for paper ballots. It is critical for readers to understand that the VSAT in LA County is the ONLY currently deployed BMD that even comes close to providing accessible marking, verification and casting and that only works in LA County because they do all central vote tabulation. Other jurisdictions have shown no interesting in purchasing/using the VSAP and there is no indication any vendors are planning to develop new BMDs that conform to VVSG 2.0 access requirements. With no required upgrade of currently deployed accessible voting systems, the VVSG 2.0 access requirements are likely to have zero impact on accessibility for decades. This document must not mislead readers to think otherwise.

Lines 1691-1698: ~~[The VVSG 2.0 guidance ensures that any BMD can be used by voters with disabilities without assistance since the accessibility features are intrinsic to the device and include visual, enhanced visual, and audio formats and interactions modes that include touch and support for limited dexterity. If a voter requires assistive technology in the form of a headset or switch, these are available with the BMD, or the voter may use their own personal assistive technology. Voters may need assistance to plug into the standard audio~~

~~jack or assistive technology jack. The guidelines specify that all methods of interaction by voters have the same functionality as the visual format and touch mode not just for voting but also for voter verification, handling, and casting of the paper ballot.]~~

Rationale: The above is deleted as it overstates the ability of VVSG 2.0 to "ensure accessibility". VVSG 2.0 does not guarantee that there will be any accessible BMDs or that voters with disabilities will be able to vote privately and independently. As much as NIST would like to claim this, given NIST's role in the development of VVSG 2.0, this ignores the warnings levied by disability rights organizations that submitted public comments in opposition to the adoption of VVSG 2.0 due to concerns that when balanced overall with new security requirements basically mandating paper ballots, VVSG 2.0 will hinder development and deployment of accessible voting technologies. The above also provides an incomplete description of the myriad of access features required for an in person voting system to conform to VVSG 2.0 access requirements. Expanding to accurately describe what is required is far beyond the scope of this Appendix so this section should be deleted.

Lines 1700-1705: [~~A voter may choose to hand mark their paper ballot, if that is an option and they have the ability to do so. In many in-person voting systems, the voter casts their ballot (from the BMD or hand marked) directly into a ballot scanner. The ballot scanner is a voting system that tabulates votes marked in contest option positions or contained with a barcode on the surface of a paper ballot. There are accessibility features described in the VVSG 2.0, such as large font and audio cues, that apply to the scanner display because it is a voter-facing electronic device that is part of the voting system.]~~

Rationale: While sharing information about the VVSG access requirements for voting place tabulators (precinct counters) might be interesting, the above would need significant expansion to counter all the possible confusion it will cause related to accessibility of casting paper ballots into a tabulator that is not connected to a BMD. Realistically if a voter with a disability is able to hand mark a paper ballot, carry it to and insert it in the tabular -- they are likely to be able to use whatever default notification system is activated on the tabulator that alerts them to over votes, etc. Voters with disabilities who use the accessible BMD cannot not be expected to carry a marked paper ballot to and insert it in the tabulator so that would need to be explained. And the verification function of the accessible BMD provides more notifications about over votes, under votes, etc. than the tabulator and those will all be communicated through the activated access features of the BMD. (Many precinct counters are set to minimal notices like over vote only.) Rather than adding a lot more explanation, this should just be deleted.

For **REMOTE** voting [~~by mail, new remote~~] accessible [~~vote-by-mail~~] **ELECTRONIC VOTING** systems are available in some states. These tools allow voters **WITH DISABILITIES** to use [~~an application on~~] their personal computer or mobile device with their own assistive technology or preferences to mark and review their selections, **VERIFY AND RETURN/CAST THEIR DIGITAL BALLOT**. **SOME REMOTE VOTING SYSTEMS WORK** like a BMD **AND ONLY SUPPORT THE BALLOT BEING DIGITALLY MARKED, [**~~the system~~] then **REQUIRE THE VOTER TO** print a [~~human-readable~~] ballot **WHICH MAKES VERIFYING AND RETURNING/CASTING THE BALLOT INACCESSIBLE.** [to be verified and returned like any other vote-by-mail ballot.]

Rationale: Not all remote voting systems require the voter to print and return a paper ballot. In fact, the systems that do require this have been acknowledged to have access barriers that prohibit private and independent voting. While electronic ballot return may raise security concerns, it is currently the ONLY way to provide accessible remote voting. If

electronic return is not allowed because of security concerns, then security has again been prioritized over accessibility which is unacceptable.