

# 2020 GENERAL ELECTION PREPARATIONS

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## HEARING BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE ONE HUNDRED SIXTEENTH CONGRESS SECOND SESSION

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JULY 22, 2020

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Printed for the use of the Committee on Rules and Administration



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SECOND SESSION

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# C O N T E N T S

	Pages
OPENING STATEMENT OF:	
Honorable Roy Blunt, Chairman, a U.S. Senator from the State of Missouri ...	1
Honorable Amy Klobuchar, a United States Senator from the State of Minnesota .....	2
Honorable Tre Hargett, Tennessee Secretary of State .....	7
Honorable Mac Warner, West Virginia Secretary of State .....	10
Rick Stream, Republican Director of Elections, St. Louis County, Missouri .....	11
Kristen Clarke, President and Executive Director, National Lawyers' Committee for Civil Rights under Law .....	13
PREPARED STATEMENT/TESTIMONY OF:	
Honorable Tre Hargett, Tennessee Secretary of State .....	35
Honorable Mac Warner, West Virginia Secretary of State .....	39
Rick Stream, Republican Director of Elections, St. Louis County, Missouri .....	41
Kristen Clarke, President and Executive Director, National Lawyers' Committee for Civil Rights Under Law .....	43
MATERIALS SUBMITTED FOR THE RECORD:	
Hon. Roy Blunt—Letter from the Republican Secretaries of State Committee (RSSC) .....	70
Hon. Roy Blunt—Letter from Hon. John Thurston, Arkansas Secretary of State .....	73
Hon. Amy Klobuchar—Written Statement of the American Civil Liberties Union (ACLU) .....	75
Hon. Amy Klobuchar—Statement of Business for America (BFA) .....	102
Hon. Amy Klobuchar—Letter from Health Professionals Regarding by-mail-voting and COVID-19 .....	107
Hon. Amy Klobuchar—Letter from Declaration for American Democracy (DFAD) Organizations Urging the Senate to Make Additional Investments in State and Local Elections .....	135
Hon. Amy Klobuchar—Letter from the U.S. Election Assistance Commission ..	137
Hon. Amy Klobuchar—Letter from the Election Center: The National Association of Election Officials Regarding Federal Funding .....	140
Hon. Amy Klobuchar—Letter from Hon. Steve Simon, Minnesota Secretary of State and Other Secretaries of State as Signatories .....	142
Hon. Amy Klobuchar—Letter from The Leadership Conference on Civil and Human Rights to the Senate Committee on Rules and Administration Regarding COVID-19 .....	144
Hon. Amy Klobuchar—Letter from Hon. Steve Simon, Minnesota Secretary of State to Senator Klobuchar Regarding Additional HAVA Funds .....	152
Hon. Amy Klobuchar—Letter from the NAACP Legal Defense and Educational Fund (LDF) .....	153
Hon. Amy Klobuchar—Letter from the National Association of Counties (NACo) .....	171
Hon. Amy Klobuchar—Letter from the Native American Rights Fund (NARF) in Support of Additional Funding for the 2020 General Election .....	173
Hon. Amy Klobuchar—Letter from the National Association of Secretaries of State (NASS) Regarding CARES Act Funding .....	177
Hon. Amy Klobuchar—Letter from the National Disability Rights Network (NDRN) .....	179
Hon. Amy Klobuchar—Letter from the National Education Association (NEA) ..	186

# IV

	Page
Hon. Amy Klobuchar—Letter from Representative Jim Cooper .....	188
Hon. Amy Klobuchar—Letter from Secure Democracy .....	190
Hon. Amy Klobuchar—Letter from the Voting Rights Lab .....	192
Hon. Mitch McConnell—Letter from Hon. Michael G. Adams, Kentucky Secretary of State .....	231
Hon. Mitch McConnell—Letter from Hon. Ken Paxton, Attorney General of Texas and Other State Attorneys General Signatories Regarding the HEROES Act .....	233
Hon. Mitch McConnell—Letter from Hon. John H. Merrill, Alabama Secretary of State .....	237
Hon. Mitch McConnell—Letter from Hon. Mac Warner, West Virginia Secretary of State .....	238
Hon. Dianne Feinstein—Letter from Black Women for Wellness and other Organizations from the Black Reproductive Health, Rights and Justice Community as Signatories Regarding COVID-19 .....	240
Hon. Richard Durbin—Testimony from Public Wise .....	244
Hon. Richard Durbin—Statement for the Record from Senator Kamala D. Harris .....	247
Hon. Angus King—Letter on Elections and National Security from Multiple Signatories .....	249
Hon. Mac Warner—West Virginia 2020 Primary After Action Report with Attachments .....	252

## QUESTIONS SUBMITTED FOR THE RECORD:

Honorable Roy Blunt, Chairman, a U.S. Senator from the State of Missouri to Honorable Tre Hargett, Tennessee Secretary of State .....	301
Honorable Amy Klobuchar, a United States Senator from the State of Minnesota to Honorable Tre Hargett, Tennessee Secretary of State .....	304
Honorable Patrick Leahy, a United States Senator from the State of Vermont to Honorable Tre Hargett, Tennessee Secretary of State .....	305
Honorable Angus S. King, Jr., a United States Senator from the State of Maine to Honorable Tre Hargett, Tennessee Secretary of State .....	308
Honorable Roy Blunt, Chairman, a U.S. Senator from the State of Missouri to Honorable Mac Warner, West Virginia Secretary of State .....	310
Honorable Amy Klobuchar, a United States Senator from the State of Minnesota to Honorable Mac Warner, West Virginia Secretary of State .....	311
Honorable Patrick Leahy, a United States Senator from the State of Vermont to Honorable Mac Warner, West Virginia Secretary of State .....	312
Honorable Angus S. King, Jr., a United States Senator from the State of Maine to Honorable Mac Warner, West Virginia Secretary of State .....	314
Honorable Roy Blunt, Chairman, a U.S. Senator from the State of Missouri to Rick Stream, Republican Director of Elections, St. Louis County, Missouri .....	317
Honorable Amy Klobuchar, a United States Senator from the State of Minnesota to Rick Stream, Republican Director of Elections, St. Louis County, Missouri .....	318
Honorable Patrick Leahy, a United States Senator from the State of Vermont to Rick Stream, Republican Director of Elections, St. Louis County, Missouri .....	319
Honorable Angus S. King, Jr., a United States Senator from the State of Maine to Rick Stream, Republican Director of Elections, St. Louis County, Missouri .....	321
Honorable Amy Klobuchar, a United States Senator from the State of Minnesota to Kristen Clarke, President and Executive Director, National Lawyers' Committee for Civil Rights Under Law .....	322
Honorable Patrick Leahy, a United States Senator from the State of Vermont to Kristen Clarke, President and Executive Director, National Lawyers' Committee for Civil Rights Under Law .....	324
Honorable Angus S. King, Jr., a United States Senator from the State of Maine to Kristen Clarke, President and Executive Director, National Lawyers' Committee for Civil Rights Under Law .....	327

## 2020 GENERAL ELECTION PREPARATIONS

WEDNESDAY, JULY 22, 2020

UNITED STATES SENATE  
COMMITTEE ON RULES AND ADMINISTRATION

*Washington, DC.*

The committee met, pursuant to notice, at 10:30 a.m., in Room 301, Russell Senate Office Building, Hon. Roy Blunt, Chairman of the Committee, presiding.

**Present:** Senators Blunt, Klobuchar, Alexander, Capito, Wicker, Fischer, Hyde-Smith, Schumer, Durbin, Udall, Leahy, King, and Cortez Masto.

### OPENING STATEMENT OF HONORABLE ROY BLUNT, CHAIRMAN, A U.S. SENATOR FROM THE STATE OF MISSOURI

Chairman BLUNT. The Committee on Rules and Administration will come to order. Good morning. I am glad to welcome our witnesses today. This is a hearing that I think is appropriate in its timing as we look toward the rest of the year. There are 104 days until the general election. There are still a few primary elections to be held around the country. State and local officials, however, have begun preparations for this fall's election long before now.

As the former Missouri Secretary of State, which would be the Chief Election Official in our state, and as the Green County Clerk and Election Authority, my first elected job, I've administered elections and know how much advanced planning and preparation is required. I know that the limited resources available are often not up to what needs to be done particularly in a year like this. I also know that election officials prepare for natural disasters and other eventualities as a matter of course. There are lots of "what will we do if?" questions that election officials address before every election and sometimes they have to move forward on the "what will we do if?" because something happens.

This year, with COVID-19, with the pandemic, I think it has taken the pressures and challenges of the election to a new level. Already limited resources may have to be put to use not just to ensure the safety and security of our democracy, but to ensure the health and safety of individual voters and election workers. Elections during the pandemic are not unprecedented. We had midterm elections, I am told, that were conducted during the 2018 flu pandemic and more recently in 2009. A handful of states held off year elections during the H1N1 flu pandemic.

It was unexpected just like the situation we are dealing with now and would have been unexpected a year ago. Since the March 13th declaration of a national emergency, election officials and state offi-

cials around the country have addressed the pandemic by postponing elections, by expanding early and absentee voting programs, by reallocating or relocating polling places away from places where individuals at risk are, by working with health officials to ensure that polling places are properly cleaned and sanitized and that the appropriate personal protective equipment is available at polling places and ballot processing facilities.

Election officials have also recruited additional election workers, implemented other programs like curbside voting that would help make voting less of a health risk. Election officials have done all of this on top of the continuing efforts to ensure that this country's elections are secure from malicious actors who seek to attack voting infrastructure and spread disinformation. All of these elections and all of these actions have been taken to ensure that every voter can cast their ballot safely and securely in this year's elections. That is something that everyone here can agree on.

Voters in this country must be able to cast a ballot safely and securely without putting their health at risk, both this fall in the general election and the remaining primary elections leading up to the general. Those are principles that hopefully we all agree with. To that end, Congress has provided funds to election officials to assist with administering elections during the pandemic. On top of the \$805 million that Congress previously provided for election security, \$400 million was appropriated specifically to assist with pandemic related election expenses in the CARES Act.

This money was provided without any Federal policy mandates, in keeping with really almost 250 years of our history of state run elections. Today, I look forward to hearing how much money is going to be needed in terms of additional financial assistance and also hearing how the money that's already been provided by the Federal Government has been used. We are fortunate today to have four great witnesses join us, two of them are here with us, two are joining us from their offices. We look forward to both your testimony and the questions, and I am honored to recognize my good friend, Senator Klobuchar, for her opening remarks.

**OPENING STATEMENT OF HONORABLE AMY KLOBUCHAR, A  
UNITED STATES SENATOR FROM THE STATE OF MINNESOTA**

Senator KLOBUCHAR. Well, thank you very much, Senator Blunt. Thank you, Mr. Chairman, for holding this important hearing. It couldn't come at a more crucial time, and thank you to our public officials and leaders who are here today and the thousands of people that actually wrote us about this hearing who want to be able to vote and they want to be able to vote safely. Today, we are in the midst of an unprecedented pandemic and we have already seen examples of chaos and disenfranchisement that happened when this pandemic came upon us.

The Wisconsin primary will forever be etched in the minds of those that saw the images of voters standing in line en masse and garbage bags in the rain just to exercise their right to vote. According to local health officials, nearly 70 people, voters and poll workers, contracted coronavirus as a result of them simply going to the polls. I had a Vietnam vet write me and said, "I put my life on the line for our country and now is my choice to not be able to vote

or to sacrifice my health? I have a pre-existing condition.” I think we are all here because we understand this is not a partisan issue. This virus can hit Democrats, Republicans, Independents, people of any party and people of any party also want to vote, so let’s look at solutions. For the primary, 12 out of 16 states that require an excuse to vote by mail changed their rules, which is great, to allow all voters to cast ballots by mail, including red states, including states like Indiana, West Virginia, Kentucky, South Carolina, Alabama and Missouri, and just this week, Alabama announced it will allow anyone concerned about the virus to vote by mail.

Twelve states also mailed absentee ballot applications to registered voters, including states like New York and Connecticut, states like Iowa and Michigan and states like Nebraska and West Virginia, and states as diverse as New Jersey and Nevada mailed absentee ballots to all registered voters. These decisions weren’t made on a partisan basis. Both Republican and Democratic local officials across the country took these actions to protect voters. Throughout the primary we have seen voters turning to vote by mail in a big way. We know there is overwhelming support in actually voters in both parties in a number of swing states, at least where I have seen polls, for making sure that our Congress gives the resources necessary to the states so that people can exercise their right to vote.

I just want to keep pointing out the support that we have seen for money and help from Republican leaders across our country. Some examples. We have got Iowa’s Republican Secretary of State, Paul Pate, has said, “We’re going to be aggressively promoting and encouraging folks: Please vote by mail through the absentee process.” Washington’s Republican Secretary of State, Kim Wyman, has been advocating for the expansion of voting by mail during the pandemic. We have seen Florida’s primary 57 percent of Republicans mail their ballot compared to only 41 percent of Democrats, 96 percent of voters in Maryland’s Republican primary voted by mail.

The Republican Party in Florida sent out a mailer encouraging voters to request an absentee ballot. It has an image of a tweet from the President that begins, “Absentee Ballots are fine. A person has to go through a process to get and use them” but then it blurs out the rest of the tweet where the President goes on to attack voting by mail. I wanted to bring that up not because I want to be partisan but because I think it is really important for people to understand how untrue these allegations are about voting by mail. Mitt Romney has stood up and said he is proud that his state has such a high percentage of voting by mail. In the words of Ohio’s Republican Secretary of State, “It is irresponsible—whether it’s a Republican or Democrat—for people to create a sense, incorrectly, in the minds of voters that they can’t trust their elections.”

As the New York Times editorial board noted, Oregon has sent out more than 100 million mail-in ballots since 2000 and has documented only about a dozen cases of proven fraud. Rounded to the 7th decimal point that is 0.0000001 percent of all votes cast. That is my first point. My second point is that states need help. Mr. Chairman, as part of the CARES Act, I was pleased to be able to work with you and Senator Leahy, Coons, Shelby, Kennedy and

others to secure the \$400 million in funding to make our elections resilient. We know that that is not enough.

For Georgia's June primary, election officials spent over \$8 million of the \$10.9 million the state received from the CARES Act. That is in a primary. New York has spent nearly all of its funding. By the way, New York had a rate of voting by mail of only 5 percent. Think about that change over when I know the Secretary of States knowing that in many states over 50 percent of people are voting by mail. Kentucky, Ohio, and Wisconsin election officials have reported they have spent the majority of their funding already. We know that it is not just the funding we need, the bill that I have authored with Senator Wyden puts in some minimum standards. I know not everyone here is a fan of them, but I think this idea that we could just say to people, hey, you can keep the polls open for 20 days, similar to the version that passed in the Heroes Act in the House. We are not going to have any requirements that you have to have a notary to be able to go out and get your absentee ballot.

I am really pleased that state officials have taken this on but not every state official has and I think we should have some minimum standards in place. Beyond that, I know one thing that there is some widespread agreement on between Democrats and Republicans is that we need the funding in this Heroes Act to help people vote.

I would rather be putting ballots in a mailbox than people in the hospital. That is a choice we have for so many voters and that is why you see overwhelming support for getting funding and something I believe that we can get done on a bipartisan basis, funding for not just the vote by mail and the postage in the envelopes, which we are seeing just an increase we never thought possible during this pandemic, but also for keeping polls open early and for making sure that we are training workers at the polls who don't have pre-existing conditions, who aren't seniors, who aren't putting themselves in a vulnerable position by working at the polls. With that, Mr. Chairman, thank you so much for your leadership and for being willing to have this hearing.

Chairman BLUNT. Well, thank you, Senator Klobuchar. Let's go to our witnesses. I will first ask Senator Alexander to introduce our witness from Tennessee.

Senator ALEXANDER. Thank you, Mr. Chair. Mr. Chairman, in Tennessee we take our Secretaries of State seriously. We have had some good ones and Tre Hargett certainly is one of the very best. He was elected our 37th Secretary of State more than 10 years ago, re-elected in 2013 and 2017. He is recognized by his peers, he is an influential member of the National Association of Secretaries of States, he is Vice President of the Southern Region, a member of the Association's Executive Committee.

He has led a massive overhaul of our state department's technological abilities, including online voter registration and a GoVote Tennessee mobile app. When he is not working on elections, he is working on libraries. He has been an avid promoter and architect of our Tennessee State Library and Archives and its new facilities at Bicentennial Mall. He has been in the House of Representatives. He was twice elected Republican leader. He is one of our most dis-

tinguished citizens. I am proud to welcome to the committee Tre Hargett.

Chairman BLUNT. Thank you, Senator Alexander. Senator Capito, we have got a witness from West Virginia for you to introduce.

Senator CAPITO. Yes. Thank you, Mr. Chairman, and I am really pleased to introduce my friend, our Secretary of State, West Virginia's Mac Warner. Mac lives in Morgantown, but he is a native of Charleston, West Virginia. He is a graduate of the United States Military Academy, as are several of his brothers and more than a few of his children as well. But he also is an attorney graduating from the West Virginia College of Law. He has a Masters of Law degree also from the University of Virginia and the Army Judge Advocate General School.

He served 23 years in the United States Army, serving on 4 continents and has served for 5 years as a—for the Department of State in Afghanistan for 5 years. He was sworn in as our 30th Secretary of State, which is in charge of our election process. He is a tireless advocate for election security and making it easier for our deployed military personnel to be able to vote in our state's elections. He did have a difficult election.

The Governor pushed the date back by a month this past—this primary election, but Secretary Warner handled it, and his staff, handled it with great success. Changed some of the protocols and everything seemed to work out pretty smoothly, so congratulations to him. He also has been innovative in the online space, online voting space, and that he has an innovative system, I am sure we will talk about it, to have deployed military personnel vote remotely from wherever they are deployed. I am very pleased that Secretary Warner is here with us to share his experiences. Thank you.

Chairman BLUNT. Thank you, Senator. From Missouri, we have Rick Stream, the Director of Elections in St. Louis County. It is our biggest single jurisdiction with 750,000 registered voters. The county has over a million people in the county. Mr. Stream was in the legislature for several years, was in the Navy for a career before that, and has been the Director of Elections since 2017. Senator Klobuchar, I think you are going to introduce our fourth panelist today.

Senator KLOBUCHAR. Thank you. I am proud to have with us today Ms. Kristen Clarke. She serves as the President and Executive Director of the National Lawyers Committee for Civil Rights Under Law. Throughout her career, she has focused on work that seeks to strengthen democracy by combating discrimination faced by African-Americans and other communities of color.

She spent several years at the NAACP Legal Defense and Educational Fund. Prior to joining the Legal Defense Fund, she worked in the Department of Justice's civil rights division where she served as a Federal prosecutor in the criminal section of the division. She has received her A.B. from Harvard University and her JD from Columbia Law School and we are honored to have her here today.

Chairman BLUNT. Thank you, Senator. I think most of the panel, the witnesses, have submitted statements for the record, but we would be glad to have you share, however, much of that statement

you would like to share. We will go through these statements in the order that our witnesses were introduced. Secretary Hargett, if—

Senator SCHUMER. Wait a minute. Hey, Roy.

Chairman BLUNT. Yes?

Senator SCHUMER. Schumer.

Chairman BLUNT. Oh, would you like to—would you like to—Chuck, would you like to make some opening remarks?

Senator SCHUMER. Yes, I would.

Chairman BLUNT. The Democrat leader. We are lucky to have him on the committee, and he is here today, and go ahead. We have got a few minutes here if you want to use it.

Senator SCHUMER. Thank you. Thank you, Chairman Blunt. You are always courteous and I appreciate the opportunity to testify before the Rules Committee. I appreciate three witnesses waiting for my testimony. I want to thank Amy Klobuchar for the amazing job she does on the election, the rights of people to vote, particularly during this pandemic times. Last week after six decades as one of the Nation's most preeminent civil rights leaders, as Congressman John Lewis passed away, his trials and tribulations and ultimately his triumph are well known to us all.

His actions as a young man helped change the trajectory of the Nation and brought about the Voting Rights Act, perhaps the most important piece of civil rights legislation that Congress has ever passed. Unfortunately, many of the old enemies John faced down have not yet been vanquished. Racial disparities persist and gnaw at the fabric of our democracy. The law that John Lewis nearly died for has been gutted by the Supreme Court, and unfortunately only one political party seems interested to restore it.

We meet today, some in person and some virtually, on the subject of elections and the fundamental right of every American citizen to be able to vote, something John Lewis spent his whole life marching for. As we mourn the loss, I would ask my fellow Americans, including my colleagues on this committee of both parties, to take up his loss, take up his mission. In 103 days, our Nation will seek to hold an election in the face of unprecedented challenges. We all know administering a national election is complicated endeavor, even under the most favorable of conditions and doing so while navigating COVID-19 is downright harrowing.

States and localities need resources to make the adjustments necessary to ensure that every American who wishes to cast a ballot can do so safely. Independent experts estimate the Federal Government would need to provide \$3.6 billion in additional funding in order to ensure that state and local officials have what they need to meet this challenge. The Heroes Act, which passed the House more than 2 months ago, provides that amount along with critical protections related to mail-in voting, in-person voting, voter registration and other things.

Unfortunately, as localities prepare for the 2020 election and urge more Federal resources to hold safe elections, that legislation has languished in the Senate while President Trump and some Congressional Republicans have spread misinformation about voting by mail. The lack of urgency from our Senate Republican leadership, and I know you are trying very hard Chairman Blunt to get

something done here, but the leadership is not giving us what they really need in providing these desperately needed resources. That should appall most Americans. John Lewis' mission was to restore the right to vote. The best way to keep his legacy alive is not simply giving good speeches on the floor, as important and nice as they are, but is to make sure that right to vote, even during this COVID crisis, is preserved, protected, and not stood in—not abused.

The callous way, just last week, the Majority Leader dismissed the pernicious voter suppression that corrodes our democracy to this very day as nonsense that the Democrats are promoting, the calloused way in which these remarks completely dismissed the experience of black and latino voters who have to wait 45 to 46 percent longer on average than white persons to cast the ballot, often as a result of intentional polling closures we have seen in state after state is jarring.

I acknowledge there are legitimate policy disputes on how to best preserve the economy, protect public health, provide a quality education to the students in the midst of this crisis, but one thing that should not be in dispute, however, is whether Congress should provide the resources, experts, and officials from across the political spectrum who are so desperately needed to protect the November election. We need to prepare for an unprecedented flood of mail-in ballots by ensuring the postal service has sufficient funding and makes no detrimental changes to their operation that could have a negative impact on the election this fall. We are talking about the very wellspring of our wonderful democracy: free and fair elections.

It shouldn't be an issue about right and left because it is an issue of right and wrong. Members from both sides of the aisle have released heartfelt statements in recent days honoring the life of John Lewis. Over the next few weeks, every member of this body will have an opportunity to make it abundantly clear where they actually stand on the most critical component of John Lewis' legacy, his unwavering belief in the fundamental right of every American citizen to cast a ballot free from undue burden.

Speeches are fine but John Lewis would prefer action. Action means supporting the legislation in the Heroes bill. As we debate the next round of COVID relief, Democrats will insist on providing states the resources to carry out our elections fairly, safely, and efficiently, and I hope, I hope our Republican friends will join us. It is nice to make grand statements about the unparalleled life of John Lewis. Paying lip service to his legacy without taking meaningful action would be the height of hypocrisy. I thank you for the time, Mr. Chairman, Madam Ranking Member, and yield the floor.

Chairman BLUNT. Thank you, Senator. Secretary Hargett.

**OPENING STATEMENT OF HONORABLE TRE HARGETT,  
TENNESSEE SECRETARY OF STATE**

Mr. HARGETT. You and your colleagues are in my prayers during this challenging time for our Nation and our world and I am indeed grateful for your service. While I don't speak for each Secretary of State or Chief Election Official in our country, I express our appreciation for the election specific appropriation from the CARES Act. In Tennessee, these dollars have been instrumental in providing for additional ballot scanning equipment, larger ballot boxes, absentee

envelopes, hand sanitizer, PPE, worker recruitment, and public outreach.

Tennessee is also one of the fortunate states that was able to meet the necessary match requirement for these funds. I would humbly ask if there is an additional round of money appropriated for election administration of the upcoming election, that those funds not have a match requirement and also be free of additional Federal mandates requiring states to change the manner and method of casting of votes. I have confidence that each of you cares deeply about the ability of our states to conduct elections, and I hope you will continue to respect each state's authority to conduct elections in a manner that has or will work in their respective states. It would not be appropriate nor do we need to Federalize the administration of our elections.

What works in Tennessee may not work in Colorado, Oregon, or Missouri and vice versa. We must continue to understand that one size does not fit all when it comes to elections. I am sure you are interested in learning about our preparations to conduct the current and upcoming elections during COVID-19. In mid-March we began working to purchase necessary items such as absentee ballot envelopes that we anticipated could be subject to supply chain issues and we set up working groups of local and state election officials along with private industry partners to develop our COVID-19 election contingency plan. We also had health experts review the plan and participate in statewide training calls.

The result was a detailed 85-page election plan that thought through every possible step of the election process, including how to reduce the touch points in the election process, sanitization of polling sites, increasing the size and number of early voting polling sites as well as their hours of operations, and recruitment of additional poll officials. The health and safety of poll officials and Tennessee voters has been of utmost importance to us through our planning process.

Our "Be a Patriot, Become a Poll Official" campaign yielded over 3,100 new poll officials, which shouldn't come as a surprise given Tennessee's recognition as a volunteer state. Specifically, our new poll officials will help us fill the gap of poll officials who may not want to work during this election cycle this year. Building a new bench of new poll officials will also help in the future since our average poll workers are over 65 years of age. We have put an emphasis on recruiting 16 and 17 year olds this year.

We believe this will encourage our young people to be civically engaged the rest of their lives. There has been a lot of conversation nationally about mail-in ballots. While over a period of years and decades some states have moved to a system of mailing ballots to each registered voter, most states have continued to primarily utilize in-person voting to conduct their elections. Prior to a recent court ruling, which is under appeal, more than a third of Tennessee's registered voters were eligible to request and cast an absentee ballot under 1 of 14 different excuses provided by Tennessee law. Tennesseans love to cast a ballot in-person. Historically, over 98 percent of Tennessee voters cast a ballot during Tennessee's robust early voting period or on Election Day. During the average

Presidential election, over 60 percent of the votes will have already been cast during early voting.

Tennessee is a state that has built our election infrastructure around our voters' habits of voting in person. Last Friday, our early voting period began, and I traveled to 10 counties to observe early voting as well as how our counties were meeting the challenge of administering elections during the current pandemic. Voters are coming to their voting sites with confidence and enthusiasm to vote in these elections, and without fail they lauded the precautions and efforts made by our state and local election officials to ensure the health and safety of our voters and poll officials.

Additionally, when it comes to mail-in ballots, we can mail out ballots in a timely fashion and voters can return them in what they deem is timely to ensure their return by Election Day. However, we have no control over the operations of the United States Postal Service. Each election year, without fail, counties mail ballots that are never returned or that are received weeks after Election Day. Now, recent reports of operational issues with the United States Postal Service cause an even greater erosion in confidence in the ballots cast by mail. Whether it is the timely delivery of these ballots, the dumping of ballots in the lobby of apartment complexes in New Jersey, a voter registration application being sent to a cat in Georgia, or the recent ballot harvesting issues in North Carolina, and even in Tennessee where a voter's absentee ballot was mailed to her on the day she passed away and somehow the ballot was returned, it remains true that the most secure and private way to cast a ballot is through in-person voting.

In the state court system in Tennessee, advocates for by-mail voting persuaded the court that voting safeguards existing under current Tennessee law should help prevent voter fraud. Interestingly enough, in Federal court, advocates for by-mail voting were asking the Federal court to weaken the same safeguards that advocates in the state court cited as being effective safeguards. Also, the emphasis the U.S. Senate and the current Administration placed on security and preparedness has yielded dividends. As most of you are aware, the morning of our Presidential preference primary in March, devastating tornadoes struck downtown Nashville and Davidson County along with the neighboring counties of Wilson and Putnam.

As part of our ongoing preparedness efforts, we have participated in tabletop exercises from the Harvard Belfer Center as well as the United States Department of Homeland Security. Our state election officials have taken this practice and conducted similar exercises with our local election officials. The practice of a tornado striking a polling place came to real-life for us in Tennessee.

I am happy to give more detail or answer any questions you may have regarding our response to these natural disasters. In closing, thank you for your support and please continue to respect each state's authority to administer elections in the manner and method that their states deem best to ensure the integrity, participation, and confidence in our elections. Thank you, Mr. Chairman.

[The prepared statement of Mr. Hargett was submitted for the record.]

Chairman BLUNT. Thank you, Mr. Secretary. Secretary Warner.

**OPENING STATEMENT OF HONORABLE MAC WARNER, WEST VIRGINIA SECRETARY OF STATE**

Mr. WARNER. Chairman, members, and staff, thank you for inviting me to testify about West Virginia's very successful primary election. We were so successful because we learned from others, had constant communications, and we provided options. We learned from other states that poll worker recruitment was critical, uniformity is helpful, absentee ballots are necessary but challenging. We had constant communication nationally with the Department of Homeland Security, DOJ, Congress, and the National Association of Secretaries of State.

At the state level, with our fellow Secretaries, our Governor, West Virginia Attorney General, the Fusion Center, and National Guard. At the county level, with clerks who stressed flexibility and with Harvard's Belfer Center that helped prepare officials for most any disruption. West Virginia provided options. We offer more ways to vote than any other state. We offer the gold standard of in-person voting at the local precinct with trained poll workers, during early voting and on Election Day. We provide absentee voting using the mail, and we lead the Nation with e-voting. In 2018, we enabled military and overseas voters to vote electronically. West Virginians in 30 countries use mobile devices to vote in the general election.

One voter in West Africa cited a 3-day drive from the U.S. embassy for mail. She noted that mail was neither practical nor guaranteed. She was the envy of her peers and she loved her e-voting experience. This year, our legislature unanimously extended e-voting to people with certain physical disabilities. 175 voters from 19 countries and 20 voters with physical disabilities cast e-votes in our primaries. In West Virginia, it is easier to vote and harder to cheat than ever before, but providing options does raise challenges. Let me address those challenges. COVID-19 is the elephant in the room in the upcoming election. Due to the virus, our Governor issued a stay at home order that overlapped with our primary.

Accordingly, everyone had a medical reason to vote absentee. For uniformity, we sent applications to every registered voter and half of the ballots cast were absentee. The stay-at-home order is now lifted and county clerks have asked that we return to voters initiating requests to vote absentee consistent with state law. We must now educate voters on election changes as they occur with this unpredictable virus. Another challenge is poll worker recruitment. At the state level, we recruited nearly 400 volunteers during the primary and we have started a fresh campaign for the general. America needs to unite around the duty to work the polls in November.

As to funding, we appreciate the Federal HAVA and CARES support. West Virginia used all of its 2018 HAVA funds and we will allocate \$2.4 of our \$4 million 2020 HAVA funds next week. We used \$1.6 million of our CARES money in our primary, leaving \$2.1 million for the general. The CARES allocation was about right for our state and every dollar went directly to local election officials. While virus funding is not an immediate concern, a number of counties do face equipment upgrade issues. Now to lessons learned. People like having options—voting options as they do not know how the virus will play out. Even during the pandemic, half of the

people voted in person. As to e-voting, nearly every overseas voter would have been disenfranchised due to postal disruptions. They loved being able to vote electronically.

Today, I renew my call to congressional leadership as well as the Department of Defense to provide e-voting to all deployed military and overseas voters. Using the mail is one pandemic option but mail is problematic. Issues include lack of postmarks, lost items, delayed delivery, and increased opportunities for fraud such as forgeries, intimidation, and ballot harvesting. A significant absentee ballot issue is over voting. One county had 1,017 over votes, resulting in those votes not counting. That would not have been possible with electronic marking devices and in-person voting.

Next, initiate anti-fraud task forces as soon as possible. When issues arose, our task force with the U.S. Attorney, FBI, State Police, and West Virginia's Attorney General was extremely effective. Finally, flexibility. County clerks recommended and our Governor issued executive orders that provided much-needed flexibility, such as giving clerks more than 24 hours to mail absentee ballots, I provided flexibility by allowing early poll worker training, COVID-19 as a reason to vote absentee, early processing of absentee ballots, clerks to change polling locations, and reduced number of poll workers. Flexibility enabled clerks to use common sense based on manpower, equipment, and timing restrictions.

In conclusion, West Virginia showed that we as a Nation can hold a safe and successful election during the pandemic. Extensive voter education is necessary as people must be informed of deadlines, process, and to correctly mark ballots. They must also understand that absentee ballots delay results reporting.

In West Virginia we covered our bases. We had numerous voting options, officials had flexibility to operate within the law, and polls were accessible. We got it right and we did it safely. West Virginia did not have a single reported case of COVID-19 due to in-person voting. This concludes my briefings and West Virginia stands ready to share our story and answer questions at the appropriate time. Thank you.

[The prepared statement of Mr. Warner was submitted for the record.]

Chairman BLUNT. Thank you, Mr. Secretary. Mr. Stream.

**OPENING STATEMENT OF RICK STREAM, REPUBLICAN  
DIRECTOR OF ELECTIONS, ST. LOUIS COUNTY, MISSOURI**

Mr. STREAM. Good morning, Senators. It is an honor to be here this morning. Thank you Senator Blunt for inviting me to testify. I am happy to be here because the St. Louis County Board of Elections is proud of the work we have accomplished providing secure, accurate, and fair elections during this unprecedented time. The St. Louis County Board of Elections, as well as all 116 election authorities in the State of Missouri, is governed by state statute. St. Louis County staffing is bi-partisan with equal members of both major parties working side-by-side to ensure accurate, efficient, and fair elections. The Board is governed by four commissioners, two of each party, nominated by the Governor and confirmed by the State Senate.

Two bi-partisan directors run the day-to-day operations. St. Louis County has one million residents and 750,000 registered voters. It is, by far, the largest election authority in the State of Missouri. The St. Louis County Board of Elections has taken the following measures during the COVID-19 pandemic to ensure the safety of voters and poll workers while providing an opportunity for all voters to cast their ballots. The Election Board has remained open to meet our statutory responsibilities to voters and candidates. Using St. Louis County Health Department guidelines, the office established protocols to continue working while keeping our employees safe and the election process moving forward. Employee temperatures are taken immediately in the morning. Employees socially distance with barriers in place where necessary. Employees wear masks continuously and gloves when handling paper.

All office surfaces are wiped down twice a day and employees have wipes for their work areas. These safety measures are also taken with any public interaction. In a normal county-wide election, St. Louis County employs approximately 3,200 poll workers to fully staff the polls. These workers are trained so that they are current on the latest procedures and laws. Because of the pandemic, the Board established new procedures for in-person training and developed online training courses which allowed many of our workers to take the class without leaving their home. We have recently moved exclusively to online training. At the polling places, all poll workers wear masks and gloves and are instructed to wipe down surfaces with alcohol disinfectant.

Hand sanitizer is placed at each polling place for the voters to use and social distancing strips are placed on the floors. Because of the hesitancy of poll workers to work, 71 percent of our poll workers are over the age of 60 and numerous cancellations of private polling places, the Board reduced the number of polling locations for the June election to 160 from the March 10th Presidential preference primary level of 360. We were able to adequately staff at the reduced level and avoid long lines that plagued other election authorities around the country.

Our plan is to increase the number of polling places to 200 for the August statewide primary and then a larger number for the November Presidential election. Nearly all polling places are in public buildings within a 7-minute drive from the nearest polling place or public transportation stop. Last year, after a rigorous request for proposal process managed by our staff, our Board of Commissioners purchased new voting equipment. We determined that the ballot on demand system is the most secure method available. That decision has had an immediate effect on our ability to protect voters during the pandemic. There are no pre-printed ballots. The paper ballot is generated at the polling place based on the voter's name and address. Except for a brief initialing by two gloved poll workers, the only person touching the ballot is the voter. The system was purchased for \$3 million less than the touch screen predecessor purchased 13 years earlier.

This year, Governor Mike Parson signed a new voting law into effect for the remainder of 2020. It provides a specific absentee voting option related to COVID-19 and adds a mail-in ballot option. Our commissioners have sent a letter to voters explaining their vot-

ing options. To date, our office has experienced a fivefold increase in the number of absentee ballot requests. Because of the rapidly changing circumstances and our desire to communicate those changes to our voters, we are incurring unprecedented costs. We hope to be reimbursed from the CARES Act.

The Missouri Secretary of State's Office has provided resources for COVID-19 related expenses for personal protective equipment and supplies. While our expenses are going up and are unpredictable for the remainder of the year based on the trajectory of the pandemic, income and sales tax resources coming into the state and county have plummeted. Additional Federal help might be necessary to meet these demands. The St. Louis County Board of Elections continues to look for ways to be fiscally responsible and nimble while trying to improve our service to our voters and protect the election process during this unprecedented time.

[The prepared statement of Mr. Stream was submitted for the record.]

Chairman BLUNT. Thank you, Mr. Stream. Ms. Clarke—Ms. Clarke.

**OPENING STATEMENT OF KRISTEN CLARKE, PRESIDENT AND EXECUTIVE DIRECTOR, NATIONAL LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

Ms. CLARKE. Chairman Blunt, Ranking Member Klobuchar, and members of the Senate Committee on Rules and Administration, my name is Kristen Clarke and I serve as the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. Thank you for the opportunity to testify today on the actions we can take to ensure that states hold safe and fair elections during the pandemic this season.

The Lawyers' Committee has been at the forefront of the battle for equal rights since it was created in 1963 at the request of President Kennedy to enlist the private bar's leadership and resources in combating racial discrimination. To accomplish our mission, the Lawyers' Committee has been a leader in many of our Nation's most seminal voting rights battles and we also lead Election Protection, the Nation's largest and longest-running nonpartisan voter protection program anchored by the 866-Our-Vote hotline.

Through our work, we have had a frontline view of the ways in which the pandemic has impacted our elections nationally. The evidence and problems experienced by voters during the primary season makes clear that many states simply are not ready: long lines in Wisconsin and Georgia, poll site closures across Pennsylvania and Kentucky, confusion regarding the rules for accessing absentee ballots in Ohio, poll worker shortages in Florida, Texas, and Illinois.

As we brace for historically high levels of participation this November, I urge this Committee and Congress to provide the \$3.6 billion in funding that the states and our local communities desperately need to be able to safely and effectively administer elections for the duration of the year. It is critical that Congress also set certain minimum baseline protections for voters across the country for November, including at least 2 weeks for early voting,

no excuse absentee voting, and safe, secure, and accessible voting options on Election Day. Nothing less than the fate of our democracy and the lives of your constituents is at stake.

We have been sounding the alarm about the dangers to voters, poll workers in our communities throughout the primary season as many states either failed to adequately respond to the threat of COVID or lack the resources to appropriately respond. Months into the pandemic, many states and counties are still unprepared to safely handle the volume of people opting to vote in person, and several states failed to provide requested mail-in ballots in a timely manner, leading to mass rejection rates. Voters of color, our senior citizens, people with disabilities, Native Americans, and first-time voters are disproportionately disenfranchised by our Nation's collective failure to fully confront the challenges posed by COVID.

For people forced to vote under conditions that don't comply with public health guidelines, there are real risks to their health and the health of their families. No one should ever have to choose between their health and their ability to exercise their right to vote. The \$400 million allocated in the CARES Act was an important first step, but it is a fraction of what is truly needed.

As COVID rates continue to spike, the changes facing election officials continue to intensify. Even if those funds don't reach states and localities until August or September, states will be able to immediately put those funds to use to hire poll workers, purchase PPE and cleaning equipment, print mail-in ballots, procure postage, and conduct voter education and outreach. Ensuring access to the ballot during a pandemic is a common-sense principle that enjoys bipartisan support.

The Lawyers' Committee and our partners have heard from officials on their efforts this season. Governors from both parties have expanded access to vote by mail to all people in states as diverse as New Hampshire, Maryland, Alabama, and Ohio, and during the past few months, Governors, Secretaries of State, and election officials have learned from states like Colorado, Washington, Utah and Hawaii, where elections have largely been conducted by mail prior to the pandemic. Expanding voting by mail and in person is achievable and critical for our democracy. States simply need the support from Congress to do it.

I want to close by remembering your colleague and our Nation's hero Congressman John Lewis. Congressman Lewis devoted his life to fighting for the right to vote. He continued that all the way through his final months of his life, presiding over the House vote to restore the Voting Rights Act in December. In his words, "To make it hard, to make it difficult, almost impossible for people to cast a vote is not in keeping with the democratic process."

It is my hope that Congress will restore the Voting Rights Act, our most important Federal civil rights law, and carry forth the legacy of Congressman Lewis by taking action now to ensure access to the ballot for all Americans during the pandemic. During one of our Nation's gravest crises, I urge you to provide the \$3.6 billion in funding needed for states and localities to get it right and to ensure that every voter has access to vote by mail and at least 2 weeks of early voting this season. Thank you.

[The prepared statement of Ms. Clarke was submitted for the record.]

Chairman BLUNT. Thank you, Ms. Clarke. I appreciate the Members that have attended. We have had Members here, number of Members here, others virtually attending. Let's try to limit our questions to 5 minute rounds and we will have as many rounds as we have time to before those votes start right after noon and maybe even into that space if needed.

Mr. Stream, you said the Governor had signed new legislation. I have really two questions there. What were some of the new things that that legislation did in our state? Two, were those laws in effect for the spring elections that were held a little late in June or are they going into effect for the first time in the August elections?

Mr. STREAM. Yes, the Governor did sign that bill into law. It did not take effect for the June election, which was actually the April general municipal election, which was postponed until June, but it does take effect for the statewide primary which occurs in less than 2 weeks now, and of course for November, it will be in effect, too. What the new law does is it expands the options for voting absentee. It adds a COVID related option and what that does is it is for people who have contracted or are at risk of contracting COVID, it allows them to vote absentee and there are categories within that option. If you meet any one of these, you are considered to be at risk so you can vote absentee in this way. You have to be at least 65, live in a long-term care facility, have a serious heart condition, have chronic lung disease or asthma, or are immunocompromised, chronic kidney disease or on dialysis, have liver disease or diabetes.

For this particular way to vote absentee, you do not need to have your ballot notarized. Most of the other reasons that we have in Missouri for voting absentee, you do have to have it notarized. There is one other non-notary option that we have had for a long time. If you are incapacitated due to illness or disability or you are caring for somebody who is incapacitated due to illness or disability, then you do not need to get your absentee ballot notarized. For all the other reasons, absence on Election Day, employment by election authority, you do have to get it notarized.

The other part of that bill that became a law was the mail-in ballot option and this is open to any voter, not just people who may feel threatened by COVID or anything like that, but this is open to any voter. It is a mail-in ballot. It must be requested in person or in writing to the Election Board and the ballot must be returned by mail, and that ballot must be notarized. Those are the main differences that were incorporated in this new—

Chairman BLUNT. When would you have to receive that ballot to count it?

Mr. STREAM. You have to receive the ballot to count it by 7 p.m. on Election Day.

Chairman BLUNT. No postmark issue after the election?

Mr. STREAM. No.

Chairman BLUNT. It has to be there by 7 p.m. on Election Day?

Mr. STREAM. Again, the legislature decided to do it that way. That is the way all of our absentee balloting has been in the past, that it has to be received into our office by 7 p.m. on Election night.

Chairman BLUNT. Did you see any postal concerns in the June election or you having any concerns about how the Post Office will participate and function in this new demand for ballots in August and November?

Mr. STREAM. Well, to be honest with you, Senator, we have had problems with the Post Office since I have been in this office for three and a half years. The delivery times are less than optimal for sure. We have even proposed having one of our employees work in the Post Office in our local community of St. Ann to try to speed up the process but to no avail. We are concerned about that. We have a tremendous number of absentee ballots that were processed for the June election. About 45 percent of our total vote was absentee for the June election. Normally, it is 10 percent.

For August, it is going to be even higher than that. We have, in office right now, over 86,000 absentee applications. The ballots are being mailed out to the voters and it is going to be a monumental effort to get those processed. We will get it done, but the Post Office is a very difficult situation for us right now.

Chairman BLUNT. How are you going to count those ballots that come in in those big numbers Election Day? I know in New York I think the primary was the 23rd of June and we still don't have all the results. Are you doing anything to prepare for the volume that you wouldn't have dealt with before and what are you doing?

Mr. STREAM. Well, we have had to hire a lot of bipartisan temporary teams to help us process the applications. We will have the same type of bipartisan teams to process the ballots when they come back in. What we do is, we have a state law that allows us to prepare the ballots 5 days in advance. Any ballots that we have in, that have been checked to make sure that the signatures match, those ballots are then prepared starting 5 days in advance. What that means is they are opened, the ballots are laid out, and we are able to count them quickly on Election Day and results are—usually for absentee ballots, like we did in June, we had the absentee ballot returns out by 7:30 p.m.

Chairman BLUNT. Thank you, Mr. Stream. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much. Thank you for your testimony. Thank you very much, Ms. Clarke, for you mentioning Congressman Lewis and his work that we must respect not just in words, but in action. Ms. Clarke, I thought just to get down to the nitty-gritty of what we are facing right now in the HEROES Act as we consider some version of it in the Senate, you talked about how there is still time to purchase equipment in terms of personal protective equipment for people who are working at the polls, postage, that is not something you have to necessarily get a year ahead of time, we all know that, envelopes.

Some very practical things that we can do in two ways. One is I have a letter here from the Secretaries of States, the National group asking for some changes to that original \$400 million and I appreciated Senator Blunt's openness to looking at that in this package as well as other Republicans. The second is additional funding. As you said, this is just a fraction of what we need when

we look at the enormous needs of changing the voting patterns, which even if you wanted to not change them, I think Americans are very well versed in the dangers of this disease. That is why we are seeing the voting by mail in record numbers. Could you talk about how actually even at this date we can help local officials by getting additional funding?

Ms. CLARKE. Thank you, Senator, for that question. We have been engaging with election officials across the country and many of them are expressing grave concern about their dire budget situations. We know that the country is experiencing an economic downturn, that states are wrestling with high unemployment rates and more, and so adequate funding to meet the needs states did not anticipate here has been critical and a concern that we are hearing broadly from the officials that we have engaged with.

Senator KLOBUCHAR. Again, thank you, Mr. Stream. This notion that there is still time to buy protective agreement—protective equipment and help with tabulators, scanners, all these things we are going to need as we see this shift because of the work that you have done in your jurisdiction. Could you talk about how that would be helpful?

Mr. STREAM. Thank you, Senator. We, due to the actions of our Board of Commissioners, they directed our directors to go out and purchase PPE very early in the game, not only to protect the employees in the office but the poll workers. So we, on our own, we went out and purchased a lot of that equipment before CARES was passed. We hope we can be reimbursed for that, but we knew that we needed to make sure that our polling places were safe for the voters to come into and for the poll workers to work in so that is why we purchased all of that equipment ahead of time.

Senator KLOBUCHAR. I appreciate that but it appears that the position of the National Secretary of States Association is they do want to get some additional money because of the problems with state budgets across the country for voting. Would that be fair?

Mr. STREAM. I could only speak for St. Louis County. I don't want to speak for anybody else, but as the Chairman knows, in Missouri, counties are responsible for paying for the election operations in their county. St. Louis County Government is responsible for paying for our election costs. We all know that the counties and the states are suffering badly. I think that it would be a correct statement to say that they need additional financial help.

Senator KLOBUCHAR. Thank you. I appreciate that. Ms. Clarke, do you want to add to your statement? Just how this has affected communities of color across the country the pandemic, of course we know in general but also in particular the voting and the need to keep polling places open earlier and the like so that everyone has a right to vote?

Ms. CLARKE. Yes. Thank you, Senator. Georgia provided a powerful example of the way that the pandemic has upended our elections and had a particularly stark impact on African-Americans and people of color, in particular. Georgia is a state that has been hard hit by the pandemic. However, African Americans are dying and getting infected at disproportionately higher rates.

This primary in Georgia, during the primary election, we saw long lines in several counties that were the result of malfunctioning

poll equipment, insufficient numbers of poll workers, and many voters who did not receive their absentee ballots in time in part because the state secured an out-of-state vendor that produced a number of errors. We had to go to court to get poll hours extended, but no doubt this is a season where we should be mindful of the pandemic's disproportionate impact on people of color, which makes it all the more critical that we work to get it right and ensure access for all Americans this season.

Senator KLOBUCHAR. Thank you very much. Just in closing in my questions, Mr. Chairman, I mentioned ahead of the hearing we have had thousands of Americans write to us asking Congress to provide resources to states to make it safe to vote.

One letter is signed by more than a thousand public health officials and medical professionals and doctors, others are from bipartisan groups of election officials, as I mentioned, who are asking for more funding and to remove the 20 percent match from the original money in the CARES Act funding. Disability groups and groups devoted to protecting voting rights for minority populations have also written. I ask unanimous consent that we enter these letters on the record.

Chairman BLUNT. Without objection. Senator Alexander.

[The information referred to was submitted for the record.]

Senator ALEXANDER. Thanks, Mr. Chairman and Ranking Member Klobuchar. Secretary Hargett, welcome. Let me talk to you about Tennessee and how easy it is for voters, or not, to cast ballots. You have, in your time, made it easier to register to vote online. Tennessee has 3 weeks of early voting and now we have gotten into a pattern, as you mentioned in your statement, about a lot of us do vote early and I found this year the absentee voting opportunity pretty simple to follow—the ballots were available early and I mailed mine in early.

Since the election, our August primary voting started last Thursday—Friday in person. What are you seeing in terms of lines, safety, ease of voting? Are both Democrats and Republicans, so far as you can tell, having an opportunity to vote? Are they waiting in long lines? Is turn out higher than usual? What are you seeing in terms of absentee ballots and early voting so far this election?

Mr. HARGETT. Well, thank you, Senator Alexander and I would be remiss if I didn't begin by thanking you for your fantastic service to the State of Tennessee and our great Nation through your exemplary career.

Senator ALEXANDER. Thank you.

Mr. HARGETT. We have done a lot. When you look at online voter registration, we now have crossed about 850,000 transactions of people who registered to vote online, or updated their voter registration online, also a voter app that allows people to know where their nearest early voting site is, where their Election Day voting site is, to be able to see a sample ballot so when they walk into the polls it is not the first time they have seen their unique ballot.

I did mention earlier that I had been—I went to ten counties during Friday and Saturday, and I am scheduled to hit several more Thursday or Friday and Saturday this week to see a couple things, number one, what the response was of voters and number two—I should say 1(a) probably, what is the response of our poll

workers themselves? Are we adhering to the protocols? Are we taking the necessary safeguards? I am so impressed with our Coordinator of Elections Mark Goins and our 95 county election commissioners around the state who have taken this opportunity to show that they can stand and deliver in this difficult environment, and utilizing necessary PPE.

Think about all the touch points of an election when you go to vote, even down to making sure the same person doesn't utilize the same pen twice, that you are regularly sanitizing all the possible touch areas. I think about that from a poll worker and a voter standpoint, and I specifically made a great effort in all ten counties. I went to ask voters, what was your experience? Were you concerned? Do you feel like this was a safe place to be? Is there anything you would do different?

Without fail every person said "I felt very safe coming to vote. I wanted to make sure I came to vote early. I wanted to vote in person. This way when I touch that button or I fill out that bubble sheet, I know that my vote is going to be counted." You ask about lines, you know, we saw as you will in any election regardless of what part of town you go to, what part of the state you go to, on the first day of early voting when those polls first open, you are going to see a little line there.

But we also encourage people to try and spread that out through social distancing and by recognizing that not everybody has to show up at the very same time. If you can pick a slower time of day at 2 or 3 in the afternoon, you know, you are free to do that. We encourage that. We think——

Senator ALEXANDER. Okay, I have got about 1 minute left in my time. Let me ask you——

Mr. HARGETT. Sorry, Senator.

Senator ALEXANDER. What about turnout? Is it higher this year? What is your estimate of the number of the percentage of Tennesseans who will vote in the August primary either early or by absentee ballot?

Mr. HARGETT. We anticipate you are going to see about 60 percent of people who will vote absentee or early. At this time, it appears that turnout is up, but what we don't know is that a substitution effect of maybe some people who are going ahead and voting early because we have advertised it more heavily this time around or taking advantage of absentee voting——

Senator ALEXANDER. Can you tell whether the early voters are Democrats or Republican voters?

Mr. HARGETT. It appears to be pretty balanced out. That, you know, honestly, Senator, I look to see how Tennesseans are doing. I really don't look at the numbers and try to figure out whether Republicans or Democrats are voting. I just want to do right by all Tennesseans.

Senator ALEXANDER. What—well I have 9 seconds. Do you see any real obstacles to someone having an opportunity to vote?

Mr. HARGETT. No, sir, I don't. I think we have got ample early voting. We are doing everything we can to make sure that we have a safe and secure way for them to cast their vote.

Senator ALEXANDER. Thank you, Mr. Chairman.

Chairman BLUNT. Thank you, Senator. Senator Udall.

Senator UDALL. Can you hear me?

Chairman BLUNT. Yes.

Senator UDALL. Great, thank you. Thank you, Ms. Clarke and Secretaries Warner and Hargett and Mr. Stream for joining us today and really appreciate Chairman Blunt and Senator Klobuchar for holding this hearing. I cannot stress how much is at stake in the fast-approaching general election this November, and the urgent need for an additional \$3.6 billion for emergency election funding. To prepare for today's hearing, I reached out to the New Mexico Secretary of State Maggie Toulouse Oliver who is the current President elect of the National Association of Secretaries of State.

During New Mexico's recent June primary election, there was a record turnout and over 65 percent of votes cast in that election were absentee, substantially more than the usual 10 to 20 percent. This turnout from my home state demonstrates that we can protect the right to vote and public health at the same time. While this is good news, I was troubled to find out that the full amount that New Mexico received from the CARES Act for this year's primary and general elections, \$4 million, had to be spent solely on the primary.

New Mexico is currently anticipating a \$6 million shortfall for necessary expenditures for the upcoming general election. Voters should not be forced to choose between their constitutional right to vote and their health and safety. As a Senator from a state with a native population of 10 percent and as lead Democrat on the senate committee on Indian Affairs, I am particularly concerned with Native Americans' safe access to the ballot box. Due to the pandemic, states are instituting new measures that purportedly ensure that voters may exercise the franchise safely, but if you are a Native American voter in Indian Country, odds are the barriers to casting your vote in 2020 are not much better than they were generations ago, enhanced voting procedures notwithstanding.

Prior to COVID-19, tribal communities faced unique obstacles to exercising their right to vote, including polling site closures, stricter voter ID laws, and increased use of absentee ballots, leaving Native American voters systemically disenfranchised. While I strongly support making voting by mail easier to keep communities safe from COVID-19, Indian Country faces unique barriers to vote by mail that must be addressed. Native voters in Indian Country often don't have the physical mailing addresses and instead use Post Office boxes to receive their mail.

This can require driving long distances to U.S. Post Offices with limited operating hours. On top of that, this last primary election season, we saw some states drastically reducing the number of polling sites in Indian Country without consulting with tribes, making it all the harder to vote. Basic voting infrastructure is critical to ensuring that Native American voters can exercise their constitutional right to vote within their own communities. It is disturbing yet hardly surprising that in vote by mail, and other election decisions are being made that undermine native communities' access to the ballot.

My bill, the Native American Voting Rights Act, provides significant solutions to ensure that the Native vote is not lost. Ms.

Clarke, your organization has conducted calls that highlight the national and tribal voting issues. What specific actions should Congress take to make sure that tribal communities have equal and ready access to the polls?

Ms. CLARKE. Thank you, Senator. What we have found in our experience is that Native American voters have unique issues when it comes to voting by absentee ballot. For example, in Utah, where it's 100 percent vote by mail, they neglected to think about the unique needs faced by Navajo speaking voters in that state. We filed a lawsuit against the state.

Navajo speaking voters need in-person language assistance in order to cast a meaningful and effective ballot. Today, Utah accounts for that. There are unique supports in place for Navajo speaking voters in San Juan County, Utah. I do think it is important to be mindful of the unique language needs that certain voters of color face as we think about how to ensure full access for all communities this season.

Senator UDALL. Ms. Clarke, there is no one-size-fits-all solution to address the many challenges states are facing as we near Election Day, so why is it important to ensure that states have the resources to develop both robust in-person voting protocols and the infrastructure needed to vote by mail?

Ms. CLARKE. This is a unique season where everyone faces unprecedented obstacles. We think that there are three avenues that we need to provide. We need to provide effective open access to absentee ballots, we need to provide early voting opportunities to ease the strain that officials would otherwise face on Election Day, and we need to provide meaningful, accessible, safe, and secure in-person voting opportunities on Election Day itself. That I think is the formula to success for November.

Senator UDALL. Thank you so much. Thank you, Mr. Chairman.

Chairman BLUNT. Thank you, Senator. If you have other questions, we will have another opportunity in a little bit. Senator Capito.

Senator CAPITO. Thank you, Mr. Chairman. Thank all of you for being here. Secretary Warner from West Virginia, I want to thank you for being here today. I am going to go straight to the funding question because you brought this up in your opening statement that West Virginia had received HAVA money and then CARES money for the primary and you said you had money left for the general.

Can you—we have heard a lot about lack of resources, lack of dollars. It seems like West Virginia has had enough to meet the challenge, to make sure that we get the three parameters that Ms. Clarke has laid out, early voting, access to remote voting or absentee, and also a safe voting place. Can you speak to the funding aspects, Secretary Warner?

Mr. WARNER. I sure can. Again, I think that Congress has gotten it about right for the State of West Virginia. With the CARES Act, we used less than half of that for the primary. We still have over \$2 million to use for the general. It is going to do us just about right. We held a "clerks call" with clerks in person and with a survey, we are in good shape for the CARES component.

This is the virus component of the upcoming election. We do still have some counties that could use funding in the HAVA arena. We are in the process of going through that right now. This next week and for a 30-day period for the counties to submit applications. We expect at the end of that just over half of that HAVA 2020 funding will be used and then we will reopen that after the November election. Just understand how much work these clerks have to do, and we didn't want to overload them and try to push for people to spend that HAVA 2020 money just to be spending it. We wanted to do it appropriately and we were using this election period to determine what is the proper use for that fund. Thank you, Senator—

Senator CAPITO. Do you think—Yes. Let me ask a question Senator Alexander asked of his Secretary of State. Do you see any obstacles in our State of West Virginia that somebody couldn't have fair access to the ballot, to voting in this general election upcoming?

Mr. WARNER. None whatsoever. We have all the options and they all are important. It is important for the voter to determine what is the best way for him to cast a ballot and there have been no—there is no disenfranchisement. Everybody has access whether it is absentee voting by mail, in-person early on Election Day, or in those cases with the electronic voting. Those people are very excited about that opportunity.

Senator CAPITO. Okay. Let me ask you about the HAVA money because I am on Appropriations and that was my subcommittee several years ago. I think we put—I might have the number, national number kind of in the general facility of over \$300 million. I think maybe next year for over \$400, \$500 million. Do you hold the HAVA money at the state or do you have to keep applying at the Federal level to the Federal Election Commission to get that money, and is that an ongoing process, and to your understanding, is there still money at the Federal level it has yet to be dispersed?

Mr. WARNER. Each state was given an allocation. There was a minimum allocation in the \$3 to \$4 million range. That is where West Virginia hit. All that money does go directly to the counties. We administer that through a HAVA board that reviews the applications to make sure appropriateness and to spread it across the state. Just it is in a first-come-first-serve, we take those applications on a first-come-first-serve, but we want to make sure that all the counties do have an opportunity.

Senator CAPITO. The counties apply to you for the HAVA money from your allocation?

Mr. WARNER. Yes, that is correct. That is correct.

Senator CAPITO. That is correct. Let me ask the Secretary of State of Tennessee, on your funding issues, are you finding yourself way underfunded to be able to have a safe and fair election in 2020 or how do you anticipate your financial situation in terms of meeting this challenge?

Mr. HARGETT. Well Senator, you know, without additional mandates from the Federal Government or through the courts, we feel good about where we are financially. However, if you know a certain—if a court decision were to require us to do absentee no excuse or universal vote by mail, that would be a game-changer for

us. Those are things that we are having to think about but we feel like frankly the U.S. Government, you know, U.S. Senate, U.S. House of Representatives, the money you have given us in the past for Help America Vote Act, the security funds you have given us and now through this CARES Act, we feel pretty well situated in Tennessee.

Senator CAPITO. Thank you. Secretary Warner, you mentioned that we had quite a turnout, I think, in our primary in June that was pushed for a month. A lot of that, half of that I believe was by absentee voter. I mean, do you anticipate that in the general again for the convenience factor?

Mr. WARNER. I think we are going to have pretty much the same turnout as we have had in previous elections. In the past, 60 percent turnout range for the general election. Primary, we were in the 35 to 40 percent range, which is what we have typically. And, what you find is, it is like a balloon when you squeeze in one area and it expands in another. We allowed absentee voting and expansive views of that. We had lower turnout during early voting and on Election Day, but all in all, the voters determined what they are most comfortable with depending on the virus and find the best option for them, but everybody had that chance to vote.

Senator CAPITO. Thank you. Thank you.

Chairman BLUNT. Thank you, Senator Capito. Senator King.

Senator KING. Thank you, Mr. Chair. As the red light went on, I remember the story from my days in law school. Someone asked Chief Justice Warren when you should stop when the red light came on and his answer was, in the middle of the word "if". I am cognizant of the lights here. I have spent the last 8 years, almost 8 years, on the Intelligence committee and the last 4 years intensively studying the Russian interference in the election of 2016. I can assure you that the Russians are going to try and are trying to interfere in the election of 2020. It is probable that the Chinese will. It is likely that the Iranians will. Possibly—possible that the North Koreans will.

The problem with this challenge that we face is, and it goes to all of you who are working in the administration of our elections, they don't have to change votes. All they have to do is sow doubt. Doubt is the dagger in the heart of democracy. If people doubt the election results, if people doubt the fairness of elections, and that is a very high standard to meet. I think we just all have to be thinking about that as we approach all of these issues. For example, online voting. I am sympathetic to the needs of those who are overseas and to the disabled, but I think we need to be exceedingly careful about online voting.

I just spent a year with the National Cyber Commission on cyber threats to the elections and other parts of our society, and there is no safe online voting system. There is none. I have not seen any evidence of a safe online voting system. I have seen lots of evidence to the contrary. To the extent that those are used to enable people who otherwise couldn't vote, to do so, we need to be extremely careful about how they relate to the rest of the voting system, whether somebody can use an online voting system for the disabled, for example, to get into the rest of the voting system, get into the voter

data base. I think those are matters of exceedingly important concern. The risk of registration online.

It seems to me, Mr. Chair, and as you always remind us, you were in effect a Secretary of State, we need to think about what is our responsibility, what are our powers, and ultimately these elections are going to be up to the states. The mechanics—so what do we have to do? We need to provide some insight and advice, which I just volunteered about online voting and the risk of malicious activity in connection with our elections. Secondly we do have to supply the resources, or we don't have to but we should. If we don't, particularly in the light of the COVID emergency, we are failing our responsibility and failing our voters. Ms. Clarke, you talked about long lines. Often, those long lines are in neighborhoods of color and where you place your voting places are important. These kinds of decisions are absolutely critical, but it is my belief and I don't know what the right number is, but it is my belief that there is a need for additional support for simply PPE for election personnel, for other techniques, for keeping the clerks of office open, for more early voting.

All of those things are really critical. A third place where it seems to me, Mr. Chairman, we really have a responsibility, based upon all the testimony that we have had today, is the Post Office. There was \$10 billion in the CARES Act as a loan to the Post Office. To my knowledge, it has not happened and yet the Post Office is facing imminent insolvency. September is the date that I have seen. Given that there are now nine states that predominantly vote-by-mail and many others who will see a great deal of additional voting by mail, we have to provide them with the infrastructure that votes by mail can be counted. If the Post Office can't process those and Secretary of State, one of our Secretaries of State said, you know, it has got to be in by the Election Day.

Well, what if they physically can't meet that? Those people are disenfranchised. Mr. Chairman, I feel that that is something that we really have to attend to and we can't just skirt around the issue of the support for the Post Office because the president doesn't like their package rates. This is a matter of fundamental access to the ballot box for the people of America, and if the Post Office can't get the ballots to the clerks, then they are being disenfranchised.

I have gone over my time. I didn't manage to get in a question, but I think these are some points that we really have to consider. Thank you, Mr. Chairman. I really appreciate your doing this hearing.

Chairman BLUNT. Thank you, Senator King. There will be another chance to ask questions if you have got more of your time. I would say that the Post Office, with all of these significant increase in ballots coming in is there all kinds of problems that are arising. I think I read an article yesterday where one state had put postage on the return envelope and apparently the Post Office often doesn't cancel prepaid postage.

Those envelopes had no postmark, but the law required a postmark before a ballot could be counted, but I suspect will be a lot of litigation in any election that is close this year on many of these issues. When a ballot came in, was that—should have been counted

if it was postmarked, but it wasn't there by Election Day. Rick Stream is going to have a lot of those things to try to deal with.

Senator KING. But remember, Mr. Chairman, doubt is our enemy.

Chairman BLUNT. Well, I like—you know, doubt in the election. You are exactly right. People having confidence that what the results on Election Day that were arrived at was what people, voters actually tried to do on Election Day, is critically important, it is the fabric of the democracy and we have to be thinking about that all the time. Senator Cortez Masto. Still on—yes, there you go.

Senator CORTEZ MASTO. I am here. Yes. Thank you. Let me just say also, I would like to emphasize how important it will be for my home State of Nevada, for us here in Congress, to include the \$3.6 billion for emergency election funding in the upcoming coronavirus package that we were negotiating now. You know, Nevada has been so hard hit by this pandemic and is facing a terrible budget shortfall. So are many states across the country. That is why I also believe we need to waive the 20 percent funding match requirement that was included in the CARES Act election funds and provide that additional funding to our state and local Governments so they can ensure that the upcoming election is safe and accessible.

I will say this is not a partisan issue. I know this is what Secretaries of State on both sides of the aisle are asking for, including Nevada Secretary of State Barbara Cegavske. I hope we can all work together to get this done. I do want to jump back to a conversation, Ms. Clarke, regarding the concern about access to the polls. There are many people that you talked about earlier, and I think it was with Senator Udall, that sometimes there is a language barrier, sometimes individuals need help.

Can you talk a little bit about why, yes, I believe mail-in ballots are going to be key this election cycle, we want to keep people safe but give them the opportunity to also cast their votes and make them count. We also know there are people that sometimes need to show up in person. Can you talk a little bit about why we should still also have some form of in-person voting for individuals that might need to show up in person?

Ms. CLARKE. Yes, thank you, Senator, for that question. What we have found this season is that for some people the experience, the opportunity of voting in person is incredibly important.

There are people who are willing to sadly endure those long lines on Election Day, even though they shouldn't have to, and many of them really can't afford to because they have jobs to return to or childcare needs that they are juggling. But there are many people who don't want to vote by mail and who want to get out and vote in person during early voting or on Election Day. Again, it is very critical that we provide those three avenues for voters to have a full range of options to exercise their voice this season.

Senator CORTEZ MASTO. Thank you. I know at least, and I have seen in my state as well for many reasons that we have talked about, but there are also people with disabilities that also it is helpful to be able to show up in person as well. Let me ask the Secretaries and Mr. Stream, I am curious, do any of your states require notarizations of the signatures from mail-in ballots?

Mr. HARGETT. Our state does not, Senator.

Mr. WARNER. West Virginia does not either.

Senator CORTEZ MASTO. Okay, and——

Mr. STREAM. Senator, in Missouri, as I mentioned in my earlier answers, for five of the seven categories of absentee voting, notarization is required.

Senator CORTEZ MASTO. Okay, so how—okay, so thank you. Thank you for that. My question is, how do you ensure that individuals that may not have access or ability to get to a notary or even the photo ID that may be necessary, how do you still ensure that they have the ability to vote? Let me first ask you that question and then I will give you a real life example in my own family, that is why I bring this up.

Mr. STREAM. In St. Louis County, because the Missouri legislature has passed these laws and our job is to implement them, we are governed by the state laws. We have attempted to enlist the support of private citizens, organizations in St. Louis County to provide notarization services. They are readily available to people where they can drive up in their cars and present their identification and have their ballot notarized.

Mr. Chairman mentioned the curbside voting. We also have curbside notarization. But it is basically the private sector and again a lot of citizen interest groups that are banding together to provide notarization for the documents for the categories in the absentee ballot process in Missouri that need a notarization.

Senator CORTEZ MASTO. Well, and I think that is important if that type of law is going to be passed, that we still get people the access to vote. Let me just, my grandmother, Mexican-American, felt so strongly about going to church every Sunday and voting. When she was no longer able to drive, which meant she didn't have a driver's license, it had expired, she walked to church and she walked to the local school to vote. Unless there is the ability for individuals to still have access to a notary or somebody, I don't even know how, if you don't have ID a notary is going to help—but if we don't make it available for individuals to be able to exercise their vote, she would be somebody that would not be able to vote and that is a concern that I have and I know that is something that you are trying to address as well.

Let me just say thank you all for this conversation. I cannot stress enough how important it is for us to support you with the funding that is necessary into our states now and to really if we—I strongly believe we have to waive the match for the Secretaries of State so that we can get the money into the communities now more than ever to address and give everybody the ability to vote this election cycle. Thank you.

Chairman BLUNT. Thank you, Senator. Secretary Hargett, I think it was established—Senator Capito established the fact that in West Virginia the Secretary of State becomes the place to go to have to ask for HAVA assistance. Is it the same in Tennessee?

Mr. HARGETT. It is. All those HAVA funds flow through the state office down to the counties.

Chairman BLUNT. In HAVA, going back I think to 2000, we had a series of different kinds of requirements. I think the first HAVA money after 2000 had no match. Then there was a 5 percent match on some money that came later, and then a 20 percent match and

then a 5 percent match again. Senator Klobuchar and I have talked about this a lot. I actually think there is some merit in the decisionmaking process to having some match, but I don't think it has to be a very big match to meet my sense that you have had to think about some money that you had to explain to the State legislature and others that you thought was worth putting on the table to get that 95 percent of the money that came from the Federal Government.

We are going to talk through that consistent match, I am sure. I think we ought to go back and look at the money that you currently have available to you and maybe make that money more consistent in terms of time it has to be spent and give you more access to the money you already got, in addition to trying to determine the right amount of new money. You said, you mentioned, Secretary Hargett, the match is a challenge. Is any kind of match a challenge or is it the 20 percent match that was the challenge?

Mr. HARGETT. Well Senator, so for us, we had money in reserves and we used that as our 20 percent match so I did not have to go to the legislature. But I do speak on behalf of a lot of my colleagues on both sides of the aisle where their states were hardest hit and they didn't have reserve funds to go to and draw down the match to be able to draw the 80 percent of the CARES Act. I really speak on behalf of them. If, you know, I do believe there is something to be said for having some skin in the game, but also recognize we are in a very challenging time and different states have been hit differently and I know y'all have difficult decisions to make. I want to make sure that whatever we do, we don't place strings associated with any funds that come from you going forward.

Chairman BLUNT. Thank you, Secretary. Secretary Warner, do you have a view on the match or how your colleagues deal with that issue?

Secretary WARNER. I have heard the same concerns that Secretary Hargett has heard from colleagues. Again, here in West Virginia, we have been able to meet the match just fine. However, I do agree that without the matches it would be easier to get this money down to where it is needed and make those allocations. Actually, West Virginia has actually increased the match requirement on the counties for that skin in the game simply to make the funds go further, but I don't want to leave the impression that that should be imposed by Congress or on all the states. Each of us is able to speak for our own state. We are doing just fine in West Virginia. Thank you.

Chairman BLUNT. Secretary Warner, you are telling me in your application process, the match you require of local Government, you require local Governments to have a match to qualify for the funds that is even higher than the Federal match?

Secretary WARNER. That is correct. Again, that was simply to make those funds go further. We didn't know if we were—back in 2018, we were all looking at this Russian meddling and so forth and we wanted to make these funds go as far as possible with cyber security, equipment upgrades, and so forth. That is why we increased the match requirement on the counties, but I don't want to again leave you with the impression that that should be done

by Congress. I like the idea of not having a match requirement by Congress. We can handle that at the state level. Thank you.

Chairman BLUNT. Ms. Clarke, what was the \$3.6 billion? How is that number arrived at?

Ms. CLARKE. Thank you, Senator. The Brennan Center has helped to break down how that money would support states. \$1.4 billion would be needed to enhance vote by mail and the way that is implemented by supporting ballot printing, postage costs, drop boxes, electronic absentee ballot request processing systems, ballot tracking, staffing to handle the volume of ballots being requested, enhanced technology, processing and scanners. \$271 million would be used to support in-person voting measures, so that is staffing polling sites and measures to ensure social distancing compliance, etc.

\$252 million would go toward supporting voter education in states. There are many people who are navigating absentee voting for the very first time and need help and instruction to get it right. \$85.9 million would be used to bolster online voter registration. There are about 10 states in the country that currently offer no on-line voter registration opportunities.

Additional money would be used to support states that are still holding primary elections, run-off elections, etc., and help them to prepare and gear up for the November general election. Then just to note, the U.S. Postal Service, I do believe is an important part of this. There is a request for \$89 billion to fully support the U.S. Postal Service, which plays a really central role in our elections in 2020.

Chairman BLUNT. You said 89—how much?

Ms. CLARKE. Billion.

Chairman BLUNT. \$89 billion? If we did that and the \$3.6 billion would be in addition to that. I have got it. Senator—

Senator KLOBUCHAR. Senator Blunt. Yes, just before we move on, I see Senator Leahy has arrived. Senator Durbin had to leave and I know he will put his statement on the record, but he asked me to enter two letters onto the record, one is from Senator Harris and one is from the organization Public Wise and I ask these letters be included in the record.

Chairman BLUNT. Without objection.

[The information referred to was submitted for the record.]

Senator KLOBUCHAR. I just also wanted to point out, to reiterate is Ms. Clarke's statement. I have heard some statement about the postal service, but in fact not just for voting but for other reasons during this pandemic. The postal service is more important than ever and I believe in the Heroes Act, separate and apart from the money for the voting, it included the house-passed bill \$25 billion for the postal service. The money that Ms. Clarke was talking about was included in the \$3.6 billion assessment from the Brennan Center, I believe.

Chairman BLUNT. Well, we have been joined by the president pro tempore emeritus of the Senate. Senator Leahy, I am glad to have you here and have some time, 5 minutes for comments or questions, however you want to use it.

Senator LEAHY. Thank you—I do have some questions for some of the other witnesses I want to submit for the record and a state-

ment and other things for the record. But I am glad to be here. I just came from the floor. John Lewis, my dear friend and true hero, was instrumental in securing the passage of the Voting Rights Act and I reintroduced it to have it named after him.

The Supreme Court undid much of that work with its still inexplicable 2013 *Shelby County* decision. That decision, almost a day after it came down, voter suppression started across the country and is going on even as recently as last month. I think that is exactly why we have to move swiftly to enact the John Lewis Voter Rights Advancement Act, which I reintroduced. Ms. Clarke, can I ask you a question? This may seem like a leading one, but can you explain why enacting the Voting Rights Advancement Act, which the House already passed and which we have not had brought up for a vote, is essential to restoring the Voting Rights Act and preserving John Lewis' Legacy?

Ms. CLARKE. Thank you so much, Senator. One of the proudest moments of my career was being above the Senate floor in 2006 when 98 Senators came forward and voted to reauthorize Section 5 of the Voting Rights Act with Congressman John Lewis and late Senator Kennedy standing in the center of the Senate floor, unanimous bipartisan support for our Nation's most important Federal civil rights law. Since the 2013 *Shelby County* decision, we have literally seen the floodgates of voter suppression open up across our country from places like Georgia, Texas North Carolina, and Florida. We have seen officials racing forward with efforts that make it harder for communities of color to vote.

All of this is compounded by the current pandemic. We have seen officials in some states exploit the pandemic to make it harder for people to vote and they are not going as far as West Virginia and other states to really open up access for voters. My hope is that our Senate will use this moment on the tragic passing of Congressman John Lewis to honor his legacy and move forward with all deliberate speed to restore Section 5 of the Voting Rights Act. It is a critical, central and powerful tool in our democracy that is needed to block ongoing voting discrimination.

Senator LEAHY. You know, he spoke so eloquently about it in Vermont last year to an overflowing crowd and in a state which prides itself on everybody being able to vote. But it was the most rapt attention I have seen given to anybody speaking in our state. As Vice Chairman of the Appropriations Committee, and with the help of other Appropriations Members, I worked to secure \$400 million in the CARES Act to help states administer elections during the pandemic. But that doesn't address all of the needs states have for what is an unprecedented election and what is going to be a lot more mail-in votes and so on. What are the potential consequences if Congress doesn't appropriate additional funds to help states and localities administer elections during this pandemic?

Ms. CLARKE. Senator, this primary season, we have seen—

Senator LEAHY. Also, what is going to be the consequences if we don't waive the 20 percent match requirement for states?

Ms. CLARKE. Yes. Senator, we have seen long lines. We have seen malfunctioning polling equipment. We have seen scenes that we should not tolerate in a 21st century democracy from places, from Milwaukee, Chicago, Atlanta. The primary election season is

really a test run. It is a dry run for the November general election. This November, we are likely to see historic levels of turnout and participation. If we don't provide the support, if we don't provide the \$3.6 billion that states need to institute proper reforms, I fear that we are bracing for a disaster. States need to use the 100 plus days in front of them to start putting in place reforms to ensure access to absentee balloting, expand access to early voting, and meaningful access on Election Day itself. That support is critical and needed now.

Senator LEAHY. I have other questions about the claims that mail-in voting is going to result in mass voter fraud even though we have never seen that. Mr. Chairman, do I have time to ask one more question to Mr. Hargett? Thank you. A Tennessee Court recently ordered the state to provide mail-in ballots for any Tennessean who requests one.

You appealed the order. If you win in court, your state may be just one of the very few to require in-person voting in November. The issue is still unresolved. Your primary is the first full week in August. What steps are you taking to ensure that confusion over the court decision doesn't deter eligible voters from requesting mail-in ballots, as the law is today? Have you used any available Federal funding to inform Tennessee voters about the availability of absentee ballots? Yes? I know he is going to be coming on the screen. Thank you.

Mr. HARGETT. Thank you, Senator. You are right. That decision is currently under appeal and our election, our primary early voting is going on right now. Something that is important to know even prior to that decision we were advertising absentee balloting for the approximately 1.4 million Tennesseans who are already eligible to cast an absentee ballot. We were doing that. This has been one of the most widely covered stories in the state.

We continue to have speaking engagements virtually as well as in person to try and make people aware of what they have the opportunity to do and not to do. If I can go back, and I don't want to take any more of your time than necessary Senator, the real struggle is when people get half information. We see that a lot of people maybe well-meaning people on social media who don't give the full story.

We would love to give the opportunity to give the full information to people and we will be using those dollars to make sure that Tennesseans understand the opportunity to vote, what absentee ballot deadlines are, what those requirements are to be able to cast an absentee ballot in Tennessee. We think outreach is going to be critical every election and even more so this time around. Senator, I hope that answers your question, and it is good to see you again.

Senator LEAHY. I also will submit another question to the record, but doing everything he can to make people who may be vulnerable to COVID appear in person—

Chairman BLUNT. Thank you, Senator.

Senator LEAHY [continuing]. doesn't make it sound like you want people to show up and vote. Thank you, Mr. Chairman.

Chairman BLUNT. Thank you, Senator. Senator Klobuchar and then Senator King.

Senator KLOBUCHAR. Okay. Yes. I wanted to follow-up with what Senator Leahy was asking about and that is about the situation in Tennessee. Secretary Hargett and——

Chairman BLUNT. I will point out that both of the Secretaries have a 12:30 p.m. commitment with the National Association of Secretaries of State. We got about 10 more minutes with them.

Senator KLOBUCHAR. Okay. Well, that is—I will keep this down to a few minutes. It shouldn't take that long, but it is pretty important. That is that Senator Leahy raised the Tennessee Supreme Court ruling to keep the expansion of mail voting in your state, allowing voters under 60 to request a mail ballot due to COVID. I think that was the position. Your position was not to allow them to request them and the primary argument, and this is what I thought was interesting of the state, was that doing that would be a problem because of a lack of funds required to carry out the necessary shifts in election infrastructure.

As we know and as Ms. Clarke was just pointing out and going through with Senator Blunt the details of the funding of the \$3.6 billion, that would be of great help and would have solved the problem that was the primary argument for the State of Tennessee for not moving to allowing requesting a mail ballot due to COVID-19 for voters under 60. Would the funds, additional funds, we will leave the amount blank right now, but would additional funds help the State of Tennessee send mail ballots to the voters that were at issue in the court case?

Mr. HARGETT. Senator first, I will need to make clear, that is not a Supreme Court decision. That is a Chancery Court decision in Davidson County, which the Supreme Court has agreed to take up that case. What is important to know, and this doesn't get reported very much, is that the legislature on multiple occasions in March and again in June considered expanding absentee voting in Tennessee. In both Chambers, that was rejected. As Tennessee's Chief election official, I am enforcing the laws and executing the laws of Tennessee. I don't get to—you know, the green books that house the Tennessee code annotated in Tennessee, they are printed in black ink and I don't get to take a piece of chalk and do that.

Senator KLOBUCHAR. Got it. Thank you for pointing that out and the court as well. But voters are still required to have an excuse to vote absentee, one of the few states on that front. The State Court, not the Supreme Court, but the state court has ruled that fear of contracting COVID-19 is a valid excuse during this pandemic. Is the state still arguing that it isn't in court?

Mr. HARGETT. We are not arguing that it is not in court. We know it is in court.

Senator KLOBUCHAR. No. No, are you still arguing that it is not a valid excuse in court, is the state still making that argument?

Mr. HARGETT. Yes. We are appealing that to the state supreme court and it is important to note that Tennessee—you mentioned excuses and we have 14 excuses and the most common are that you are going to be out of town during early voting or Election Day, that you are over 60 years of age, or that you are sick, ill, or hospitalized. So sick, ill, or hospitalized is an excuse or being a caretaker for someone who is sick, ill, or hospitalized.

Senator KLOBUCHAR. Yes, but why wouldn't the state just say that COVID, as many jurisdictions have done that still have these requirements, why can't the state just say COVID is there so you don't have to make this argument, you just get the mail in absentee ballot.

Mr. HARGETT. Well, ma'am, the policymakers of our great State of Tennessee have made that decision and they have done that in overwhelming fashion at least twice in the last 3 months. We are upholding the laws in the State of Tennessee.

Senator KLOBUCHAR. Got it. I just—I thought it was just important to point this out because Ms. Clarke was making the argument that while we are happy with a lot of the work that has been going on in the states from Democratic and Republican officials for waiving things, there are still a lot of problems out there and one more I would add is that Tennessee does not permit voters to return their absentee ballot by means other than by mail.

We have had a lot of discussion about the postal service today, so why not provide drop boxes for voters who want to hand-deliver their absentee ballots or mail-in ballots to election officials if people aren't sure about the mail? Tennessee is a state that is somewhat unique in that way. You don't even have these drop boxes.

Mr. HARGETT. Well, frankly, it is an anti-coercion methodology. I mean, if you look at it, if someone knows you have got an absentee ballot, they can say, "hey, I will be glad to take that for you and drop that off for you". They can ask to watch you fill that ballot out or they cannot turn it in at all for you. We believe it's a great security measure to have someone returning their own ballots by the United States Postal Service. It prevents a type of ballot harvesting that we have seen in some of the other states.

Senator KLOBUCHAR. Okay. Well, I think there are many states, including a lot of red states, that have these drop off ballots situations that haven't had this kind of problem. Do you have drop off ballots, Mr. Stream, in your jurisdiction?

Mr. STREAM. Yes, we do.

Ms. KLOBUCHAR. Okay, I didn't even know the answer, but I figured you did. Ms. Clarke, do you want to comment nationally on this?

Ms. CLARKE. We have not seen any complaints or problems with drop boxes. They have proven to be an important complement during a season where there are tons of people casting absentee ballots. They complement the limited postal box offices that are available in communities and are just critical to providing access this season.

Senator KLOBUCHAR. Okay, thank you very much.

Chairman BLUNT. Senator King.

Senator KING. Mr. Hargett, I am sort of astounded by your testimony. You are telling me that a citizen of Tennessee who is concerned about the coronavirus, which by the way your state is number 11 in the country in cases per hundred thousand people, that is not an "excuse." I don't know why you need an excuse to vote, but you are saying that someone can't say I don't want to stand in line for 2 hours with several hundred other people and protect my health, that that is not good enough in your state? Is that what you are telling me, Mr. Hargett?

Mr. HARGETT. Under Tennessee law, fear of contracting the coronavirus is not an excuse.

Mr. KING. Well, that is pitiful. Thank you, Mr. Chairman. That is all.

Chairman BLUNT. All right. Thank you, Senator King. I think that brings us to a conclusion. I want to thank the witnesses for being with us today. Thanks for your time. Thanks for this great information for our committee. Thanks to the Members that participated. The record will be open for 1 week from today and the committee is adjourned.

[Whereupon, at 12:33 p.m., the hearing was adjourned.]

## **APPENDIX MATERIAL SUBMITTED**

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Statement from the Honorable Tre Hargett  
Tennessee Secretary of State

Before the Committee on Senate Rules and Administration  
United States Senate

July 22, 2020

Thank you, Mr. Chairman and esteemed members of this committee. I am grateful and honored to be given the opportunity to speak before you today. You and your colleagues are in my prayers during this challenging time for our nation and our world. I appreciate your service to our great nation.

While I don't speak for each Secretary of State or chief election official in our country, I express our appreciation for the election-specific appropriation from the CARES Act. In Tennessee, these dollars have been instrumental in providing for additional ballot scanning equipment, larger ballot boxes, absentee envelopes, hand sanitizer, PPE, poll worker recruitment and public outreach. Tennessee is also one of the fortunate states that was able to meet the necessary match requirement for these funds. I would humbly ask that if there is an additional round of money appropriated for election administration for the upcoming election that those funds not have a match requirement component and also be free of additional federal mandates requiring states to change the manner and method of casting of votes.

I have confidence that each of you cares deeply about the ability of our states to conduct elections, and I hope you will continue to respect each state's authority to conduct elections in the manner that has or will work in their respective states. It would not be appropriate, nor do we need to federalize the administration of our elections. What works in Tennessee may not work in Colorado, Oregon, or Missouri and vice-versa. We must continue to understand that one-size does not fit all when it comes to elections.

I am sure you are interested in learning about our preparations to conduct the current and upcoming elections during COVID-19. In mid-March we began working to purchase necessary items such as absentee ballot envelopes that we anticipated could be subject to supply-chain issues, and we set up working groups of local and state election officials along with private industry partners to develop our COVID-19 election contingency plan. We also had health experts review the plan and participate in statewide training conference calls. The result was a detailed 85-page election plan that thought through every possible step of the election process including how to reduce the touchpoints in the election process, sanitization of polling sites, increasing the size and number of early voting polling sites as well as their hours of operations,

and recruitment of additional poll officials. The health and safety of poll officials and Tennessee's voters has been of utmost importance to us throughout our planning process.

Our "Be A Patriot. Become A Poll Official" campaign yielded over 3,100 new poll officials, which shouldn't come as a surprise given Tennessee's recognition as "The Volunteer State." Specifically, our new poll officials will help us fill the gap of poll officials who may not want to work during the election cycle this year. Building a bench of new poll officials will also help in the future since our average poll worker is over 65 years of age. We have put an emphasis on recruiting 16 and 17 years old this year. We believe this will encourage our young people to be civically engaged for the rest of their lives.

There has been a lot of conversation nationally about mail-in ballots. While over a period of years and decades some states have moved to a system of mailing ballots to each registered voter, most states have continued to primarily utilize in-person voting to conduct their elections. Prior to a recent court ruling (which is under appeal), more than a third of Tennessee's registered voters were eligible to request and cast an absentee ballot under one of 14 different excuses provided by Tennessee law.

Tennesseans love to cast a ballot in-person. Historically over 98% of Tennessee voters cast a ballot during Tennessee's robust early voting period or on Election Day. During the average presidential election, over 60% of the votes will have already been cast during early voting. Tennessee is a state that has built our election infrastructure around our voters' habits of voting in person. Last Friday, our early voting period began, and I traveled to 10 counties to observe early voting as well as how our counties were meeting the challenge of administering elections during the current pandemic. Voters are coming to their voting sites with confidence and enthusiasm to vote in these elections, and without fail they lauded the precautions and efforts made by our state and local election officials to ensure the health and safety of our voters and poll officials.

Additionally, when it comes to mail-in ballots, we can mail out ballots in a timely fashion and voters can return them in what they deem is timely to ensure their return by Election Day.

However, we have no control over the operations of the United States Postal Service. Each election year without fail counties mail ballots that are never returned or that are received weeks after election day.

Now, recent reports of operational issues with the U.S. Postal Service cause an even greater erosion in confidence in the ballots cast by mail. Whether it is the timely delivery of these ballots, the dumping of ballots in the lobby of apartment complexes in New Jersey, a voter registration application being sent to a cat in Georgia, or the recent ballot harvesting issues in North Carolina, and even in Tennessee where a voter's absentee ballot was mailed to her on the day she passed away and somehow the ballot was returned, it remains true that the most secure and private way to cast a ballot is through in-person voting.

In the state court system in Tennessee, advocates for by-mail voting persuaded the court that voting safeguards existing under current Tennessee law should help prevent voter fraud. Interestingly enough, in federal court advocates for by-mail voting are asking the federal court to weaken the same safeguards that advocates in the state court cited as being effective safeguards.

Also, the emphasis the U.S. Senate and the current administration placed on security and preparedness has yielded dividends. As some of you are aware, on the morning of our presidential preference primary in March, devastating tornadoes struck downtown Nashville and Davidson County along with the neighboring counties of Wilson and Putnam. As part of our ongoing preparedness efforts, we have participated in tabletop exercises from the Harvard Belfer Center as well as the United States Department of Homeland Security. Our state election officials have taken this practice and conducted similar exercises with our local election officials. The practice of a tornado striking a polling place came to real-life for us in Tennessee. I am happy to give more detail or answer any questions you may have regarding our response to those natural disasters.

In closing, thank you for your support and please continue to respect each state's authority to administer elections in the manner and method their states deem best to ensure the integrity, participation, and confidence in our elections.

**Statement from the Honorable Mac Warner  
West Virginia Secretary of State**

Chairman, Members, & Staff,

Thank you for inviting me to testify about WV's very successful Primary Election.

We were so successful because we learned from other states that poll worker recruitment was critical, uniformity is helpful, and absentee mailed ballots are necessary but challenging.

We had constant communication:

- nationally with DHS, DOJ, Congress, & NASS;
- at the state level with fellow secretaries, our Governor, WV Attorney General, Fusion Center, & National Guard;
- at the county level with clerks who stressed the need for flexibility; and
- with Harvard's Belfer Center that helped prepare election officials for most any disruption.

And, WV provided options -- we offer more ways to vote than any other state.

We offer the "Gold Standard" of in-person of voting at a local precinct, with trained poll workers, both during early voting and on election day; we provide absentee voting using the mail; and we lead the nation with e-voting. In 2018 we enabled military & overseas voters to vote electronically; West Virginians in 30 countries used mobile devices to vote in the General Election. One voter in West Africa cited a 3-day drive to the US Embassy for mail; she noted mail was neither practical nor guaranteed. She loved her e-voting experience.

This year, our legislature unanimously extended e-voting to people with certain disabilities. 175 voters from 19 countries, & 20 voters with disabilities cast e-votes in our Primary.

In WV, it is "Easier to vote & harder to cheat" than ever before, but providing options does raise challenges.

Let Me Now Address Those Challenges.

COVID-19 is the "elephant in the room" for the upcoming election. Due to the virus, our Governor issued a "stay at home order" that overlapped our Primary; accordingly, everyone had a "medical reason" to vote absentee. For uniformity, we sent applications to every registered voter, and ½ of the ballots cast were absentee.

The stay-at-home order is now lifted, and county clerks have asked that we return to voters initiating requests to vote absentee. We must now educate voters to changes based on an unpredictable virus.

Another challenge is poll worker recruitment. At the state level during the Primary, we recruited nearly 400 volunteers, and we have started a fresh campaign for the General. America needs to unite around the duty to work the polls in November.

As to funding, we appreciate the Federal HAVA & CARES support. WV used all its 2018 HAVA funds and we will allocate all 2020 HAVA funds by next week. We used \$1.6 million of our CARES money in our Primary, leaving \$2.1 million for the General. The CARES allocation was about right for our state. Every dollar has gone directly to local election officials. While funding is not an immediate concern, a number of counties do face equipment upgrade issues.

Now, to lessons learned.

People like having voting options as they do not know how the virus will play out. Even during the pandemic, more than 225,000 people voted in person. As to e-voting, nearly every overseas voter would have been disenfranchised due to postal disruptions; they loved being able to vote electronically. Today I renew my call to Congressional leadership as well as DOD to provide e-voting to all deployed military and overseas voters.

Using the mail is one pandemic option, but it is problematic; issues include lack of postmarks, lost items, delayed delivery, and increased opportunities for fraud such as forgeries, intimidation, and ballot harvesting.

A significant absentee ballot issue is overvoting; one county had 1017 overvotes, resulting in those votes not counting. That would not have been possible with electronic marking devices and in-person voting.

Next, initiate an Anti-Fraud Task Force as soon as possible. When issues arose, our Task Force with the US Attorney, FBI, State Police, and WV Attorney General was extremely effective.

Finally, flexibility.

County clerks recommended, and our Governor issued Executive Orders that provided much needed flexibility. The most useful were: not requiring voters to request absentee ballot applications; and giving clerks more than 24 hours to mail absentee ballots.

I provided flexibility by allowing: COVID-19 as a reason to vote absentee; early poll worker training; early processing of absentee ballots; reduced number of poll workers; and clerks to change polling locations.

Flexibility enabled clerks to use common sense based on manpower, equipment, and timing restrictions.

In conclusion, WV showed that we, as a nation, can hold a safe and accessible election during the pandemic. Extensive voter education is necessary as people must be informed of deadlines, process, and to correctly mark ballots. They must also understand absentee ballots delay results reporting.

In WV, we had our bases covered. We had numerous voting options, officials had flexibility to operate within the law, and polls were accessible. We got it right, and we did it safely. WV did not have a single reported case of COVID-19 due to in-person voting.

This concludes my briefing, and WV stands ready to further share our story and answer questions at the appropriate time.

SHARON BUCHANAN-MCCLURE  
Chair

PEGGY BARNHART  
Commissioner

RICK STREAM  
Director of Elections



TRUDI MCCOLLUM FOUSHEE  
Secretary

MATTHEW W. POTTER  
Commissioner

ERIC FEY  
Director of Elections

Testimony before the United States Senate Rules and Administration Committee  
Presented by Rick Stream – July 22, 2020

Good Morning Senators. It is an honor to be here this morning. Thank you Senator Blunt for inviting me to testify. I am happy to be before you because the St. Louis County Board of Elections is proud of the work we have accomplished providing secure, accurate and fair elections during this unprecedented time.

The St. Louis County Board of Elections, as well as all 116 election authorities in the State of Missouri, is authorized by state statute. St. Louis County staffing is bi-partisan with equal members of both major parties working side-by-side to ensure accurate, efficient and fair elections. The Board is governed by four commissioners (two of each party nominated by the governor and confirmed by the State Senate). Two bi-partisan directors run the day-to-day operations. St. Louis County has one million residents and 750,000 registered voters. It is, by far, the largest election authority in the state of Missouri.

The St. Louis County Board of Elections has taken the following measures during the COVID-19 pandemic to ensure the safety of voters and poll workers while providing an opportunity for all voters to cast their ballots.

1. The Election Board has remained open to meet our statutory responsibilities to voters and candidates. Using St. Louis County Health Department guidelines, the office established protocols to continue working while keeping our employees safe and the election process moving forward: employee temperatures are taken immediately in the morning; employees socially distance with barriers in place where necessary; employees wear masks continuously and gloves when handling paper. All office surfaces are wiped down twice a day and employees have wipes for their work areas. These safety measures are also taken with any public interaction.
2. In a normal county-wide election, St. Louis County employs approximately 3,200 poll workers to fully staff the polls. These workers are trained so that they are current on the latest procedures and laws. Because of the pandemic, the Board established new procedures for in person training and developed online training courses which allowed many of our workers to take the class without leaving their home. We have recently moved exclusively to online training.
3. At the polling places, all poll workers wear masks and gloves and are instructed to wipe down surfaces with alcohol disinfectant. Hand sanitizer will be placed at each polling place for the voters to use and social distancing strips will be placed on the floors.

#### BOARD OF ELECTION COMMISSIONERS

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4. Because of the hesitancy of poll workers to work - 71% of our poll workers are over the age of 60 - and numerous cancellations of private polling places, the Board reduced the number of polling locations for the June election to 160 from the March 10 Presidential Preference Primary level of 360. We were able to adequately staff at the reduced level and avoid long lines that plagued other election authorities around the country. Our plan is to increase the number of polling places to 200 for the August statewide primary and then a larger number for the November Presidential election. Nearly all polling places are in public buildings within a seven minute drive from the nearest polling place or public transportation stop.
5. Last year, after a rigorous Request for Proposal process managed by our staff, our Board of Commissioners purchased new voting equipment. We determined that the ballot on demand system is the most secure method available. That decision has had an immediate effect on our ability to protect voters during the pandemic. There are no pre-printed ballots. The paper ballot is generated at the polling place based on the voter's name and address. Except for a brief initialing by two gloved pollworkers, the only person touching the ballot is the voter. The system was purchased for \$3 million less than the touch screen predecessor purchased 13 years earlier.
6. This year, Governor Mike Parson signed a new voting law into effect for the remainder of 2020. It provides a specific absentee voting option related to Covid-19 and adds a mail-in ballot option. Our Commissioners have sent a letter to voters explaining their voting options. To date, our office has experienced a five-fold increase in the number of absentee ballot requests.
7. Because of the rapidly changing circumstances and our desire to communicate those changes to our voters, we are incurring unprecedented costs. We hope to be reimbursed from the CARES Act. The Missouri Secretary of State's Office has provided resources for COVID-19 related expenses for personal protective equipment and supplies. While our expenses are going up and are unpredictable for the remainder of the year based on the trajectory of the pandemic, income and sales tax resources coming into the state and county have plummeted. Additional federal help might be necessary to meet these demands.

The St. Louis County Board of Elections continues to look for ways to be fiscally responsible and nimble while trying to improve our service to our voters and protect the election process during this unprecedented time.



**STATEMENT OF KRISTEN CLARKE  
PRESIDENT AND EXECUTIVE DIRECTOR  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

**SENATE COMMITTEE ON RULES AND ADMINISTRATION  
HEARING ON  
"2020 GENERAL ELECTION PREPARATIONS"**

**July 22, 2020**

## I. Introduction

Chairman Blunt, Ranking Member Klobuchar, and Members of the Senate Committee on Rules and Administration, my name is Kristen Clarke and I serve as the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"). Thank you for the opportunity to testify today on 2020 General Election Preparations to ensure that states hold safe and fair elections during the COVID-19 pandemic. This hearing is particularly timely as our nation mourns and honors the life and legacy of Congressman John Lewis who dedicated his life to protecting the rights of all voters.

Throughout my career, I have focused on strengthening our democracy by combating discrimination faced by African Americans and other marginalized communities. The Lawyers' Committee is a national civil rights organization created in 1963 at the request of President John F. Kennedy, to mobilize the private bar to confront issues of racial discrimination. Voting rights has been a core organizational priority since the inception of the organization, and we continue to be at the forefront of policy and legal action aimed at protecting the right to vote. I formerly served as the head of the Civil Rights Bureau for the New York State Attorney General's Office, where I led broad civil rights enforcement across the state. Prior to that, I spent several years at the NAACP Legal Defense Fund, where I helped lead the organization's work in voting across the country, in particular, defending the constitutionality of the Voting Rights Act. I began my career as a trial attorney in the honors program of the Voting Section of the Department of Justice.

The Lawyers' Committee also leads the nation's largest and longest-running, nonpartisan voter protection effort, the Election Protection program, which includes a voter hotline (1-866-OUR-VOTE). Through Election Protection, we work with close to three-hundred national, state, and community partners to provide Americans from coast to coast with comprehensive voting information and resources. In 2020, our Election Protection program has been focused extensively on the barriers that voters face in the wake of the pandemic.

I am also a member of the National Task Force on Election Crises, a cross-partisan group of civil rights and voting rights leaders and academics, which is dedicated to ensuring a fair election in 2020.

## II. Summary

This country is enduring a public health crisis unlike anything we have confronted in over a century. Ensuring people's health and saving their lives must be among our nation's highest priorities. Unfortunately, but not surprisingly, the effects of the crisis have fallen predominantly on those living in poverty, who are disproportionately African American, Latino, and Native American.

If we do nothing, this public health crisis could imperil our democracy as well. Our freedoms are built on one of the most fundamental rights: the right to vote.<sup>1</sup> This pandemic is forcing our citizens to choose between protecting their health and participating in our democracy.

Voting should not be a choice between our fundamental rights and our life or health. The American people should not be placed in circumstances where they are afraid to vote because of fear of contracting a highly contagious and potentially deadly virus. Rather, states must adapt election administration planning in order to facilitate the exercise of voting rights, free of fear.

There are ways to ensure that voters have an array of safe options to vote. Indeed, the more options that are provided to voters, the safer voting will be, not only for voters, but also for those who administer elections.

As with many other important areas of our national life, significant new expenditures are necessary in addition to what was allocated for elections before the pandemic. The health crisis has added new burdens on states and localities requiring them to cope with emergency circumstances. It has also exposed shortcomings and aggravated flaws that already existed.

To enable voting for the millions of Americans who used to voting in person on Election Day, but who now wish to vote by mail or vote early to reduce the risk of exposure to COVID-19, states and localities will need to expand these voting methods. For the many people who still prefer to vote in person, new measures will be needed to ensure social distancing and hygiene at polling stations, as well as different approaches to recruiting poll workers and other staff.

There are costs to achieve these objectives. But the costs to this nation of imperiling the right to vote far outweigh the monetary expense of ensuring that all

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<sup>1</sup> The right to vote is a "fundamental political right" that is "preservative of all rights." *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886). "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government." *Reynolds v. Sims*, 377 U.S. 533, 555 (1964).

eligible voters are freely and safely able to vote.

### III. Background on COVID-19

February 2020 marked the first known death in the United States caused by the novel coronavirus or COVID-19.<sup>2</sup> To date, COVID-19 has claimed more than 130,000 lives in the United States. The United States has at least 3.6 million confirmed COVID-19 cases.<sup>3</sup> As states began opening over the past several weeks, coronavirus cases, and in turn, deaths, have increased.<sup>4</sup>

COVID-19 is disproportionately killing African Americans. The Centers for Disease Control and Prevention (“CDC”) has released limited race and ethnic demographic data concerning COVID-19 mortalities—but even these data tell the same story about racial disparities. Even though African Americans make up only 13.4% of the United States population,<sup>5</sup> they account for nearly 23% of COVID-19 deaths. Forty-eight of fifty-six states and territories are currently reporting race and ethnicity data for COVID-19 mortalities, and many states reflect even more stark racial disparities than the national average.<sup>6</sup> For example, in Alabama, African Americans comprise 27% of the population, but account for nearly 45% of COVID-19 deaths.<sup>7</sup> In Michigan, African Americans comprise about 14% of the population, but account for 41% of deaths.<sup>8</sup> In Illinois, they account for 28% of deaths and only 14% of the population.<sup>9</sup> This picture is enhanced when examining data from cities. In Chicago, African Americans account for 56% of deaths, but make up only 30% of the population.<sup>10</sup> The alarming rates at which COVID-19 is killing African Americans can be attributed to decades of discrimination in housing, employment, and health care. Today, ongoing discrimination in testing and treatment continues to fuel significant disparities in COVID-19 cases and outcomes.<sup>11</sup>

<sup>2</sup> Derrick Bryson Taylor, *How the Coronavirus Pandemic Unfolded: a Timeline*, N.Y. TIMES (May 26, 2020), <https://www.nytimes.com/article/coronavirus-timeline.html>.

<sup>3</sup> CTRS. FOR DISEASE CONTROL AND PREVENTION, *Coronavirus Disease 2019: Cases in the US*, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last visited July 18, 2020).

<sup>4</sup> Alexis Madrigal, *A Second Coronavirus Death Surge is Coming*, THE ATLANTIC (July 15, 2020), <https://www.theatlantic.com/health/archive/2020/07/second-coronavirus-death-surge/614122/>.

<sup>5</sup> U.S. CENSUS BUREAU, *Quick Facts: Population Estimates July 2019*, <https://www.census.gov/quickfacts/fact/table/US/PST045219> (last visited July 18, 2020).

<sup>6</sup> The COVID Tracking Project has compiled the latest race and ethnicity data from every state that reports it—to give us a better picture of the racial disparity in COVID-19 deaths. <https://covidtracking.com/race> (last visited July 18, 2020).

<sup>7</sup> THE COVID TRACKING PROJECT, *Racial Data Dashboard*, <https://covidtracking.com/race/dashboard> (last visited July 18, 2020).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Elizabeth Hlvaninka, *COVID-19 Killing African Americans at Shocking Rates*, MEDPAGE TODAY (May 1, 2020), <https://www.medpagetoday.com/infectiousdisease/covid19/86266>.

<sup>11</sup> See John Eligon & Audra D. S. Burch, *Questions of Bias in Covid-19 Treatment Add to the Mourning for Black Families*, N.Y. TIMES (May 20, 2020), <https://www.nytimes.com/2020/05/10/us/coronavirus-african-americans-bias.html>.

The virus that causes COVID-19 is extremely contagious and spreads in various ways, including aerosols and respiratory droplets and contact between individuals. The virus can spread through asymptomatic transmission—meaning that an infected individual who does not show any symptoms can pass on the virus through direct contact with others.<sup>12</sup> Medical experts have called this the “Achilles’ heel” for public health strategies to control the pandemic.<sup>13</sup> The virus enters the body through the nose, mouth, or eyes. Some studies suggest that the virus can spread from contact with surfaces—when a person who coughs and sneezes leaves respiratory droplets on surfaces. In very severe cases, an infected person’s immune system can overreact to the virus’s presence and cause a build-up of fluid in the lungs, making it extremely difficult for the person to breathe. For those who have underlying conditions and comorbidities like diabetes or hypertension, this may very well result in death. There is no cure. A future vaccine could help protect humans against COVID-19, but that vaccine does not yet exist.<sup>14</sup> In planning for elections this year, election officials have to assume that COVID-19 will be a continuing danger.

According to the CDC, COVID-19 presents a serious risk of death to people who: are over the age of 60, have underlying health conditions (such as heart disease, diabetes, and lung disease), have weakened immune systems, and are pregnant.<sup>15</sup> On the recommendations of public health experts, government officials at every level have taken drastic actions to reduce transmission and flatten the curve. Federal, state, and local governments have implemented social distancing guidelines and encouraged social distancing.

#### IV. Election Reforms During COVID-19

The rapid spread of COVID-19 in the United States during a presidential election year has forced states, local elections officials, voters, and voting rights advocates to grapple with new election-related realities—in particular, how to hold safe and accessible elections.

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<sup>12</sup> Nathan W. Furukawa et al., *Evidence Supporting Transmission of Severe Acute Respiratory Syndrome Coronavirus 2 While Presymptomatic or Asymptomatic*, 26 EMERGING INFECTIOUS DISEASES JOURNAL, no. 7 (last updated May 4, 2020), [https://wwwnc.cdc.gov/eid/article/26/7/20-1595\\_article](https://wwwnc.cdc.gov/eid/article/26/7/20-1595_article).

<sup>13</sup> Monica Gandhi et al., *Asymptomatic Transmission, the Achilles’ Heel of Current Strategies to Control COVID-19*, NEW ENG. J. OF MED. (May 28, 2020), <https://www.nejm.org/doi/full/10.1056/NEJMe2009758>.

<sup>14</sup> Tanya Lewis, *How Coronavirus Spreads through the Air: What We Know So Far*, SCI. AM. (May 12, 2020), <https://www.scientificamerican.com/article/how-coronavirus-spreads-through-the-air-what-we-know-so-far/>.

<sup>15</sup> CTRS. FOR DISEASE CONTROL AND PREVENTION, *Coronavirus Disease 2019: Groups at Higher Risk for Severe Illness* (Apr. 17, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html>.

So far, the 2020 primary elections demonstrated that states were not prepared to hold elections during a pandemic. In many states, voters had to choose between exercising their right to vote and guarding against the risk of disease because while states either postponed election dates or moved to predominantly vote by mail elections, many voters had no choice but to make use of in-person vote options that were inadequate and at times put them at risk of contracting the COVID-19 virus. Failures such as the inability to meet the demand to vote or safely vote in person were caused by insufficient funding and failure to ensure options and procedures to enable voting in the difficult circumstances of the pandemic.

Congress provided \$400 million for election assistance to the states in March in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This was a welcome step but only a stopgap. State officials from both political parties have identified additional needs and the experience of the primary elections demonstrates the need is real and substantial.

During primary elections, in a number of states, voters encountered poll closures, poll worker shortages, poll workers with inadequate training, malfunctioning machines, and long lines. Additionally, there was an increased demand for mail ballots, but many voters, as in Wisconsin, did not receive applications or ballots within sufficient time needed to return their ballots by deadlines. Having received ballots and mailed them on time, many voters found that their ballots did not count or were rejected because they were not received by election officials<sup>16</sup> or were received after the deadline, often through no fault of the voter. Other ballots were rejected because of signature mismatches or failure to sign the ballot. Voters, however, should be given an opportunity to cure supposed defects, as they are arguing in New York where 14% of ballots were rejected in 2018.<sup>17</sup>

All of this left many voters, particularly voters of color, unable to safely exercise their right to vote. Having not received their ballot, frustrated voters faced the choice of staying home to avoid the risk of COVID-19 exposure or taking their chances in conditions ill prepared for social distancing, often standing in line for hours, exposed to contagion. This is an unacceptable choice and completely unnecessary with adequate resources and reasonable preparation.

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<sup>16</sup> Nick Corasan, *Inside Wisconsin's Election Mess: Thousands of Missing or Nullified Ballots*, New York Times (April 9, 2020) <https://www.nytimes.com/2020/04/09/us/politics/wisconsin-election-absentee-coronavirus.html>

<sup>17</sup> Pam Fessler and Elena Moore, *Signed, Sealed, Undelivered: Thousands of Mail-in Ballots Rejected for Tardiness*, NPR (July 13, 2020). <https://www.npr.org/2020/07/13/889751095/signed-sealed-undelivered-thousands-of-mail-in-ballots-rejected-for-tardiness>. An NPR analysis of 17 states "found that in the primary elections held so far this year, at least 65,000 absentee or mail-in ballots have been rejected because they arrived past the deadline, often through no fault of the voter."

As a result, many of the problems in the recent primaries, such as polling place closures, machine malfunctions, long lines, and flawed vote-by-mail procedures occurred before the COVID-19 pandemic. However, these barriers to the vote were aggravated and increased by the pandemic and demonstrate beyond any doubt the need for resources to take action, which is recognized by many state and local officials.

During the April 7 Wisconsin primary, thousands of voters did not receive their absentee ballot on time or never received them.<sup>18</sup> Local officials acknowledged these mistakes and being unable to cope with a surge in absentee ballots. In Milwaukee, polling places were reduced from 180 to five. Not surprisingly, this required many voters in that city, with high concentrations of people of color, to stand in line for hours. In the smaller city of Madison, there were sixty-six polling sites.<sup>19</sup>

During the June 9 Georgia primary, the record suggests that everything that could go wrong did go wrong—voters not receiving absentee ballots on time, insufficient numbers of and malfunctioning machines, inadequate training of poll workers, and long lines.<sup>20</sup>

During the Pennsylvania June 2 primary, Black and Latino voters encountered long lines and confusion at the polls because of last minute polling place closures, and a militarized police presence at some polling places in Philadelphia and Pittsburgh. As in other states, thousands of absentee ballots did not reach voters in time, forcing them to vote in person.<sup>21</sup>

These barriers to the vote were replicated in other states. Congress must act now to ensure that the problems voters encountered during the primaries do not contribute to a nationwide nightmare during the November general election. State and local election officials are now forewarned, but they are not yet forearmed with the resources and processes needed to confront the problems.

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<sup>18</sup> Nick Corasan, *Inside Wisconsin's Election Mess: Thousands of Missing or Nullified Ballots*, New York Times (April 9, 2020) <https://www.nytimes.com/2020/04/09/us/politics/wisconsin-election-absentee-coronavirus.html>

<sup>19</sup> Alison Dirr and Mary Spicuzza, *What we know so far about why Milwaukee only had 5 voting sites for Tuesday's election while Madison had 66*, (April 9, 2020) <https://www.jsonline.com/story/news/politics/elections/2020/04/09/wisconsin-election-milwaukee-had-5-voting-sites-while-madison-had-66/2970587001/>

<sup>20</sup> Richard Fausset and Reid Epstein, *Georgia's Election Mess: Many Problems, Plenty of Blame, Few Solutions for November* (June 10, 2020), <https://www.nytimes.com/2020/06/10/us/politics/georgia-primary-election-voting.html>

<sup>21</sup> Ivey DeJesus, *In communities of color, Pa. primary was marred by irregularities, including voter intimidation, advocates say*, Pennsylvania Real-Time News (June 2, 2020) <https://www.pennlive.com/news/2020/06/in-communities-of-color-the-primary-was-marred-by-a-slew-of-irregularities-including-voter-intimidation-say-pa-voting-advocates.html>

### A. Cost of Necessary Elections Measures

During this uniquely challenging time, states simply lack sufficient resources to run elections without additional federal support. State and county budgets are hemorrhaging due to the many unexpected expenses of addressing the economic and health care crises presented by the pandemic, and they are in dire need of federal assistance to supplement their own spending efforts. When Congress appropriated the \$400 million to states in March in the CARES Act, all 50 states applied for grants, demonstrating the tremendous need for the federal government to help states help themselves. A recent report from the Alliance for Securing Democracy, the Brennan Center for Justice, R Street Institute, and the University of Pittsburgh Institute for Cyber Law, Policy, and Security found that federal funding covers just 10 to 20 percent of what is needed to provide vital election safeguards during the pandemic.<sup>22</sup>

Based on the reports to the Election Protection 866-OUR-VOTE hotline administered by Lawyers' Committee during the 2020 primary elections and an assessment of the future, I will discuss the funding and voting rights reforms that Congress must approve to ensure that all voters can exercise their fundamental right to vote while protecting their health. With November around the corner and experts predicting continuation of the pandemic in its current or resurgent form during the next several months, we must urgently prepare so that democracy will continue without disruption during this time of trial.

The 2020 primary elections and upcoming general election present states and local election administrators with significant tasks. Officials must simultaneously build the infrastructure and staffing levels to expand safe, in-person voting and also expand vote-by-mail systems. They are faced with surging turnout and surging requests for absentee ballots. Budgets are stretched thin. CARES Act funding was minimal and is now depleted. In order to properly prepare for the November elections, Congress must allocate at least an additional \$3.6 billion needed to supplement the \$400 million in funding previously allocated in the CARES Act.<sup>23</sup>

This funding should be allocated without the requirement that states provide a percentage match. Such a requirement would prevent many states that are most affected by COVID-19 from accessing federal support, because they simply do not have the money in their budgets during a recession, with record unemployment rates, rapidly falling state revenues, and increased strain on public and government services and resources.

<sup>22</sup> C. Deluzio *et al.* *Ensuring Safe Elections* (April 30, 2020) at 1.

<sup>23</sup> See LEADERSHIP CONF. CIVIL AND HUMAN RIGHTS, *Letter to Congress Urging Additional Funding for Elections Assistance in Response to COVID-19* (Apr. 13, 2020), <https://civilrights.org/resource/letter-to-congress-urging-additional-funding-for-election-assistance-in-response-to-covid-19-2/>

The Brennan Center for Justice (“Brennan Center”) has estimated that enhancements to vote-by-mail systems alone will require up to \$1.4 billion to meet the costs in the general election. The costs estimated are for ballot printing, postage, drop boxes, electronic absentee ballot requests, ballot tracking, staffing for processing more mailed-in ballots, enhanced technology for signature verification, high-volume mail processing, and high-speed ballot scanners.<sup>24</sup>

The Brennan Center has also estimated costs for in-person voting measures in the general election. These measures—safe polling places per public health guidance, adequate polling place staffing, and voting wait-time tools (to ensure social distancing and avoid clustering during an early-voting period)—will amount to \$271.4 million. The Brennan Center estimates that \$252.1 million is needed in the general election for voter education, and \$85.9 million is needed to develop and bolster online voter registration for the general election.<sup>25</sup> However, these solely reflect costs for the general election. The Voting Rights Task Force of the Leadership Conference on Civil and Human Rights, co-chaired by the Lawyers’ Committee, estimates that state and local governments need at least twice this amount in funding to administer remaining primaries and begin preparations for the general election—coming to a total of \$3.6 billion, counting the \$400 million already allocated.

### *1. Uses of the Funding*

The Niskanen Center analyzed the requests for funding under the CARES Act and concluded that states need additional funding for the coming elections. Summarizing their findings regarding the most requested items, the Center said that “election officials across the country from both parties” sought to procure PPE to make in-person voting safe. States sought assistance in paying for more poll workers and facilities. They also wanted mailing, ballot and postage supplies, reflecting the bipartisan support in many states for absentee voting. States sought funds for “advertising and educational materials so that voters are informed of how they can vote while remaining safe.” The requests also sought aid to purchase voting machines and ballot scanners and tabulators.<sup>26</sup>

Though a brief summary is only indicative of all that is required for smooth elections, it is worth adding that ballot supplies have to include such related items

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<sup>24</sup> Lawrence Norden et al., *Estimated Costs of COVID-19 Election Resiliency Measures*, THE BRENNAN CTR. (Mar. 19, 2020), <https://www.brennancenter.org/our-work/research-reports/estimated-costs-covid-19-election-resiliency-measures>.

<sup>25</sup> *Id.*

<sup>26</sup> Matthew La Corte, 47 States and Territories Requested PPE From the Federal Government to Protect Their Elections, Niskanen Center, June 4, 2020.

as printing equipment and online tools to request ballots. Tools are needed for online registration. Funds are also needed for secure ballot drop boxes and to arrange for drop off locations and polling places, including rentals.

## ***2. Bipartisan Support for Funding from State and Local Officials***

There is strong bipartisan support from state and local officials for additional federal funds to be used in preparation for coming elections. This is illustrated by a recent hearing of the U.S. Election Assistance Commission, as well as in sample letters and statements. A key consensus point in the statements by election officials is that they have used the majority of CARES Act funding—and additional funds are needed for this year's remaining elections.<sup>27</sup> Election officials also stress the spike in use of mail ballots, the anticipated record high turnouts, and the additional pandemic related expenditures, such as for PPE, and for public education.<sup>28</sup>

## ***3. States Still Have Time to Put Funding to Good Use***

Previous funding in the CARES Act only covers a fraction of what is needed. The priority items requested were needed months ago, but they are still necessary and funds can and will be put to use now and in the coming weeks. Ensuring sufficient numbers of poll workers, preparing for the expected surge in absentee

<sup>27</sup> <https://www.eac.gov/events/2020/07/08/public-hearing-us-election-assistance-commission-lessons-learned-2020-primary> It should also be noted that many election offices make payments to vendors at the end of the year, so what they have on hand now may not be conclusive.

<sup>28</sup> Paul Pate (R-IA), Iowa Secretary of State (Jul. 8, 2020)

<https://www.eac.gov/events/2020/07/08/public-hearing-us-election-assistance-commission-lessons-learned-2020-primary> (1:16:49-1:17:54)

Jared Dearing (D), Executive Director, Kentucky State Board of Elections (Jul. 8, 2020)

<https://www.eac.gov/events/2020/07/08/public-hearing-us-election-assistance-commission-lessons-learned-2020-primary> (1:17:54-1:19:15)

Lynn Bailey, Executive Director, Board of Elections in Richmond County, Georgia (Jul. 8, 2020)

<https://www.eac.gov/events/2020/07/08/public-hearing-us-election-assistance-commission-lessons-learned-2020-primary> (1:19:24-1:21:24)

Dianna Moorman, Director of Elections, James City County, Virginia Voter Registration and Elections (Jul. 8, 2020)

<https://www.eac.gov/events/2020/07/08/public-hearing-us-election-assistance-commission-lessons-learned-2020-primary> (1:23:50-1:27:00)

Georgia Association of Voter Registrar's and Election Officials (Jul. 2, 2020)

[https://www.brennancenter.org/sites/default/files/2020-](https://www.brennancenter.org/sites/default/files/2020-07/Letter%20from%20the%20Georgia%20Association%20of%20Voter%20Registrars%20and%20Election%20Officials.pdf)

[07/Letter from the Georgia Association of Voter Registrars and Election Officials.pdf](https://www.brennancenter.org/sites/default/files/2020-07/Letter%20from%20the%20Georgia%20Association%20of%20Voter%20Registrars%20and%20Election%20Officials.pdf)

Bryan K. Barnett (R-MI), Mayor, Rochester Hills, Michigan & President, United States Conference of Mayors (Jun. 15, 2020)

<https://thehill.com/opinion/campaign/502735-congress-dont-let-safe-elections-fall-victim-to-covid-19> 138 bipartisan election officials letter from 25 states (Mar. 31, 2020; Last updated May 13, 2020)

[https://docs.google.com/document/d/1pRLWoFqj5NXz05PqJbXSnn3rmPPWPvtHqdw1KZ3\\_ck/mobilbasic?urp=gmail\\_link](https://docs.google.com/document/d/1pRLWoFqj5NXz05PqJbXSnn3rmPPWPvtHqdw1KZ3_ck/mobilbasic?urp=gmail_link)

voting, and robust public education and other steps will be required and can be deployed virtually up to Election Day. Though, the sooner Congress acts, the better.

Taking a nationwide perspective, the National Association of State Election Directors, though it did not take a formal organizational position, commented that anecdotally “NASED has heard from states that they have already exhausted their CARES Act funding with their primary expenditures.” Many states are already experiencing budget cuts due to falling state revenues and “elections are chronically under resourced.”<sup>29</sup>

The pandemic is impacting states and communities across the nation, and examples of their needs are readily available. In most instances, officials are planning expenditures for both vote-by-mail and in-person voting.

With respect to mail voting, additional funding will be used to cover costs associated with a spike in mail ballots: supplies, equipment, printing, postage, and staffing, including to verify, process and count ballots. Funding will also be used to provide safe in-person voting locations: to hire poll workers, to replace at-risk staff, and to invest in personal protective equipment, cleaning supplies, and resources for social distancing.<sup>30</sup> Officials also plan voter education campaigns to inform voters about their voting options.<sup>31</sup>

## B. Need for Reforms

Turning to election reforms, we here address, among other needed options, **online and same-day voter registration, no excuse absentee vote-by-mail with postage paid by the government, safe in-person voting, and early in-person voting.**<sup>32</sup> Adequate funding and election reforms can provide solutions to

<sup>29</sup>[https://www.nass.org/sites/default/files/NASS%20Letters/7.8.20%20Joint%20NASS\\_NASED\\_Response%20to%20Chair%20Thompson.pdf](https://www.nass.org/sites/default/files/NASS%20Letters/7.8.20%20Joint%20NASS_NASED_Response%20to%20Chair%20Thompson.pdf)

<sup>30</sup> Michigan Association of Municipal Clerks (May 21, 2020)

<https://www.brennancenter.org/sites/default/files/2020-05/Michigan%20Federal%20Funding%20Letter.pdf>

Iowa State Association of County Auditors (May 11, 2020)

<https://www.brennancenter.org/sites/default/files/2020-05/Iowa%20Federal%20Funding%20for%20Elections%20Letter.pdf>

Missouri Association of County Clerks & Election Authorities (May 27, 2020)

<https://www.brennancenter.org/sites/default/files/2020-06/MACCEA%20Funding%20Support%20Letter.pdf>

Georgia Association of Voter Registrar's and Election Officials (Jul. 2, 2020)

[https://www.brennancenter.org/sites/default/files/2020-07/Letter from the Georgia Association of Voter Registrars and Election Officials.pdf](https://www.brennancenter.org/sites/default/files/2020-07/Letter%20from%20the%20Georgia%20Association%20of%20Voter%20Registrars%20and%20Election%20Officials.pdf)

<sup>31</sup> Iowa State Association of County Auditors (May 11, 2020)

<https://www.brennancenter.org/sites/default/files/202005/Iowa%20Federal%20Funding%20for%20Elections%20Letter.pdf>

<sup>32</sup> HR 6800, 116th Cong. 2d Sess., the Heroes Act (passed the House May 15, 2020) includes

the chaos and dysfunction that plagued primaries. For example, adequate funding can help ensure sufficient numbers of trained poll workers. Early voting and widely available vote-by-mail can relieve pressure on in-person voting. Together, these can remedy the disgraceful performance that resulted in thousands of people standing for hours in long lines to vote during the pandemic, often in inclement weather.

### 1. Voter Registration

A critical and sometimes overlooked component of expanding vote-by-mail options is the first step in the voting process: voter registration. The pandemic has seriously impacted the opportunity for new voters or those who have moved to a new voting district since the last election to register to vote. Because of the pandemic, motor vehicle facilities,<sup>33</sup> a prime location for voter registration under the “motor voter law,”<sup>34</sup> have been closed in many jurisdictions, making it difficult for new drivers—predominately younger people—to register to vote.<sup>35</sup> Many jurisdictions have also closed public assistance agencies, disability offices, and other government agencies that register voters.<sup>36</sup> The impact has been particularly felt in communities of color, where voter registration drives by non-profit organizations rely on church gatherings, picnics, and local street fairs, in addition to door-to-door canvassing, for their success.<sup>37</sup> Student voter registration drives often take place on college campuses, many of which are closed for the indefinite future.<sup>38</sup>

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provisions addressing in whole or in part many of the points made in this testimony, including, for Federal elections, online registration and same day registration, no excuse absentee ballots, prohibiting witness and notary requirements for mail ballots, in emergency situations sending mail ballots to all registered voters, requiring an option for online requests for mail ballots, due process and opportunity to cure for signature matching, accessibility of early voting polling places, options for return of mail ballots including drop-off locations and designating another person to return the ballot.

<sup>33</sup> See, e.g., Compl., *Collins v. Adams*, No. 3:20-cv-00375 (W.D. Ky. filed May 27, 2020).

<sup>34</sup> National Voter Registration Act (“NVRA”), 52 U.S.C. § 20501 et seq. (1993).

<sup>35</sup> See, e.g., Ida Domingo, *DMV Remains Closed in Virginia, Once Open Appointments Will Be Required*, ABC 13 NEWS (May 11, 2020), <https://wset.com/news/coronavirus/dmv-remains-closed-until-further-notice-in-virginia-due-to-pandemic>.

<sup>36</sup> See, e.g., Mark Miller, *Coronavirus Is Closing Social Security Offices. Here's How to Get Benefit Help*, N.Y. TIMES (Mar. 17, 2020),

<https://www.nytimes.com/2020/03/17/business/retirement/coronavirus-social-security.html>.

<sup>37</sup> See *Tenn. State Conf. of NAACP v. Hargett*, 420 F. Supp. 3d 683 (M.D. Tenn. 2019). On behalf of civic engagement organizations, the Lawyers’ Committee and its partners challenged a restrictive Tennessee law that placed draconian civil and criminal penalties on these organizations’ ability to conduct large scale voter registration drives. The court noted that the law impinged on “central elements of expression and advocacy” further recognizing that “these drives historically have involved both encouraging and facilitating registration, including, at least in many cases, by physically transporting applications.” *Id.* at 699.

<sup>38</sup> See, e.g., Nicole Taylor, *Student Voter Engagement Handbook, Fair Elections Ctr. & Campus Vote Project*, 5 (Sept. 2018), [https://15fedd24-5236-4bea-bc35-4ea36b399531.filesusr.com/ugd/85cfb4\\_eafda5a391884b92beb70c0f7fb672c3.pdf](https://15fedd24-5236-4bea-bc35-4ea36b399531.filesusr.com/ugd/85cfb4_eafda5a391884b92beb70c0f7fb672c3.pdf) (highlighting the importance of voter registration events non campus as a part of student engagement and advocacy at

In order to ameliorate the impact on voter registration caused by the pandemic, steps must be taken to facilitate voter registration. Two approaches are online voter registration and same-day voter registration.<sup>39</sup> Online voter registration enables potential voters to register from their homes through their home computers or smartphones, mitigating any potential concern about exposure to the virus and enabling them to register during evenings and weekends. Same-day voter registration is another invaluable tool to ensure that all potential voters can participate, because it enables people to both register and cast a ballot on Election Day or during early voting. Research has shown that states with same-day voter registration consistently have some of the highest voter turnout and participation rates.<sup>40</sup>

## 2. Expanding Vote-by-Mail Options

Options must be expanded for requesting, receiving, and returning mail-in ballots. Some voters prefer to vote by mail during the pandemic, fearing that they will be exposed to COVID-19 if they vote in person.<sup>41</sup> Many of these voters prefer to vote by mail because they have comorbidities or care for immunocompromised or otherwise vulnerable loved ones, who face a higher risk of contracting COVID-19. These are legitimate justifications to expand vote-by-mail processes—and ensure that restrictions on mail-in voting does not disenfranchise significant numbers of voters during the pandemic.

### a. *Background on Voting by Mail*

All fifty states have a process by which at least some voters can cast a ballot by mail. Five states—Colorado, Hawaii, Oregon, and Washington, and Utah—conduct elections by mail,<sup>42</sup> meaning that officials send a ballot in the mail and the

colleges).

<sup>39</sup> At least nineteen states and the District of Columbia have same-day voter registration, including California, Colorado, Connecticut, District of Columbia, Hawaii, Idaho, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Montana, Nevada, New Hampshire, Utah, Vermont, Washington, Wisconsin, Wyoming. NAT'L CONF. OF STATE LEGISLATURES, *Voter Registration Deadlines* (Nov. 1, 2019), <https://www.ncsl.org/research/elections-and-campaigns/voter-registration-deadlines.aspx>.

<sup>40</sup> George Pillsbury & Caroline Mak, *America Goes to the Polls 2018: Voter Turnout and Election Policy in the 50 States*, NONPROFIT VOTE & THE U.S. ELECTIONS PROJECT, 8 (Mar. 2019), <https://www.nonprofitvote.org/documents/2019/03/america-goes-polls-2018.pdf>.

<sup>41</sup> *Two-Thirds of Americans Expect Presidential Election Will Be Disrupted by COVID-19*, PEW RESEARCH CTR. (Apr. 28, 2020), <https://www.people-press.org/2020/04/28/two-thirds-of-americans-expect-presidential-election-will-be-disrupted-by-covid-19/>.

<sup>42</sup> COLO. REV. STAT. § 1-7.5-104 (all counties “shall” conduct general, primary, odd-year, coordinated, recall, and congressional vacancy elections by mail ballot); HAW. REV. STAT. § 11-101 (all elections “shall be conducted by mail” beginning with the 2020 primary election); OR. REV. STAT. § 254.465 (“[c]ounty clerks shall conduct all elections in this state by mail”); WASH. REV. CODE § 29A.40.010 (in

voter can return the ballot through the mail or in-person at established vote centers or voting booths for a period before and on Election Day.<sup>43</sup>

At least sixteen states authorize local governments to opt into a predominantly vote-by-mail system;<sup>44</sup> allow all-mail absentee voting in local or special elections;<sup>45</sup> or permit certain jurisdictions to conduct elections by mail based on population size.<sup>46</sup> In the local counties that have opted in to vote by mail in these sixteen states, boards of elections automatically mail ballots to registered voters without requiring voters to apply for absentee ballots, and voters can return the ballots by mail or in person. In the local jurisdictions that do not employ automatic vote by mail in these sixteen states, any registered voter can request to vote by mail without having to provide an excuse in all except Missouri.<sup>47</sup>

In roughly thirty-four states (including the five vote-by-mail only states) and Washington D.C., any registered voter can request a vote-by-mail ballot without providing an excuse as to why he or she cannot appear to vote in person on Election Day.<sup>48</sup> The remaining roughly sixteen states require a qualified voter to provide a

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every general, special, or primary election, each active registered voter “shall receive a ballot by mail” unless county officials remove the voter from the rolls); UTAH CODE ANN. § 20A-3-302 (authorizing election officers to mail a ballot to each active voter in the precinct. In 2020, all of Utah’s twenty-one counties opted into the mail-ballot only).

<sup>43</sup> COLO. REV. STAT. § 1-7.5-102(2) (“mail ballot elections conducted by the county clerk and recorder must include voter service and polling centers so voters can register to vote, update voter registration information, and vote in person.”); HAW. REV. STAT. § 11-92.1 (election officials must establish voter service centers across the state); OR. REV. STAT. § 254.474 (county clerks at each primary and general election must maintain “voting booths” in the county); WASH. REV. CODE § 29A.40.160(1) (“[t]he voting center shall be open during business hours during the voting period, which begins eighteen days before, and ends at 8:00 p.m. on the day of, the primary, special election, or general election.”).

<sup>44</sup> See, e.g., CAL. ELEC. CODE § 4005 (authorizing all-mailed ballot elections, including mailing each registered voter a ballot); N.D. CENT. CODE § 16.1-11.1-01 (authorizing mailed ballots).

<sup>45</sup> See, e.g., ALASKA STAT. § 15.20.800 (director may conduct any election other than a general, party primary, or municipal election by mail and “shall” send a ballot to every registered voter); ARIZ. REV. STAT. ANN. §§ 16-409, 16-558.01 (a city, town, or school district may conduct a mail ballot election and “shall send by nonforwardable mail all official ballots” to each qualified voter); FLA. STAT. § 101.6102 (same); KAN. STAT. ANN. § 25-432 (vote-by-mail only in certain elections); MD. CODE ANN. § 9-501 (same); MO. REV. STAT. § 115.652 (same); MONT. CODE ANN. § 13-19-104 (same); WYO. STAT. ANN. § 22-29-115 (same).

<sup>46</sup> See, e.g., NEB. REV. STAT. § 32-960 (certain counties can apply to conduct all-mailed ballot elections and upon approval, must mail ballots to registered voters); IDAHO CODE § 34-308 (state may designate precincts with fewer than a certain number of voters as vote-by-mail only); NEV. REV. STAT. § 293.213 (same); N.M. STAT. ANN. § 1-6-22.1 (same); MINN. STAT. § 204B.45 (state may designate municipalities with fewer than a certain number of voters may as vote-by-mail only jurisdictions); N.J. STAT. ANN. § 19:62-1 (same).

<sup>47</sup> See, e.g., NAT’L STATE CONF. OF LEGISLATURES, *States With No-Excuse Absentee Voting* (May 1, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx>.

<sup>48</sup> *Id.*

statutorily authorized reason for requesting an absentee ballot.<sup>49</sup>

Both Republican-led and Democratic-led states use mail voting to significant degrees. For example, in Montana, which has a Democratic Governor and Republican-led House and Senate, more than 73% votes cast in the November 2018 election were by absentee ballot. In Arizona, which has a Republican Governor and a Republican-led State Senate and House, approximately 80% of voters receive their ballots by mail. In California, which has a Democratic Governor and a Democratic-led State House and Senate, more than 70% of voters voted by mail in the March 2020 election.

***b. Actions States Have Taken to Facilitate Voting by Mail***

The pandemic presents unprecedented circumstances for many voters who have reasonable fears of voting in person and prefer to vote by mail. Since the spread of COVID-19, several states which had excuse-only absentee voting have taken legislative or executive action to create mostly vote-by-mail systems and make it easier for their citizens to request absentee ballots. For example, Alabama's Secretary of State issued a new emergency rule allowing any qualified voter who determines that it is impossible or unreasonable to vote at their polling place for the upcoming primary election to vote absentee under the "physical illness" excuse provision, so long as voters include proper identification with their absentee applications.<sup>50</sup> Georgia's Secretary of State issued a directive to send absentee ballot request forms to all of Georgia's 6.9 million registered voters in the upcoming primary election on May 19.<sup>51</sup> West Virginia's Secretary of State issued a similar directive to county elections commissions to send postage pre-paid absentee ballot requests to all registered voters in the upcoming primary election on June 9.<sup>52</sup> Similarly, New Hampshire's Secretary of State issued guidance that for all upcoming elections in 2020, all voters "have a reasonable ground to conclude that a "physical disability" exists, and therefore, all voters can request an absentee ballot on that basis."<sup>53</sup>

<sup>49</sup> *Id.*

<sup>50</sup> ALA. SEC'Y OF STATE, *Absentee Voting During State of Emergency* (Mar. 18, 2020), <https://www.sos.alabama.gov/sites/default/files/SOS%20Emergency%20Rule%20820-2-3-.06-.01ER.pdf>.

<sup>51</sup> GA. SEC'Y OF STATE, *Raffensperger Takes Unprecedented Steps to Protect Safety and Voter Integrity in Georgia* (Apr. 20, 2020), <https://sos.ga.gov/index.php/elections/raffensperger-takes-unprecedented-steps-to-protect-safety-and-voter-integrity-in-georgia>.

<sup>52</sup> W. VA. SEC'Y OF STATE, *Eligibility for Absentee Voting in West Virginia* (Apr. 1, 2020), <https://sos.wv.gov/FormSearch/Elections/Informational/Absentee%20Voting%20Eligibility%20Summary.pdf>.

<sup>53</sup> N.H. SEC'Y OF STATE, *Memorandum Re Elections Operations During the State of Emergency* (Apr. 10, 2020), [https://www.nhpr.org/sites/nhpr/files/202004/covid-19\\_elections\\_guidance.pdf](https://www.nhpr.org/sites/nhpr/files/202004/covid-19_elections_guidance.pdf).

Virginia's Governor clarified that to protect the health of voters during the COVID-19 outbreak, voters may choose the "disability or illness" excuse to vote absentee for the June primary election—this was the subject of a court challenge.<sup>54</sup> Earlier on April 11, 2020, Virginia's General Assembly passed a bill permitting any registered voter to vote absentee without an excuse—beginning July 1, Virginia will have no excuse absentee voting.<sup>55</sup> Delaware's Governor similarly issued an executive order expanding the excuses under state law so voters who are in self-isolation or quarantine related to COVID-19 can vote by mail.<sup>56</sup>

Missouri, Tennessee, and Kentucky are the subject of lawsuits by national civil rights groups, including the Lawyers' Committee.<sup>57</sup> These lawsuits seek expansions of the states' excuse-only absentee voting laws during the COVID-19 crisis.<sup>58</sup> These lawsuits request the respective courts to order relief expanding the states' absentee statutes to all voters in upcoming state, local, and the November general elections, either by construing existing statutory language to cover the pandemic situation or seeking a "no excuse" vote-by-mail option under a constitutional right to vote theory.<sup>59</sup>

As many experts and advocates have recognized, voting by mail is not a solution for all voters. Not only is it necessary to expand absentee voting, but it also must be done in a fair and equitable manner. I discuss additional reforms to create equitable vote-by-mail systems that work for everyone during the pandemic.

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<sup>54</sup> VA. OFF. OF GOVERNOR, *Executive Order 59* (Apr. 24, 2020), [https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-59-Postponing-May-5-2020-General-and-Special-Elections-to-May-19-2020-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-59-Postponing-May-5-2020-General-and-Special-Elections-to-May-19-2020-Due-to-Novel-Coronavirus-(COVID-19).pdf). Governor Northam's Executive Order survived a court challenge brought by plaintiffs who argued, among other things, that expanding vote by mail "usurped the role of the legislature." *Curtin v. Va. State Bd. of Elections*, No. 1:20-cv-00546-RDA-IDDT, at \*6 (E.D. Va. May 29, 2020). The court denied the case on laches grounds, and Virginia will have no-excuse absentee voting beginning July 1. *Id.* at 9–10.

<sup>55</sup> See *Va. Legislative Information System, 2020 Session*, Va. Acts § 24.2-700.

<sup>56</sup> DEL. OFF. OF GOVERNOR, *Sixth Modification to State of Emergency* (Mar. 24, 2020), <https://governor.delaware.gov/wp-content/uploads/sites/24/2020/03/Sixth-Modification-to-State-of-Emergency-03242020.pdf>.

<sup>57</sup> *Mo. State Conf. of the NAACP v. State*, No. 20AC-CC00169 (Mo. 19th Cir. Ct. May 19, 2020), appeal docketed, No. SC98536 (Mo. May 20, 2020); *Memphis A. Phillip Randolph Inst. v. Hargett*, No. 3:20-cv-00374 (M.D. Tenn. filed May 1, 2020); *Collins v. Adams*, No. 3:20-cv-00375 (W.D. Ky. filed May 27, 2020); see also *Lewis v. Hughs*, No. 20-0394 (Tex. Sup. Ct. May 27, 2020); *Bailey v. Andino*, No. 27975 (S.C. Sup. Ct. May 27, 2020) (dismissing case because legislature passed Act No. 133, § 2A, 2020 S.C. Acts \_\_\_ allowing all eligible voters to cast absentee ballot).

<sup>58</sup> Compl., *State Conf. of NAACP v. Missouri*, (Cole Cty. Cir. Ct. Mo., filed Apr. 17, 2020); Compl., *Memphis A. Phillip Randolph Inst. v. Hargett*, No. 3:20-cv-00374 (M.D. Tenn. filed May 1, 2020); Compl., *Collins v. Adams*, No. 3:20-cv-00375 (W.D. Ky. filed May 27, 2020).

<sup>59</sup> See *id.*

*c. Complexity of Multi-Step Vote by Mail Process*

In many states, absentee voting is a complex, multi-step process. Voters shoulder the burden of requesting absentee ballots (most states require that voters make the request in writing), procuring postage to mail absentee requests, waiting to receive the ballot in the mail, voting the ballot, and mailing it back to boards of elections.

Ohio serves as an example. Even though Ohio has no-excuse vote by mail (*i.e.*, anyone can vote by mail), the multi-step process of voting by mail begins with a written request for an absentee ballot.<sup>60</sup> While the Secretary's website has online absentee ballot applications, the law makes clear that the application has to be in writing, ruling out submissions by email or phone. Unless the voter owns a printer, the only way a voter can obtain an absentee ballot application is to request one from his or her board or visit local libraries or print shops to print out an application. During the primary election, this request process presented challenges to many voters, particularly low-income voters, who lack access to printers, postage, or envelopes.<sup>61</sup> When Ohio cancelled its March 17 primary election and transitioned to vote-by-mail-only and moved the election to April 28, voters could not navigate the complex multi-step absentee voting process in time to get their voted ballots back to their election boards.<sup>62</sup> The turnout statistics comparing the 2016 primary and the 2020 primaries are telling. While the number of registered voters went up by 2.8% from 2016 to 2020, voter turnout decreased from 43.7% in 2016 to 23.6% in 2020.<sup>63</sup>

Absentee ballot procedures must be eased to permit election officials to mail absentee ballots to all registered voters, not just those on permanent absentee lists. While states should ideally send out ballots to all registered voters, if they do require applications or requests, voters should be offered more options for requesting absentee ballots. This includes requesting absentee ballots online, by email, or by phone, if the state requires voters to request a ballot. States must provide pre-paid postage for all election-related mailings including absentee ballot requests.

<sup>60</sup> Ohio Rev. Code § 3509.03.

<sup>61</sup> See, e.g., Pls.' Mot. TRO, 6–8, *League of Women Voters Ohio v. LaRose*, No. 2:20-cv-01638-MHW-EPD (E.D. Ohio Mar. 31, 2020), ECF No. 4.

<sup>62</sup> *Id.* at 15–18.

<sup>63</sup> OHIO SEC'Y OF STATE, *Voter Turnout in Primary Elections (Even)*, <https://www.sos.state.oh.us/elections/election-results-and-data/historical-election-comparisons/voter-turnout-in-primary-elections-even/> (last visited June 1, 2020); OHIO SEC'Y OF STATE, *2016 Primary Elections Results: Voter Turnout by County*, <https://www.ohiosos.gov/elections/election-results-and-data/2016-official-elections-results/> (last visited June 1, 2020). OHIO SEC'Y OF STATE, *2020 Elections Results: Voter Turnout by County*, <https://www.sos.state.oh.us/elections/election-results-and-data/2020/> (last visited June 1, 2020).

#### *d. Burdensome Notary and Witness Requirements*

Too many states require absentee voters to notarize their voted ballots or sign their ballots in the presence of one or two witnesses above eighteen years.<sup>64</sup> During the pandemic, notaries' offices have been closed, making it difficult for voters in those states to vote by mail. In addition, given social distancing guidelines, many voters could not find witnesses without risking their health or the health of loved ones.

In response to the pandemic, civil rights groups have challenged notary and witness requirements in Missouri, Virginia, South Carolina, Louisiana, and Alabama, among other states.<sup>65</sup> These lawsuits seek orders that require the respective states to lift notary and witness restrictions for reasons above. Virginia has entered into a partial settlement agreeing to lift the restriction.<sup>66</sup> A federal judge in South Carolina ruled the witness requirement a burden on voters' fundamental right to vote in the primary election.<sup>67</sup> The other cases are pending.

During the pandemic, witness and notary requirements must be lifted so absentee voters are not disenfranchised.

#### *e. Discrepancies in Signature Matching*

Signature matching is another method that states use to verify the identities of absentee voters. Signature matching, however, is fraught with errors.<sup>68</sup> These procedures give elections officials unfettered discretion to reject ballots with signature discrepancies. Experts agree that signature matching is far from scientific. Factors such as age, physical and mental condition, disability, stress, accidental occurrences, inherent variances in neuromuscular coordination, and

<sup>64</sup> See, e.g., ALA. CODE § 17-9-30(b) (ballot signed by two witnesses or notarized); ALASKA STAT. § 15.20.203 (ballot signed by witness); MISS. CODE ANN. § 23-15-641 (application and ballot notarized); MO. REV. STAT. § 115.279 (ballot notarized); MINN. STAT. § 203B.121 (ballot certification notarized or signed by witness who is Minnesota registered voter); N.C. GEN. STAT. § 163A-1310 (ballot signed by two witnesses or notarized); OKLA. STAT. ANN. TIT. 26, § 14-107 (ballot notarized); R.I. GEN. LAWS § 17-20-23 (ballot signed by two witnesses or notarized); S.D. CODIFIED LAWS § 12-19-10 (application oath notarized, public officer, or voter ID); S.C. CODE § 7-15-220 (ballot signed by witness). Note, this list is not exhaustive.

<sup>65</sup> See, e.g., Compl., *O'Neill v. Hosemann*, No. 3:18-cv-00815 (S.D. Miss. filed Nov. 21, 2018); *League of Women Voters of Va. v. Va. State Bd. of Elections*, No. 6:20-CV-00024, 2020 WL 2158249 (W.D. Va. May 5, 2020); *Thomas v. Andino*, No. 3:20-CV-01552-JMC, 2020 WL 2617329 (D.S.C. May 25, 2020); Compl., *Power Coal. v. Edwards*, No. 3:20-cv-00283-BAJ-EWD (M.D. La. May 7, 2020); Compl., *People First of Ala. v. Merrill*, No. 2:2020cv00619 (N.D. Ala. May 1, 2020).

<sup>66</sup> Consent Decree, 1–2, *League of Women Voters of Va.* 2020 WL 2158249 (W.D. Va. May 5, 2020), ECF No. 35.

<sup>67</sup> *Thomas v. Andino*, No. 3:20-CV-01552-JMC, 2020 WL 2617329 (D.S.C. May 25, 2020).

<sup>68</sup> *Saucedo v. Gardner*, 335 F. Supp. 3d 202,212 (D.N.H. 2018).

stance when the voter signs account for differences in signature.<sup>69</sup> Signature matching laws also disproportionately impact voters of color.<sup>70</sup>

During the 2018 primary election, one Georgia county (Gwinnett County, Georgia) was responsible for 40% of the statewide rejections. Gwinnett County officials rejected 713 absentee ballot applications: 185 because of signature mismatch; 437 because required information was missing; 7 because the elector was found to be disqualified; and 84 because the elector chose to vote in person during early voting.<sup>71</sup> This became the basis for the Lawyers' Committee's successful legal challenge in *Martin v. Kemp*, which resulted in a federal court order that county officials could not reject ballots because of perceived signature mismatches without providing voters pre-rejection notice and an opportunity to cure.<sup>72</sup>

Most states do not provide guidance, uniform standards, or training to election officials on how to go about matching signatures. The process, therefore, is ad hoc and discretionary, up to each individual county election official's judgment. Many states have adequate safeguards in place to verify a voter's identity including by requesting that the voter submit identification at the application and ballot stages, making signature matching redundant in some instances. More reliable verification procedures than signature matching should be used in this process; at a minimum, use of signature matching should be subject to uniform standards.<sup>73</sup>

#### ***f. Postal Service Performance***

A well-funded, efficient, and functioning postal service is a key ingredient for vote by mail. The U.S. Postal Service is currently underfunded and under-resourced, particularly given the additional challenges posed by delivering mail and

<sup>69</sup> *Saucedo*, 335 F. Supp. 3d at 217–18; *Fla. Democratic Party v. Detzner*, No. 4:16CV607-MW/CAS, 2016 WL 6090943, at \*7 (N.D. Fla. Oct. 16, 2016); *La Follette v. Padilla*, 2018 WL 3953766, at \*1 (Cal. Super. Ct. Mar. 5, 2018).

<sup>70</sup> Daniel A. Smith, *Vote-By-Mail Ballots Cast in Florida*, ACLU FLA., 3, 22 (Sept. 19, 2018), [https://www.aclufl.org/sites/default/files/aclufl\\_-\\_vote\\_by\\_mail\\_-\\_report.pdf](https://www.aclufl.org/sites/default/files/aclufl_-_vote_by_mail_-_report.pdf).

<sup>71</sup> Order Pls.' Prelim. Inj. Mot., 32–33, *Martin v. Kemp*, No. 1:18-cv-04789-LMM (N.D. Ga. Oct. 24, 2018), ECF No. 28.

<sup>72</sup> *Id.*

<sup>73</sup> Michigan's Secretary of State issued guidance on uniform standards for signature matching procedures for absentee applications and ballots as a result of a legal challenge—states can use this guidance as a blueprint for creating uniform standards. See *Priorities USA v. Benson*, 2020 WL 1433852 (E.D. Mich. Mar. 24, 2020). Secretary Benson instructs clerks to presume that the signature is valid, and a voter's signature is only considered questionable “if it differs in multiple, significant and obvious respects from the signature on file. Slight dissimilarities should be resolved in favor of the voter whenever possible.” See Bill Theobald, *Democrats Win Another Voting Victory in a Swing State*, THE FULCRUM (Apr. 22, 2020), <https://thefulcrum.us/voting/democrats-win-another-voting-victory-in-a-swing-state>.

packages during a pandemic.<sup>74</sup> This presents a major problem for absentee voters who may not be able to rely on the postal service. Voters of color, rural voters, senior citizens, and people with disabilities shoulder the burdens of a postal service that could have fiscal challenges maintaining existing routes through November, absent additional support from Congress.<sup>75</sup> This is why it is critical for Congress to provide the full \$89 billion in support requested by the Postal Service leadership, to ensure that this vital government service continues in its present form past the end of September.<sup>76</sup>

***g. Lack of Access to Language Assistance***

Language access and literacy issues can compound these problems since a ballot mailed to a voter in a language he or she cannot speak or read is effectively useless. Jurisdictions that are required to provide language assistance under Section 203 of the Voting Rights Act must ensure that any vote-by-mail system provides effective language assistance at every stage of the voting process.<sup>77</sup> Voters with limited English proficiency may think English-only election materials that are mailed to them are junk mail and discard them, or it could take additional time to receive translation assistance from family members.<sup>78</sup> These voters may not be familiar with voting by mail and not know how to obtain absentee ballot applications. Voters may not be able to navigate the Internet or may not have computers or Internet connections to download applications.<sup>79</sup>

For Georgia's June 9, 2020 primary election, Gwinnett County, Georgia did not mail applications in Spanish, despite the county being covered by Section 203 of the Voting Rights Act. An analysis of absentee ballot requests conducted with data current through May 4, 2020 revealed that Hispanic voters accounted for only 3% of active registrants who successfully requested a mail ballot, despite making up 9% of

<sup>74</sup> Tonya Mosley & Samantha Raphelson, *U.S. Postal Service Stands to Suffer Huge Losses From Coronavirus Pandemic*, WBUR (Apr. 21, 2020), <https://www.wbur.org/hereandnow/2020/04/21/us-postal-service-losing-money>; Allison Pecorin, *Postal Service Says It's Going Broke Due To Pandemic, Trump Flatly Opposes Emergency Aid*, ABC NEWS (Apr. 13, 2020), <https://abcnews.go.com/Politics/postal-service-broke-due-pandemic-trump-flatly-opposes/story?id=70119153>.

<sup>75</sup> Nicholas Fandos and Jom Tankersley, *Coronavirus Is Threatening One of Government's Steadiest Services: The Mail*, NY TIMES (Apr. 9, 2020), <https://www.nytimes.com/2020/04/09/us/politics/coronavirus-is-threatening-one-of-governments-steadiest-services-the-mail.html?action=click&module=RelatedLinks&pgtype=Article>.

<sup>76</sup> LEADERSHIP CONF. ON CIVIL AND HUMAN RIGHTS, *Congress Must Provide Robust Funding for the United States Postal Service* (May 6, 2020), [https://civilrights.org/resource/congress-must-provide-robust-funding-for-the-united-states-postal-service/#\\_ftn13](https://civilrights.org/resource/congress-must-provide-robust-funding-for-the-united-states-postal-service/#_ftn13).

<sup>77</sup> 52 U.S.C. § 10503; 28 C.F.R. § 55.2(b).

<sup>78</sup> Pl.'s Mot. for Prelim. Inj., 6–7, *Ga. Ass'n of Latino Elected Officials v. Gwinnett Cty. Bd. of Registration and Elections*, No. 1:20-cv-01587 (N.D. Ga. filed Apr. 20, 2020), ECF No. 17-1.

<sup>79</sup> *Id.* at 7–8.

registered voters.<sup>80</sup> By comparison, White voters accounted for 65.7% of active registrants who successfully requested a mail ballot, despite making up 40.5% of active registered voters.<sup>81</sup> Moreover, the return rate of those ballots for Hispanic voters was only 3.2%, whereas for White voters the rate was 15.2%, nearly five times greater.<sup>82</sup> This is not a problem limited to a small subset of voters. There are 10,933,043 U.S. citizens (comprising 4.8% of all U.S. citizens) who speak English less than “very well.”<sup>83</sup>

Jurisdictions should not be permitted to ignore or circumvent Section 203 of the Voting Rights Act; they must ensure that counties properly translate vote-by-mail ballots so language minorities can fill out ballots in their native languages.

#### *h. Difficulties Returning Ballots*

Many states require that voters return their absentee ballots either by mail or in person to boards of elections—and a handful allow voters to drop off their ballots at drop boxes.<sup>84</sup> Delays in postal service delivery due to inadequate funding can lead to delays in delivering absentee ballots. The in-person option is also limited if voters have to travel to their boards of election to drop off completed ballots. For Native American voters who live on reservations, they often cannot rely on the postal service or live too far from their county commissions to return absentee ballots in person.<sup>85</sup>

More options must be provided: secure ballot drop boxes or repositories in rural areas and on reservations. Voters can drop off their ballots in these boxes before the deadline to receive voted ballots. This would, to some extent, alleviate transportation-related issues.

Additionally, some states impose unnecessary limitations on who can collect and deliver a ballot for a person, and on how many ballots a person can collect and deliver.<sup>86</sup> Georgia’s law is narrow. It permits a family member or a person who

<sup>80</sup> Decl. Michael McDonald, 4, *Ga. Ass’n of Latino Elected Officials v. Gwinnett Cty. Bd. of Registration and Elections*, No. 1:20-cv-01587 (N.D. Ga. filed May 4, 2020), ECF No. 30-1.

<sup>81</sup> *Id.* at 4–5.

<sup>82</sup> *Id.* at 5.

<sup>83</sup> “Table S1601. Language Spoken at Home.” Data Set: 2018 ACS 5-Year Estimates. Available at: <https://data.census.gov/cedsci/table?t=Language%20Spoken%20at%20Home&tid=ACST5Y2018.S1601&hidePreview=false>; Accessed June 1, 2020.

<sup>84</sup> NAT’L CONF. OF STATE LEGISLATURES, “Returning a Voted Absentee Ballot” in *Voting Outside the Polling Place: Absentee All Mail and Other Voting at Home Options* (May 19, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx#permit>.

<sup>85</sup> NATIVE AM. RIGHTS FUND, *Vote by Mail in Native American Communities*, <https://www.narf.org/vote-by-mail/> (last visited June 2, 2020).

<sup>86</sup> NAT’L CONF. OF STATE LEGISLATURES, *Who Can Collect and Return an Absentee Ballot Other than the Voter* (Apr. 21, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-10-who->

resides in the same household as a disabled voter to personally return the voter's ballot to the county elections board.<sup>87</sup> Alabama does not allow anyone other than the voter to return his or her own absentee ballot by mail or in-person delivery at their respective boards of elections.<sup>88</sup>

In the pandemic, there are many people who are house-bound and may not have a family member readily available to undertake the task of collecting and delivering the voter's ballot. Or a household may have several family members who rely on a single friend or relative to undertake such tasks. Limitations on the collecting and delivering of ballots should be reasonable, such as not restricting the task to family members, and not limiting the number of ballots that can be collected and delivered too restrictively.

#### *i. Criminal Penalties Associated with Vote By Mail Education*

Some states place criminal penalties on voter engagement activities. Tennessee makes it a Class A misdemeanor for anyone other than members of election commissions to distribute unsolicited absentee ballot requests to voters.<sup>89</sup> As part of voter education campaigns among communities that have never before voted by mail, civic organizations would pass out absentee applications, share the link to the online application form on their websites, or help community members write their own requests.

Tennessee's provision violates the First Amendment right to free speech and expression. The First Amendment, as applied to the states through the Fourteenth Amendment, prohibits an abridgment of the freedom of speech. This statute restricts core political speech and expressive conduct by criminalizing the simple act of providing to a voter an unsolicited absentee ballot request. The Lawyers' Committee and its partners have challenged this provision, among others, in federal court. The lawsuit is pending.<sup>90</sup>

States should not be permitted to criminalize voter education and engagement around absentee ballots, especially during a pandemic when more voters will vote by mail.

### **3. Safe In-Person Voting Options**

Most Americans vote in-person. Indeed, for some communities, voting by mail is not a viable option.

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[can-collect-and-return-an-absentee-ballot-other-than-the-voter.aspx](#).

<sup>87</sup> Ga. Code Ann. § 21-2-385.

<sup>88</sup> Ala. Code § 17-11-9.

<sup>89</sup> Tenn. Code Ann. § 2-6-204(c)(4).

<sup>90</sup> *Memphis A. Phillip Randolph Inst. v. Hargett*, No. 3:20-cv-00374 (M.D. Tenn. filed May 1, 2020).

For example, vote by mail presents hurdles for Native American voters living on tribal lands, where they do not have mail delivery or pick-up at their homes. Because of the lack of traditional addresses, reservation residents may not receive mail at their homes and either pay to maintain a post office box in a nearby town or receive their mail by general delivery at a trading post or other location. Some reservation residents have to travel up to seventy miles in one direction to receive mail. The Navajo Nation, the largest reservation in the United States does not have an addressing program, and most people live in remote communities.<sup>91</sup> Thus, it is essential to provide not only the broadest possible vote-by-mail options during the pandemic, but also an expansion of safe, in-person options.

State and local officials must make any necessary modifications to polling place site locations and administration to ensure that open polling places have adequate sanitary supplies to prevent transmitting the virus. During the cancelled March 17 Ohio primaries, there were numerous problems getting poll workers gloves, masks, sanitizer, and wipes due to supply shortages.<sup>92</sup> This failure to provide appropriate protective supplies and cleaning products increased the risk of transmission for both voters and poll workers.

States should follow guidance issued by the Centers for Disease Control (“CDC”), which advises sick poll workers to stay home, regular cleaning of high touch surfaces, disinfecting potentially contaminated surfaces, such as voting machines and other equipment, and frequent hand washing and sanitizing.<sup>93</sup> States should reconfigure polling places to adhere to “social distancing” protocols, creating more space between voting booths, poll workers, and voters standing in line.

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<sup>91</sup> See generally, THE NATIVE AM. VOTING RIGHTS COAL., *Voting Barriers Encountered by Native Americans in Arizona, New Mexico, Nevada, and South Dakota* (Jan. 2018), <https://www.narf.org/wordpress/wp-content/uploads/2018/01/2017NAVRCsurvey-results.pdf> (discussing the barriers to voting including lack of access to mail service, lower trust in voting by mail, and non-traditional addresses).

<sup>92</sup> Rick Rouan, *Is It Enough? Gloves, Wipes, Finger Sleeves Issued to Franklin County Poll Workers*, COLUMBUS DISPATCH (Mar. 16, 2020), <https://www.dispatch.com/news/20200316/is-it-enough-gloves-wipes-finger-sleeves-issued-to-franklin-county-poll-workers>; Scott Wartman, *Ohio Gov. Mike DeWine: 75 Polling Places to Move Due to Coronavirus*, CINCINNATI ENQUIRER (Mar. 9, 2020), <https://www.cincinnati.com/story/news/politics/2020/03/09/election-workers-responding-coronavirus-concerns/5000924002/>; Seth A. Richardson, *County Boards of Elections Sending Hand Sanitizer, Disinfectant Wipes to Polling Locations as Coronavirus Precaution*, CLEVELAND PLAIN DEALER (Mar. 5, 2020), <https://www.cleveland.com/open/2020/03/county-boards-of-elections-sending-hand-sanitizer-disinfectant-wipes-to-polling-locations-as-coronavirus-precaution.html>.

<sup>93</sup> CTRS. FOR DISEASE CONTROL AND PREVENTION, *Recommendations for Election Polling Locations*, (Mar. 27, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

*a. Polling Place Adjustments and Impacts on Racial Minorities*

Last-minute polling place consolidations and closures disproportionately impact African American and other voters of color, especially during the pandemic. Wisconsin serves as a prime example. April 7 marked the height of the public health crisis in Wisconsin—African Americans made up almost 50% of Milwaukee County’s COVID-19 cases, and 81% of COVID-19 deaths.<sup>94</sup>

Days before the April 7 Wisconsin primary election, the board of elders in Milwaukee decreased the number of polling locations from 180 to 5, citing public health concerns.<sup>95</sup> In contrast, Madison had 66 polling locations open. Sixty-one percent of Milwaukee’s voters are African American and 30% are Hispanic.<sup>96</sup> The poll closures in Milwaukee, thus, impacted mostly African American and Hispanic voters. These voters had no choice but to risk their lives by voting in person or not voting at all. Officials did not provide any other viable alternatives for voting. Voters who went to the polls to vote on Election Day experienced long lines, delays, and high risk of exposure to the virus.

On April 2, a federal district judge extended the deadline to receive absentee ballots to six days after Election Day (4 p.m. on April 13), extended the deadline for boards to receive absentee ballot requests until April 3, and lifted the requirement that voters provide a witness affirmation or statement.<sup>97</sup> The Seventh Circuit Court of Appeals granted a partial stay reversing the lower court’s decision to overturn the witness verification on absentee ballots.<sup>98</sup> The United States Supreme Court, in a 5–4 decision, overruled the district court’s ruling, holding that last-minute changes to Wisconsin’s election administration would be disruptive and instead instituted an Election Day (April 7) postmark deadline for absentee ballots, while retaining the lower court’s receipt deadline of April 13.<sup>99</sup> The dissent pointed out that the majority’s decision stood to disenfranchise thousands of voters who could not vote in person on Election Day because of reasonable health risks. Justice Ginsburg wrote, “Either they will have to brave the polls, endangering their own and others’ safety. . . Or they will lose their right to vote, through no fault of their own. That is a

<sup>94</sup> Shruti Banerjee & Dr. Megan Gall, *COVID-19 Silenced Voters of Color in Wisconsin*, DEMOS (May 14, 2020), <https://www.demos.org/blog/covid-19-silenced-voters-color-wisconsin>.

<sup>95</sup> Mary Spicuzza & Alison Derr, *Why Did Wisconsin Have Just 5 Polling Places? Alderman Wants Answers*, MILWAUKEE J. SENTINEL (Apr. 10, 2020, 5:49 PM), <https://www.jsonline.com/story/news/politics/elections/2020/04/10/coronavirus-milwaukee-aldermen-want-answers-polling-places-primary-election/5127577002/>.

<sup>96</sup> Banerjee & Gall, *supra* note 27.

<sup>97</sup> Mot. Prelim. Inj., 4, *Democratic Nat’l Comm. v. Bostelmann*, No. 3:20-cv-00249-wmc, (W.D. Wis. Apr. 2, 2020).

<sup>98</sup> Stay Pending Appeal, 4, *Democratic Nat’l Comm. v. Wis. State Legis.*, No. 20-1539, (7th Cir. Apr. 3, 2020).

<sup>99</sup> *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, No. 19A1016, slip op. at 4 (Apr. 6, 2020) (per curiam).

matter of utmost importance — to the constitutional rights of Wisconsin’s citizens, the integrity of the state’s election process, and in this most extraordinary time, the health of the nation.”<sup>100</sup>

Wisconsin’s primary election fiasco illustrated how unprepared election officials were to conduct an inclusive election during the pandemic.<sup>101</sup> Polling place consolidations caused long lines, the entire city of Milwaukee only operated five polling locations, and many voters did not receive absentee ballots before the Election Day deadline.<sup>102</sup> As of May 15, 2020, Wisconsin health officials have *directly traced* 71 confirmed cases of COVID-19 to in-person voting that occurred during the April 7, 2020 election and a University of Wisconsin and Ball State University study found a “statistically and economically significant association” between in-person voting the spread of COVID-19 after the election.<sup>103</sup> The poll consolidations disproportionately impacted voters of color, with a study finding average voter turnout in African American and Hispanic wards in Milwaukee at only 18% compared to white wards, which had an average voter turnout of 49%.<sup>104</sup> Overall turnout in Wisconsin’s 2020 presidential primary, dropped significantly from 2016, falling from 47% to 34%, though it was up from 26% in 2012 and about the same in 2008 at 35%.<sup>105</sup> However, unlike past years, interest in this election was likely buoyed by a competitive Wisconsin Supreme Court election and a huge spike in absentee ballot voting, up to 71% from 14% in April 2019.<sup>106</sup>

#### **b. Early In-Person Voting**

One of the most sensible steps to take to reconcile the tension between ensuring voters’ health and allowing them to exercise their right to vote is to expand the days and hours of early in-person voting. In essence, expanding early

<sup>100</sup> *Id.* at 6 (Ginsburg, J., dissenting).

<sup>101</sup> Outside of the litigation, on April 6, Governor Evers issued an executive order moving the election to June 9. Republicans in the state legislature characterized the order as “constitutional overreach” and challenged it in state court. They also asked the Supreme Court to block the District Court order extending the deadline for absentee ballots. The legislators asserted that the extension fundamentally altered the nature of the election.

<sup>102</sup> *Wisconsin Primary Recap: Voters Forced to Choose Between Their Health and Their Civic Duty*, N.Y. TIMES (Apr. 7, 2020), <https://www.nytimes.com/2020/04/07/us/politics/wisconsin-primary-election.html>.

<sup>103</sup> Chad D. Cotti et al., *The Relationship Between In-Person Voting, Consolidated Polling Locations, and Absentee Voting on Evidence from the Wisconsin Primary*, NAT’L BUREAU OF ECONOMIC RESEARCH (May 2020), <https://www.nber.org/papers/w27187.pdf>.

<sup>104</sup> Shruti Banerjee & Dr. Megan Gall, *COVID-19 Silenced Voters of Color in Wisconsin*, DEMOS (May 14, 2020), <https://www.demos.org/blog/covid-19-silenced-voters-color-wisconsin>.

<sup>105</sup> Miles Parks, *In The End, The Voters Responded: Surprising Takeaways from Wisconsin’s Election*, NAT’L PUB. RADIO (Apr. 15, 2020), <https://www.npr.org/2020/04/15/834037566/in-the-end-the-voters-responded-surprising-takeaways-from-wisconsin-s-election>.

<sup>106</sup> *Id.*

voting opportunities serves to “flatten the curve,” by spreading out the number of voters over a longer period of time, thus reducing the need for poll workers at any given time, reducing the number of people that poll workers and voters will have contact with, facilitating social distancing, and ultimately reducing the number of in-person voters on Election Day.

In addition, more African Americans tend to take advantage of early in-person voting opportunities as compared to White voters.<sup>107</sup> In the North Carolina 2016 primary election, 33.8% African American voters voted early in-person as compared to 27.7% White voters. That trend continued in the 2018 primary election with 33.1% African American voters and 28.2% White voters voting early in-person. In the 2020 primaries, 35.7% African American voters voted early in-person as compared to 35.2% White voters.<sup>108</sup> Because of the COVID-19 pandemic, more voters, regardless of race, voted early in-person in the 2020 primary election as compared to the 2016 primary election.<sup>109</sup>

Congress should mandate that all states provide at least two full weeks of early in-person voting in federal elections during the pandemic, until a vaccine is widely available and accessible to all people in the country.<sup>110</sup>

## V. Conclusion

As a nation, we are facing one of the greatest challenges to our democracy in the midst of a global pandemic and recession that is disproportionately impacting African Americans and other communities of color. There are few moments in our

<sup>107</sup> See, e.g., Russell Weaver & Sonia Gill, *Early Voting Patterns by Race in Cuyahoga County, Ohio: A Statistical Analysis of the 2008 General Election*, Voting Rights Research Br., LAWYERS' COMM. FOR CIVIL RIGHTS UNDER LAW, 2, 6 (Oct. 2012), [http://www.acluohio.org/wp-content/uploads/2014/08/NAACP\\_V\\_Husted-MPIEx8-2014\\_0630.pdf](http://www.acluohio.org/wp-content/uploads/2014/08/NAACP_V_Husted-MPIEx8-2014_0630.pdf) (data showed census tracts with heavier African American populations voted early in-person. Report concluded that cutting early in-person voting would disproportionately impact African American voters); Paul Gronke Am. Decl., pp. 3–6, ¶¶ 6–11; pp. 9–11 ¶¶ 18–26 in *Florida v. United States*, 820 F. Supp. 2d 85 (D.D.C. 2011) (concluding Florida's omnibus election administration changes truncating early voting period, among other things, violated Section 5 of the Voting Rights Act with discriminatory effect on minority voters); *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 231–37 (4th Cir. 2016) (noting new election administration provisions reducing the number of early voting would disproportionately impact African American voters, increase traffic on Election Day, and increase long lines on Election Day).

<sup>108</sup> These figures were compiled from North Carolina's publicly available statewide voter history file ([https://s3.amazonaws.com/dl.ncsbe.gov/data/ncvhis\\_Statewide.zip](https://s3.amazonaws.com/dl.ncsbe.gov/data/ncvhis_Statewide.zip)) and statewide voter file ([https://s3.amazonaws.com/dl.ncsbe.gov/data/ncvoter\\_Statewide.zip](https://s3.amazonaws.com/dl.ncsbe.gov/data/ncvoter_Statewide.zip)).

<sup>109</sup> AP Staff, *Early In-Person Voting in NC Exceeds Primary 4 Years Ago*, AP (Mar. 2, 2020), <https://apnews.com/10b3399d722456ad12848849b76a0157>.

<sup>110</sup> LEADERSHIP CONF. CIVIL AND HUMAN RIGHTS, *Letter to Congress Urging Additional Funding for Elections Assistance in Response to COVID-19* (Apr. 13, 2020), <https://civilrights.org/resource/letter-to-congress-urging-additional-funding-for-election-assistance-in-response-to-covid-19-2/>.

history where our democracy has been in more peril, and when the stakes for participation for people have been as high. We ask this Committee and the Congress to provide the \$3.6 billion in additional funding for state and local elections this year, which is a lifeline for our democracy and vital to protecting public health as COVID-19 continues to ravage communities across the nation. Protecting our democracy also requires Congress to create certain minimal standards for voters, including at least two weeks of early voting and no excuse absentee voting by mail. This is absolutely critical to ensure equal access to the ballot for African Americans and other people of color, as well as to ensure the safe and efficient administration of state, local, and the General Election in November. Thank you for your leadership in safeguarding our most fundamental right—the right to vote.

April 13, 2020

The Honorable Mitch McConnell  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Chuck Shumer  
322 Hart Senate Office Building  
Washington, DC 20510

The Honorable Richard Shelby  
304 Russell Senate Office Building  
Washington, DC 20510

The Honorable Patrick Leahy  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Roy Blunt  
260 Russell Senate Office Building  
Washington, DC 20510

The Honorable Amy Klobuchar  
302 Hart Senate Office Building  
Washington, DC 20510

The Honorable Nancy Pelosi  
1236 Longworth H.O.B.  
Washington, DC 20515

The Honorable Kevin McCarthy  
2468 Rayburn H.O.B.  
Washington, DC 20515

The Honorable Rodney L. Davis  
1740 Longworth H.O.B.  
Washington, DC 20515

The Honorable Zoe Lofgren  
1401 Longworth H.O.B.  
Washington, DC 20515

Dear Senators and Representatives:

We write to thank you for the financial assistance Congress has provided to state and local election officials. This assistance, which started in the Fiscal Year 2018, continued in Fiscal Year 2020, and was provided most recently as part of the CARES Act, will supplement the robust investments our states and localities have already made, and will continue to make, to respond to the COVID-19 pandemic and keep our elections safe, secure, and accessible.

This influx of federal dollars will enhance our ability to put voters' and election workers' health and safety first by providing sanitation supplies to polling places; searching for new polling places to replace those that may no longer be accessible such as schools, senior centers, and community centers; renting or purchasing equipment to ensure social distancing in election offices or at the polling place; training election officials and poll workers on best practices; and purchasing new hardware such as laptops, tablets, and high-speed ballot scanners. The funds will also allow us to absorb the expected increase in absentee ballot requests that is likely to come as a result of the health emergency we are facing.

April 13, 2020  
Page 2

In short, we will use this money to give voters safe and accessible choices in how they cast their ballots in the 2020 elections, while doing our part to keep elections fair and secure.

We are particularly appreciative that Congress has again provided these funds in a manner that leaves to states the decisions on how to run elections. We each face different obstacles in administering elections, including unforeseen challenges like those confronting us as a result of COVID-19. While we remain committed to the preservation of our democratic process, we require flexibility to do so. It is the flexibility provided by elections run at the state and local levels that allows us to respond to these challenges in an efficient and timely manner.

This flexibility has served us well in the past, and our ability to respond to unforeseen circumstances is informed by decades of practices within each state. Whether we faced hurricanes on the Gulf Coast, tornadoes on Super Tuesday, snow storms, floods, or power outages, states were able to react to these crises within the constructs of their own state laws. Rigid, one-size-fits-all mandates would compromise our response capabilities and ultimately would undermine our citizens' sacred right to vote.

We are therefore dismayed by reports that some officials are using this health crisis to attempt to push new federal mandates on state election processes, including universal vote-by mail, expanded early voting, or same day registration. These efforts should be opposed. They would be logistically impracticable to implement at this phase of the election cycle and, if administered in the hasty manner proposed by some Washington officials, would lead to voter confusion, waste and fraud. We are committed to state solutions that will make our elections safer, and we reject federal mandates that will make them less secure.

Above all, we urge you to be mindful of the constitutional command that election administration is a state responsibility. This is especially true in times of crisis. In order to respond to the emerging and dynamic threat we face, states cannot be hamstrung by federal directives.

Thank you for your commitment to these principles and thank you for the \$1.205 billion in federal assistance that you have provided to states and in service to our voters. The task ahead is daunting, but states will rise to the occasion as they always do.

Thanks for your consideration of our request.

Sincerely,

  
John H. Merrill  
Alabama Secretary of State


  
Kevin Meyer  
Alaska Lt. Governor

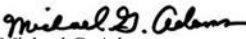
  
Brad Raffensperger  
Georgia Secretary of State


  
Lawrence Denney  
Idaho Secretary of State

April 13, 2020  
Page 3

  
Connie Lawson  
Indiana Secretary of State

  
Scott Schwab  
Kansas Secretary of State

  
Michael G. Adams  
Kentucky Secretary of State

  
Michael Watson  
Mississippi Secretary of State


  
Jay Ashcroft  
Missouri Secretary of State

  
Robert Evnen  
Nebraska Secretary of State

  
Alvin A. Jaeger  
North Dakota Secretary of State

  
Frank LaRose  
Ohio Secretary of State

  
Tre Hargett  
Tennessee Secretary of State

  
Mac Warner  
West Virginia Secretary of State



JOHN THURSTON  
 ARKANSAS SECRETARY OF STATE

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Thank you for your commitment to these principles and thank you for the \$1.205 billion in federal assistance that you have provided to states and in service to our voters. The task ahead is daunting, but states will rise to the occasion as they always do.

Thanks for your consideration of our request.

Sincerely,



John Thurston  
Secretary of State



**WRITTEN STATEMENT OF**

**SONIA GILL  
SENIOR LEGISLATIVE COUNSEL  
NATIONAL POLITICAL ADVOCACY DEPARTMENT**

**DALE HO  
DIRECTOR  
VOTING RIGHTS PROJECT**

**KRISTEN LEE  
POLICY ANALYST  
NATIONAL POLITICAL ADVOCACY DEPARTMENT  
AMERICAN CIVIL LIBERTIES UNION**

For a Hearing on

2020 General Election Preparations

U.S. Senate Committee on Rules & Administration

July 22, 2020

For further information, please contact Sonia Gill, Senior Legislative Counsel, at  
[sgill@aclu.org](mailto:sgill@aclu.org).

## Introduction

For nearly 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the Constitution and laws of the United States. The ACLU's Voting Rights Project, established in 1965, has filed more than 300 lawsuits to enforce the provisions of our country's voting laws and Constitution. The goal of the Voting Rights Project is to ensure that all Americans have access to the franchise and can participate in the political process on an equal basis. In addition to our work in the courts, the ACLU's Washington Legislative Office, now our National Political Advocacy Department, has led the ACLU's efforts to develop and strengthen federal laws protecting the right to vote for decades. In 2015, the department launched a 50-state campaign to protect and expand access to the ballot nationwide and has advanced ballot initiative campaigns in Florida, Michigan, and Nevada to protect and expand access to the ballot. Through our state-by-state advocacy, we have been able to achieve impactful gains for voting rights and access to the ballot around the country.

It is no exaggeration to say that, due to the COVID-19 pandemic, the 2020 elections may be the most challenging environment for voting rights and election administration since the 1864 presidential election was conducted during the Civil War. COVID-19 has killed over 140,000 people nationwide; the U.S. also has one of the highest number of infections in the world with over 3.7 million reported cases.<sup>1</sup> "At this time, there is no known cure, no effective treatment, and no vaccine. Because people may be infected but asymptomatic, they may unwittingly infect others."<sup>2</sup> There is no discernible path at this point to containing the virus—and the virus poses an existential threat to our democratic process. No American should have to choose between protecting their health and exercising their right to vote, yet restrictions on eligibility and unnecessary barriers for voting by mail, as well as reductions to in-person voting opportunities resulting from the virus, threaten to force millions of voters to make precisely that choice in November.

To date, the ACLU has filed or intervened in 15 lawsuits to remove or reduce barriers to voting in response to the impact of COVID-19 on the voting process.<sup>3</sup> Many of our lawsuits have focused on expanding voting by mail in the primary elections, such as on removing witness or notary requirements and restrictions on eligibility to vote by mail. We have achieved successful outcomes in several of our cases thus far—these courts have recognized that the restrictive requirements we have challenged would disenfranchise eligible voters. Yet expanding voting by mail is one solution that can ameliorate, but not fully solve these challenges. For a number of reasons, states must continue to ensure in-person voting remains a safe, available option for voters. Additionally, litigation alone will not solve the threat to voting rights and the foreseeable risk to public health and safety.

There are straightforward policy solutions that can reduce or eliminate obstacles to the ballot this November. But the experiences from the 2020 primaries have shown that many states and counties are unprepared—and some are unwilling—to address the seismic shift in election administration necessary to ensure the 2020 elections can proceed safely

<sup>1</sup> CTRS. FOR DISEASE CONTROL & PREVENTION, CASES IN THE U.S., <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last visited Jul. 17, 2020).

<sup>2</sup> *South Bay United Pentecostal Church v. Newsom*, No. 19A1044, 590 U.S. \_\_\_\_ (May 29, 2020).

<sup>3</sup> See appendix to this testimony starting at page 20.

during the pandemic, without diminishing the fundamental right to vote. State and local officials are facing unprecedented challenges during a rapidly changing public health emergency—these challenges exist separate and apart from the continuing cybersecurity vulnerabilities exposed by the Russian cyberattacks. To run elections this year, state and local election officials will be required to revise longstanding election processes, minimize person-to-person contact, and ensure the integrity of the voting process. They must be wholly prepared, staffed, and resourced to meet these challenges.

Our testimony focuses on the significant disruptions to our democratic process caused by the COVID-19 pandemic, which has been particularly detrimental to the voting rights of people of color, Native Americans and Alaska Natives, people with disabilities, and language minority voters. Congress has a critical role to ensure voters are not disenfranchised as a result of the COVID-19 pandemic. **Baseline federal standards are necessary to ensure Americans are not forced into unsafe conditions to exercise their fundamental right to vote. These baseline rules must include, at a minimum, (i) an option to vote absentee by mail and (ii) expanded early in-person voting to create safer voting conditions.** Expanding access to early voting and voting by mail will let voters avoid crowds at polling locations and minimize person-to-person contact, reducing their risk of contracting COVID-19 while voting. A number of recent polling makes clear that Americans broadly support the availability of both no-excuse absentee voting by mail and expanded in-person voting options during the pandemic regardless of party affiliation.<sup>4</sup>

Though officials from both parties have taken steps to expand voting access during the pandemic, without congressional leadership, a national framework guiding states, and a substantial infusion of federal funding to actualize it, the pandemic will continue to pose an existential threat to our democratic process. **The task before Congress is clear—to help as many people as would like to, to shift to voting early or absentee, and to provide the necessary funding for states to do so.**

#### **I. The Threat to In-Person Voting and Minority Voting Rights Posed by the COVID-19 Pandemic**

Already this primary season, we have seen significant disruptions to the traditional model of in-person voting. At least two basic interrelated problems have emerged.

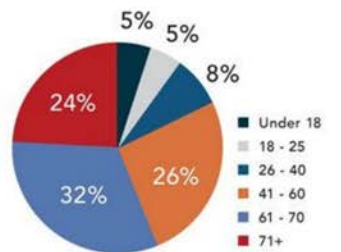
*First*, many traditional polling locations will be unavailable in November. Polling places are often sited at locations that will be reluctant to open up their facilities to a higher risk of transmission—such as schools, churches, and, in particular, senior centers and assisted living facilities, which obviously cannot be opened to large crowds congregating in person given the particular vulnerabilities to COVID-19 that older people face. Ohio, for example, was forced to close 125 polling locations across the state because

<sup>4</sup> Chris Kahn, *Most Americans, Unlike Trump, Want Mail-In Ballots for November if Coronavirus Threatens: Reuters/Ipsos Poll*, REUTERS, Apr. 7, 2020, <https://www.reuters.com/article/us-usa-election-poll/most-americans-unlike-trump-want-mail-in-ballots-for-november-if-coronavirus-threatens-reuters-ipsos-poll-idUSKBN21P3G0>.

they were located in retirement living or senior care facilities,<sup>5</sup> before postponing its primary altogether.<sup>6</sup>

*Second*, we are seeing substantial poll worker shortages, which is hardly surprising given the average age of poll workers. According to the U.S. Election Assistance Commission, in the 2016 election, 56% of poll workers were over the age of 60:

EAVS 2016: Age of Poll Workers



In Alaska, for example, data from the Alaska Division of Elections shows that none of the states' local election jurisdictions have nearly enough election workers to staff its polling locations for its August primary, with sites at an average 34% of full staffing levels statewide.<sup>8</sup> The extreme shortage of election workers is forcing Alaska's local election officials to consider closing polling locations. In Texas, a state that has refused to expand absentee voting to all voters, two of the state's largest counties, Bexar and Tarrant counties, shuttered polling locations for the state's July run-off election as the result of a shortfall of election judges.<sup>9</sup>

<sup>5</sup> *Primary polling locations moved from nursing homes due to coronavirus concerns*, FOX19NOW.COM Mar. 10, 2020, <https://www.fox19.com/2020/03/10/changes-coming-polling-locations-due-coronavirus-concerns/>.

<sup>6</sup> Nick Corasaniti and Stephanie Saul, *Ohio's Governor Postpones Primary as Health Emergency Is Declared Over Virus*, N.Y. TIMES, Mar. 16, 2020, <https://www.nytimes.com/2020/03/16/us/politics/virus-primary-2020-ohio.html>.

<sup>7</sup> U.S. ELECTION ASSISTANCE COMMISSION, WHITE PAPER: EAVS DEEP DIVE: POLL WORKERS AND POLLING PLACES (Nov. 15, 2017), <https://www.eac.gov/documents/2017/11/15/eavs-deep-dive-poll-workers-and-polling-places>.

<sup>8</sup> James Brooks, *With elections looming, Alaska faces a shortage of poll workers because of COVID-19 concerns*, ANCHORAGE DAILY NEWS, June 14, 2020, <https://www.adn.com/politics/2020/06/14/with-elections-looming-alaska-faces-a-shortage-of-poll-workers-because-of-covid-19-concerns/>.

<sup>9</sup> Alexa Ura, *Two Major Texas Counties are Trimming Polling Locations as Workers Pull Out Over Coronavirus*, TEXAS TRIBUNE, Jul. 9, 2020, [https://www.texastribune.org/2020/07/09/texas-voting-coronavirus/?utm\\_campaign=trib-social-buttons&utm\\_source=twitter&utm\\_medium=social\\_](https://www.texastribune.org/2020/07/09/texas-voting-coronavirus/?utm_campaign=trib-social-buttons&utm_source=twitter&utm_medium=social_)

In all, 16 states have postponed their primaries due to the logistical difficulties of conducting an election during the pandemic.<sup>10</sup> Because of polling place siting difficulties and poll worker shortages, the general election is likely to feature more voters assigned per polling location than in any election in American history—all while we are still facing a once-in-a-century global pandemic where public health officials are urging Americans to refrain from congregating in large crowds and to practice social distancing.

The primaries have already provided multiple examples of the public health risks we face. Multiple Florida poll workers tested positive for COVID-19 in the aftermath of the primary election.<sup>11</sup> In Chicago, a poll worker for the city's March 17 election later died of COVID-19, prompting city officials to send letters notifying voters and poll workers who were present at the same polling site.<sup>12</sup>

Wisconsin's primary provides perhaps the starkest example of the risks.<sup>13</sup> Cities in Wisconsin were forced to close polling locations, and these closures impacted voters unequally. The city of Madison had over 60 open polling sites, while in Milwaukee—a city more than twice Madison's size, with a population of roughly 600,000—only 18,803 voters cast their ballots in person, largely because all but five of the city's 180 polling locations had closed.<sup>14</sup> In Milwaukee, voters faced large crowds, long lines, and excessive wait times—all of which made social distancing impossible.

Ultimately, contact-tracing analysis conducted by the Wisconsin Department of Health found that 52 persons who voted under these conditions tested positive for COVID-19, and a recent study found a “statistically and economically significant association between in-person voting and the spread of COVID-19 two to three weeks after the election.”<sup>15</sup>

<sup>10</sup> Nick Corasaniti and Stephanie Saul, *16 States Have Postponed Primaries During the Pandemic. Here's a List*, NY TIMES, May 27, 2020, <https://www.nytimes.com/article/2020-campaign-primary-calendar-coronavirus.html>.

<sup>11</sup> Kent Justice and Steve Patrick, *Duval County Poll Worker Tests Positive for Coronavirus*, NEWS 4 JAX, Mar. 30, 2020, <https://www.news4jax.com/news/local/2020/03/30/duval-county-poll-worker-tests-positive-for-coronavirus/>; David Smiley and Bianca Padró Ocasio, *Florida Held Its Primary Despite Coronavirus. Two Broward Poll Workers Tested Positive*, MIAMI HERALD, Mar. 27, 2020, <https://www.miamiherald.com/news/politics-government/article241539451.html>.

<sup>12</sup> Mary Ann Ahern, *Poll Worker at Chicago Voting Site Dies of Coronavirus, Election Officials Say*, 5 CHICAGO (Apr. 13, 2020), <https://www.nbcchicago.com/news/local/chicago-politics/poll-worker-at-chicago-voting-site-dies-of-coronavirus-election-officials-say/2255072/>.

<sup>13</sup> Astead W. Herndon and Jim Rutenberg, *Wisconsin Election Fight Heralds a National Battle Over Virus-Era Voting*, N.Y. TIMES (Apr. 6, 2020), <https://www.nytimes.com/2020/04/06/us/politics/wisconsin-primary-voting-coronavirus.html>.

<sup>14</sup> Jason Calvi, *'2 Different Cities': Milwaukee Had 5 Polling Sites During COVID-19 Election; Madison Had 60+*, FOX 6, Apr. 8, 2020, <https://fox6now.com/2020/04/08/2-different-cities-milwaukee-had-5-polling-sites-during-covid-19-election-madison-had-60/>.

<sup>15</sup> Chad D. Cotti et al., *The Relationship Between In-Person Voting, Consolidated Polling Locations, and Absentee Voting on COVID-19: Evidence from the Wisconsin Primary 1–2*, NATIONAL BUREAU OF ECONOMIC RESEARCH (revised June 2020), <https://www.nber.org/papers/w27187>.



16

These challenges will likely persist in the fall as we head into the general election. Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Disease, recently stated that he “can’t guarantee” that in-person voting will be safe in November 2020.<sup>17</sup> He has described the presence of COVID-19 in the fall as “inevitable,”<sup>18</sup> stating: “We will have coronavirus in the fall...I am convinced of that because of the degree of transmissibility that it has, the global nature. What happens with that will depend on how we’re able to contain it when it occurs.”<sup>19</sup> Since Dr. Fauci made that statement in late April, COVID-19 cases have surged across the country after states began to reopen and loosen restrictions beginning on Memorial Day weekend. With no national testing strategy or strategy to contain the virus, it is impossible to know the extent of the spread of COVID-19 in the fall or the number of people who will be infected at that time.

Given the challenges to in-person voting posed by the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) instructs that we should encourage as many voters as possible “to use voting methods that minimize direct contact with other people and reduce crowd size at polling stations,” such as mail-in methods of voting.<sup>20</sup> In June, after several primary elections had taken place, the CDC further advised: Elections with only in-person voting on a single day are higher risk for COVID-19 spread because

<sup>16</sup> David D. Haynes, *Wisconsin’s Election May Have Been ‘Ridiculous’ But Those Who Braved Coronavirus To Vote Were Anything But*, MILWAUKEE JOURNAL SENTINEL, Apr. 8, 2020, <https://www.jsonline.com/story/news/solutions/2020/04/08/wisconsin-election-ridiculous-voters-who-braved-coronavirus-lines-inspiring-vote-primary/2966298001/>.

<sup>17</sup> Jason Silverstein, *Fauci Says He ‘Can’t Guarantee’ In-Person Voting in November Will Be Safe*, CBS NEWS, Apr. 13, 2020, <https://www.cbsnews.com/news/coronavirus-fauci-says-he-cant-guarantee-in-person-voting-in-november-will-be-safe/>.

<sup>18</sup> Christina Maxouris, *US Could Be in for ‘a Bad Fall and a Bad Winter’ If It’s Unprepared for a Second Wave of Coronavirus*, FAUCI WARNS, CNN, Apr. 29, 2020, <https://www.cnn.com/2020/04/29/health/us-coronavirus-wednesday/index.html>.

<sup>19</sup> Savannah Behrmann, *‘Convinced’: Fauci Says There Will Be Coronavirus in the Fall After Trump Says ‘It May Not Come Back’*, USA TODAY, Apr. 23, 2020, <https://www.usatoday.com/story/news/politics/2020/04/22/coronavirus-dr-anthony-fauci-says-i-am-convinced-second-wave/3009131001/>.

<sup>20</sup> CTRS. FOR DISEASE CONTROL & PREVENTION, RECOMMENDATIONS FOR ELECTION POLLING LOCATIONS, <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (last updated Jun. 22, 2020).

there will be larger crowds and longer wait times. Lower risk election polling settings include those with:

- a wide variety of voting options
- longer voting periods (more days and/or more hours)
- any other feasible options for reducing the number of voters who congregate indoors in polling locations at the same time

To provide a sense of the magnitude of the challenge we face, more than 80 million Americans voted in-person on Election Day in 2016, and under normal circumstances, we would similarly expect tens of millions of voters to seek to vote in-person on Election Day this November.

#### **A. The Effect of the Pandemic on Minority Voting Rights**

COVID-19 generally, and the pandemic's disruption of in-person voting specifically, will negatively affect the voting rights of voters of color in several ways.

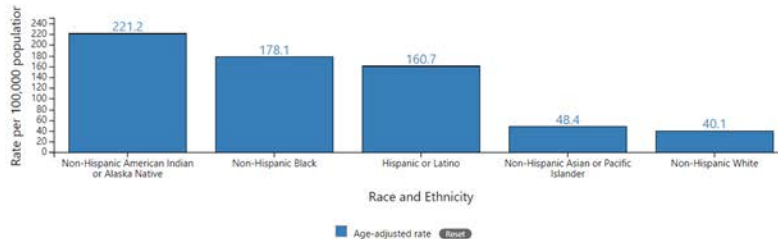
First, the COVID-19 pandemic has had a particularly devastating effect on Black communities. An analysis by the Associated Press—one of the first attempts to examine the racial disparities of COVID-19 cases and deaths nationwide—found that, in areas where demographic data has been publicly shared by government officials, Black Americans have made up 42% of people who have died from COVID-19, despite accounting for roughly only 21% of the total population in these areas.<sup>21</sup> A CDC report published on April 8, which included data from 1,482 patients hospitalized across 14 states, found that African American patients made up 33% of those for whom race or ethnicity information was available, despite representing only 18% of the states' populations. This “suggest[ed] that black populations might be disproportionately affected by COVID-19.”<sup>22</sup>

These disparities extend to other minority populations. More recently, the CDC reported that “[a]s of June 12, 2020, age-adjusted hospitalization rates are highest among non-Hispanic American Indian or Alaska Native and non-Hispanic black persons, followed by Hispanic or Latino persons,” with Black Americans being hospitalized for COVID-19 at approximately 5 times the rate of non-Hispanic whites (adjusted for age):

<sup>21</sup> Kat Stafford et al., *Outcry Over Racial Data Grows As Virus Slams Black Americans*, ASSOCIATED PRESS, Apr. 8, 2020, [https://apnews.com/71d952faad4a2a5d14441534f7230c7c?fbclid=IwAR1plunY\\_qfeA2KrSUPA1TuJobAwQh53a\\_Qlkf5dw0dWjz-iz85GA1FOt4](https://apnews.com/71d952faad4a2a5d14441534f7230c7c?fbclid=IwAR1plunY_qfeA2KrSUPA1TuJobAwQh53a_Qlkf5dw0dWjz-iz85GA1FOt4).

<sup>22</sup> CDC MORBIDITY AND MORTALITY WEEKLY REPORT, HOSPITALIZATION RATES AND CHARACTERISTICS OF PATIENTS HOSPITALIZED WITH LABORATORY-CONFIRMED CORONAVIRUS DISEASE 2019—COVID-NET, 14 STATES, March 1–30, 2020 (Apr. 8, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6915e3-H.pdf>.

Age-adjusted COVID-19-associated hospitalization rates by race and ethnicity, COVID-NET, March – June 13, 2020



23

These disparities are not a random product of chance. Courtney Cogburn, an associate professor at the Columbia University School of Social Work, has opined that “[t]here are patterns at this intersection of race and socioeconomic status that make it very clear this is just not a story about poverty.” That is, racial disparities in who develops serious symptoms and dies due to COVID-19 are inextricably linked to a long history and ongoing patterns of racial discrimination against African Americans:

A history of systemic racism and inequity in access to health care and economic opportunity has made many African Americans far more vulnerable to the virus. Black adults suffer from higher rates of obesity, diabetes and asthma, which make them more susceptible, and also are more likely to be uninsured. They also often report that medical professionals take their ailments less seriously when they seek treatment.<sup>24</sup>

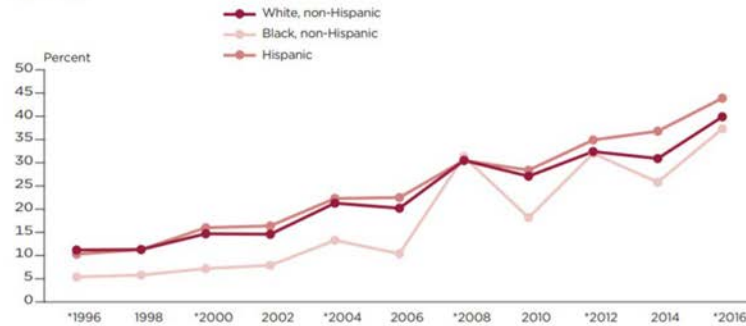
Thus, because the COVID-19 pandemic is hitting communities of color especially hard, the health risks posed by in-person voting are especially acute for voters from these communities.

Second, the reduction of in-person voting opportunities caused by the pandemic will particularly affect Black voters, who disproportionately rely on in-person voting on Election Day. Historically, Black voters are less likely than white and Hispanic voters to utilize alternative forms of voting such as absentee voting or early in-person voting:

<sup>23</sup> CTRS. FOR DISEASE CONTROL & PREVENTION, COVID-19 IN RACIAL AND ETHNIC MINORITY GROUPS, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html> (last updated Jun. 27, 2020).

<sup>24</sup> Stafford, *supra* note 21.

**Alternative Method of Voting, by Race and Hispanic Origin: 1996 to 2016**  
(In percent)



\*Presidential election year.  
Note: Alternative method includes those who voted early and/or by absentee ballot.  
The estimates presented in this section are only for individuals with valid responses to both the method and timing questions.  
Source: U.S. Census Bureau, Current Population Survey, November 1996-2016.

25

In-person voting is also relied upon by Native communities, which have historically faced significant, unique challenges to voting by mail, and, unfortunately, the COVID-19 pandemic greatly exacerbates these challenges.

First, the pandemic has disproportionately impacted particularly vulnerable Native American communities, whose members face higher rates of underlying health conditions, widespread poverty, and lack of basic services due to the sprawling geography of most tribal lands.<sup>25</sup> According to the CDC, American Indians and Alaska Natives have higher rates of deaths from infectious diseases than non-Hispanic whites, with some of the highest rates in remote, isolated areas of the Northern Plains and Southwest U.S. that encompass many Native American communities.<sup>27</sup> They also have higher rates of chronic diseases than other ethnic groups,<sup>28</sup> including the highest prevalence of diabetes, at more than twice that of

<sup>25</sup> U.S. CENSUS BUREAU, CHARACTERISTICS OF VOTERS IN THE PRESIDENTIAL ELECTION OF 2016 13 (Sep. 2018), <https://www.census.gov/content/dam/Census/library/publications/2018/demo/P20-582.pdf>.

<sup>26</sup> Christina Farr, *These Doctors and Nurses Volunteered to Battle Covid-19 in the Navajo Nation, and Came Back With a Warning*, CNBC, Jul. 13, 2020, <https://www.cnbc.com/2020/07/12/ucsf-doctors-fought-covid-19-in-navajo-nation.html>.

<sup>27</sup> CTRS. FOR DISEASE CONTROL & PREVENTION, CDC AND INDIAN COUNTRY WORKING TOGETHER at 5 (2017), [https://www.cdc.gov/chronicdisease/pdf/CDC-indian-country.pdf?s\\_cid=bb-NCCDPHP-OD-Indian\\_Working\\_Together](https://www.cdc.gov/chronicdisease/pdf/CDC-indian-country.pdf?s_cid=bb-NCCDPHP-OD-Indian_Working_Together) [hereinafter CDC AND INDIAN COUNTRY REPORT].

<sup>28</sup> CTRS. FOR DISEASE CONTROL & PREVENTION, CHRONIC DISEASES, [https://www.cdc.gov/tribal/data-resources/information/chronic-diseases.html#:~:text=American%20Indian%2FAlaska%20Native%20\(AI,more%20likely%20to%20be%20smokers](https://www.cdc.gov/tribal/data-resources/information/chronic-diseases.html#:~:text=American%20Indian%2FAlaska%20Native%20(AI,more%20likely%20to%20be%20smokers) (last reviewed Dec. 21, 2018).

non-Hispanic whites<sup>29</sup> and other health conditions that put them at increased risk of severe illness from COVID-19.<sup>30</sup>

Limited federal funding for public health programs through the Indian Health Service<sup>31</sup> combined with the closure of casinos and other businesses tribes usually rely on for income due to COVID-19 have left tribal healthcare systems particularly vulnerable.<sup>32</sup> The Associated Press reported that the Navajo Nation, which has almost 65,000 members living on the reservation spread throughout Utah, Arizona, and New Mexico, had 8,187 confirmed cases of COVID-19 as of July 12, and 401 deaths.<sup>33</sup> This is among the highest infection rates in the country. A CNBC article following a group of doctors who flew in to work at the Navajo Nation's hospital, Gallup Indian Medical Center, in New Mexico, featured a doctor who stated even though the hospital was doing as much as it could to increase capacity to treat patients on-site, many COVID-19 patients needed to be transferred to larger hospitals in Albuquerque or even Arizona as their condition worsened.<sup>34</sup>

The pandemic has had a devastating impact on the health of Native American communities due to these persistent challenges. And though in-person voting poses significant risks to Native American communities, and many states are expanding opportunities to vote by mail as a safer voting option, the socioeconomic challenges that have contributed to the spread of COVID-19 among Native American communities also pose unique obstacles for Native American voters to successfully vote by mail. As a consequence, safe in-person voting opportunities remain crucial for Native American voters to be able to vote at all.

In particular, in-person voting opportunities and language assistance from poll workers for Native communities covered by Section 203 of the Voting Rights Act have proven critical for older Native American voters who have limited English proficiency and tribes whose native language is unwritten. Many Tribal members living on reservations do not have traditional home addresses that the U.S. Postal Service will cover on regular mail routes. These members rely on post office and P.O. boxes, although some precincts even prohibit the delivery of election mail to these non-traditional addresses or use for voter registration. The Native American Rights Fund reports that Native Americans have a

<sup>29</sup> CDC AND INDIAN COUNTRY REPORT, *supra* note 28, at 5.

<sup>30</sup> CTRS. FOR DISEASE CONTROL & PREVENTION, PEOPLE OF ANY AGE WITH UNDERLYING MEDICAL CONDITIONS, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html) (last updated Jun. 25, 2020).

<sup>31</sup> Timothy Smith, *Why COVID-19 is Decimating Some Native American Communities*, AMERICAN MEDICAL ASSOCIATION, May 13, 2020, <https://www.ama-assn.org/delivering-care/population-care/why-covid-19-decimating-some-native-american-communities>.

<sup>32</sup> Liz Mineo, *For Native Americans, COVID-19 is 'the Worst of Both Worlds at the Same Time'*, THE HARVARD GAZETTE, May 8, 2020, <https://news.harvard.edu/gazette/story/2020/05/the-impact-of-covid-19-on-native-american-communities/>.

<sup>33</sup> *Navajo Nation Coronavirus Death Toll Now More Than 400*, ASSOCIATED PRESS, Jul. 13, 2020, <https://apnews.com/d3106fe9aa0f6945ecb72033f13bbdb>.

<sup>34</sup> Farr, *supra* note 26.

26.6% poverty rate, nearly twice the national level, with limited transportation opportunities to even get to a post or election office to conduct election business.<sup>35</sup>

In sum, minority voters are more likely to suffer severe health complications from COVID-19, more likely to use in-person voting on Election Day, and more likely to be disproportionately affected by the particular challenges to voting posed by the COVID-19 pandemic.

#### **B. The Effect of the Pandemic on Voters with Disabilities**

Over 35 million Americans who are eligible to vote have disabilities.<sup>36</sup> The Americans with Disabilities Act and the Help America Vote Act require that voters with disabilities have the same right to a private and independent ballot as everyone else. Voters with disabilities must be able to mark, verify, and cast their ballots privately and independently, even if they choose to vote by mail. The CDC has identified numerous underlying medical conditions that render individuals at high risk for severe illness from COVID-19; all of these conditions constitute disabilities under federal law.<sup>37</sup>

Voters with disabilities will be significantly impacted by election changes due to COVID-19. Many states are moving to alternative voting methods for this election cycle, and especially to voting by mail. For many voters with disabilities, particularly those with limited mobility, voting by mail is preferable to voting in person because it allows them to avoid the challenges of getting to the polls, waiting in line, and facing physical barriers at the polling place. For people whose disabilities make them more susceptible to contracting COVID-19 and developing health complications, voting by mail may be the only feasible voting option. However, for other voters with disabilities, particularly those with “print disabilities” who require in-person assistance or accessible voting technologies available at polling locations, a shift to vote-by-mail can present significant barriers, which can prevent them from voting privately and independently.<sup>38</sup>

Even before the challenges presented by the COVID-19 pandemic, people with disabilities faced systemic barriers, including discriminatory voting laws and election practices,<sup>39</sup> inaccessible polling locations, and disproportionate poverty levels that prevent them from exercising their right to vote. Voters with disabilities have had consistently lower electoral turnout, even accounting for other demographic factors.<sup>40</sup> 28% of people with

<sup>35</sup> Native American Rights Fund, *Vote by Mail in Native American Communities*, <https://www.narf.org/vote-by-mail/> (last visited Jul. 13, 2020).

<sup>36</sup> Disability Rights California, *Voters with Disabilities* (Jul. 2016), <https://www.disabilityrightsca.org/system/files?file=file-attachments/541201.pdf>.

<sup>37</sup> Am. Civ. Liberties Union and National Disability Rights Network (NDRN), *Let People with Disabilities Vote: Recommendations to Improve Access to Voting By Mail*, <https://www.aclu.org/other/let-people-disabilities-vote> (last accessed Jul. 15, 2020).

<sup>38</sup> *Id.*

<sup>39</sup> Bazelon Ctr. for Mental Health L. et al., *VOTE. It's Your Right: A Guide to the Voting Rights of People with Mental Disabilities* at 11-13 (2016), <https://secureservercdn.net/198.71.233.254/d25.2ac.myftpupload.com/wp-content/uploads/2017/01/voting-rights-guide-2016.pdf> (describing how only eleven states featured no disability-related restrictions on the franchise in their state constitutions or election laws).

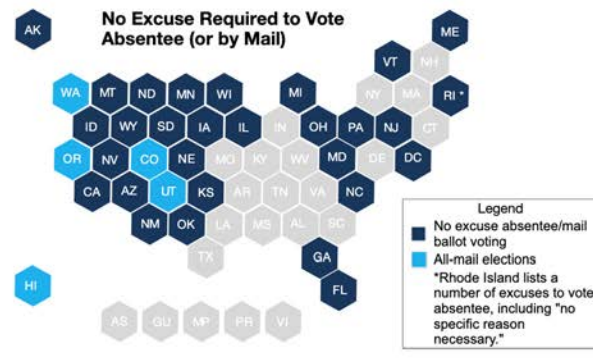
<sup>40</sup> Lisa Schur and Douglas Kruse, *Fact Sheet: Disability and Voter Turnout in the 2016 Elections*, Rutgers Sch. of Mgmt. & Labor Relations 2 (Jul. 2017),

disabilities live in poverty, which is more than twice the national average.<sup>41</sup> Additionally, people with disabilities are also disproportionately people of color—25% of all adult African Americans and 30% of all Alaska Native or American Indian adults have a disability<sup>42</sup>—and must deal with compounded barriers to voting.

## II. Eligibility to Vote by Mail

The health risks of voting by mail are minimal. There is no evidence that COVID-19 can be spread through voting by mail, and the U.S. Postal Service has implemented safeguards to protect against the pandemic by “eliminat[ing] the requirement that customers sign [its] Mobile Delivery Devices for delivery” and requiring the customer “to step back a safe distance or close the screen door” when accepting delivery.<sup>43</sup> So while voting by mail makes sense even in ordinary circumstances, without question every American should be able to vote safely by mail during the COVID-19 pandemic should they choose to. States and the federal government have a shared obligation to guarantee they can do so.

The majority of states—33 states and the District of Columbia—currently offer all eligible voters the option of casting a ballot by mail without requiring a particular excuse:



[https://smlr.rutgers.edu/sites/default/files/documents/PressReleases/kruse\\_and\\_schur\\_-\\_2016\\_disability\\_turnout.pdf](https://smlr.rutgers.edu/sites/default/files/documents/PressReleases/kruse_and_schur_-_2016_disability_turnout.pdf); Lisa Schur and Douglas Kruse, *Fact Sheet: Disability and Voter Turnout in the 2018 Elections*, Rutgers Sch. of Mgmt. & Labor Relations 3 (Jul. 2019), <https://smlr.rutgers.edu/sites/default/files/2018disabilityturnout.pdf>.

<sup>41</sup> Staff of S. Comm. on Health, Educ., Labor & Pensions, 108th Cong., Rep. on Fulfilling the Promise: Overcoming Persistent Barriers to Economic Self-Sufficiency for People with Disabilities 2–3 (Comm. Print 2014).

<sup>42</sup> Ctrs. for Disease Control and Prevention (CDC), *Adults with Disabilities: Ethnicity and Race* (2017) <https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>.

<sup>43</sup> Nat’l Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options, Qualifying for an Absentee Ballot*, May 19, 2020, <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

33 states are a broad and diverse group, and will soon be joined by Virginia, which is poised to become the 34th state to offer no-excuse absentee voting permanently after the recent passage of a state bill, beginning with the November general election.<sup>44</sup>

States are already seeing unprecedented levels of requests to vote absentee—for example, Pennsylvania saw an *18-fold increase* in absentee ballot requests as compared to 2016.<sup>45</sup> States will need substantial federal support to meet this surge in demand for absentee voting, including additional resources for printing, mailing, and processing millions more mail-in ballots than they have received in any previous election.

That leaves 16 states that, under normal circumstances, would require an excuse to vote by mail in November.

Of these states, 12 have voluntarily waived their normal “excuse” requirement for absentee voting, or have interpreted their disability or illness basis for absentee voting broadly at least for their primaries to essentially cover everyone while the pandemic is ongoing. These states are a diverse group, and have chief election officials from across the political spectrum. They include Alabama,<sup>46</sup> Arkansas,<sup>47</sup> Delaware,<sup>48</sup> Kentucky,<sup>49</sup> and New Hampshire<sup>50</sup>—all of which have interpreted their absentee voting laws to permit all eligible voters to vote absentee under “illness” or “disability” – related excuses.<sup>51</sup> Another state, Tennessee, is also permitting all voters to vote by mail during the pandemic, but only thanks to a court ruling in an ACLU case holding that Tennessee’s constitution protects the right to vote safely, which during the pandemic entails a right to vote by mail.<sup>52</sup> The case is currently on appeal in the Tennessee Supreme Court.

However, several of these states that do not generally permit no-excuse absentee voting have not yet committed to making the same change for November. We are hopeful that, having acknowledged that protecting public health and the right to vote required this change for the primary season, these states will make a similarly wise decision for the general election. But such decisions cannot be made or responsibly executed last-minute—voters and election officials need clarity on the election process well in advance of the election to adequately plan for the election and ensure everyone can vote.

<sup>44</sup> VA LEGIS 1149 (2020), 2020 Virginia Laws Ch. 1149 (H.B. 1).

<sup>45</sup> Tierney Sneed, “Four Charts That Show How Absentee Voting Is Skyrocketing In The Pandemic,” TALKING POINTS MEMO, May 27, 2020 (describing similar surges in other states), <https://talkingpointsmemo.com/news/absentee-voting-data-pennsylvania-new-mexico-indiana-dc>.

<sup>46</sup> Ala. Leg. Servs. Agency, Absentee Voting During State of Emergency, 17-11-3(e) (Mar. 18, 2020), <https://bit.ly/3cUhOqN>.

<sup>47</sup> Ark. Exec. Order No. 20-08 (Mar. 20, 2020), <https://bit.ly/2TheWwc>.

<sup>48</sup> Governor of Del., Exec. Dep’t, *Sixth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat* (Mar. 24, 2020), <https://bit.ly/3bKVfTM>.

<sup>49</sup> Letter of Michael G. Adams, Sec’y of State, to Andy Beshear, Governor (Apr. 23, 2020), <https://bit.ly/3bFxI6D>.

<sup>50</sup> Memorandum from the Sec’y of State and Att’y Gen. to New Hampshire Election Officials re: Elections Operations During the State of Emergency, 2 (Apr. 10, 2020), <https://bit.ly/2ZdZ8xV>.

<sup>51</sup> A complete list of these states is attached to the end of my testimony as Appendix B.

<sup>52</sup> *Lay v. Goins*, Docket No. 20-453-IV(III) Temporary Injunction Order (Tenn. Chancery Court, Twentieth Judicial District, Davidson County, June 4, 2020) <https://www.aclu.org/legal-document/order-lay-v-goins>.

That leaves us with just three states that have not permitted all voters the option to cast their ballots by mail this year: Louisiana, Mississippi, and Texas. All three were formerly covered by Section 5 of the Voting Rights Act; together they constitute the three states comprising the United States Court of Appeals for the Fifth Circuit.

#### a. Witness Signature/Notary Requirements

There are a wide range of unnecessary barriers that unduly burden Americans seeking to vote by mail during the pandemic. These barriers include pre-Election Day deadlines for returning absentee ballots; bans on assistance with the conveyance of absentee ballots; the failure to provide voters with prepaid postage for their ballots; and, in particular, the requirement that absentee voters obtain a witness signature on, or notarization of, their ballots.

States use a variety of methods for verifying absentee or mailed ballots, including scannable bar codes on absentee ballots or envelopes; requiring people's personal identifying information like partial social security numbers; signature matching; and signatures by a witness or notary.

Ensuring the security of ballots cast by mail is critical. But certain methods used by states are less useful—and more burdensome—than others. In particular, witness signature or notarization requirements are quite rare. Only 11 states require that an absentee/mailed ballot envelope be signed by witnesses or notarized:



53

While such witness signature requirements might be only modestly burdensome during ordinary times, they are quite problematic during the COVID-19 pandemic. As Dr. Arthur Reingold, Division Head of Epidemiology and Biostatistics at the University of California, Berkeley, School of Public Health, testified in one of our cases, more than 34 million Americans—including more than 13 million people over 65 years and older—live alone.<sup>54</sup> Dr. Reingold explained that, for “individuals without another person able to

<sup>53</sup> Nat'l Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options, Processing, Verifying and Counting Absentee Ballots, How do officials verify voted absentee ballots?* (May 19, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx#officials>.

<sup>54</sup> U.S. CENSUS BUREAU, 2010-2018 AMERICAN COMMUNITY SURVEY 1-YEAR ESTIMATES: ACS DEMOGRAPHIC AND HOUSING ESTIMATES: SOUTH CAROLINA (2018).

witness in their household, the requirement that they have someone witness their absentee ballot,” a witness signature requirement “places[s] them at increased risk of exposure to and/or transmission of COVID-19.”<sup>55</sup> This is because another person coming “in close enough proximity to witness their ballot would place them at increased risk of infection,” and “would be particularly risky for those who are at a greater risk of complications and death from COVID-19.” And for public health purposes, “to prevent increasing the scope of the outbreak of COVID-19, we must assume that anyone could be infected and could infect another person.”

The risks to public health posed by such requirements during the pandemic are wholly unjustified. Thirty-nine states maintain election integrity without witness requirements, and rely instead on comparing the voter’s signature on their ballot envelope with their registration signature on file with the state (though we note that signature requirement are also associated with problems for voters, such as voters with disabilities who may not be able to sign their names consistently). And, even in the states that do have witness or notary requirements, it amounts to little more than a bureaucratic hoop. In Virginia, for example, “the witness need not print their name or the date below their signature—in fact, the Commonwealth does not require that the witness be identified in any way whatsoever. What is more, the illegibility of the witness signature is not grounds for rejecting the ballot.”<sup>56</sup> The same is true in South Carolina, where the Executive Director of the State Election Commission recently explained in a letter to South Carolina Governor McMaster that “the witness signature offers no benefit to election officials as they have no ability to verify the witness signature.”<sup>57</sup> As one federal court put it, it is difficult to see how requiring “an illegible scrawl on an envelope” does anything to combat fraud.<sup>58</sup>

#### **b. ACLU Cases Challenging Witness Signature Requirements**

The ACLU has brought litigation in five states challenging witness signature or notarization requirements: Virginia, South Carolina, Missouri, Minnesota, and North Carolina. Our work has already produced tangible results for voters and for public health:

- In Virginia, a federal district court approved a consent decree blocking the witness signature requirement for Virginia’s June 23rd primary. The court found that the requirement “would only increase th[e] risk” of COVID-19 transmission, and was therefore “likely unconstitutional” during the pandemic.<sup>59</sup>
- In South Carolina, we obtained a preliminary injunction blocking the state’s witness signature requirement for South Carolina’s June 9 primary. The Court

[https://data.census.gov/cedsci/table?q=single%20person%20households&g=0100000US&hidePreview=true&tid=ACSDP1Y2018.DP02&vintage=2018&layer=VT\\_2018\\_040\\_00\\_PY\\_D1&cid=DP02\\_0001E](https://data.census.gov/cedsci/table?q=single%20person%20households&g=0100000US&hidePreview=true&tid=ACSDP1Y2018.DP02&vintage=2018&layer=VT_2018_040_00_PY_D1&cid=DP02_0001E).

<sup>55</sup> Declaration of Arthur Reingold, ¶ 17. See *Thomas v. Andino*, No. 3:20-CV-01552-JMC, 2020 WL 2617329, ECF No. 7-11 (D.S.C. April 28, 2020).

<sup>56</sup> *League of Women Voters of Virginia v. Virginia State Bd. of Elections*, No. 6:20-CV-00024, 2020 WL 2158249, at \*9 (W.D. Va. May 5, 2020).

<sup>57</sup> Letter from Marci Andino to Governor McMaster, dated March 30, 2020. See *Thomas v. Andino*, No. 3:20-CV-01552-JMC, 2020 WL 2617329, ECF No. 7-4 (D.S.C. April 28, 2020).

<sup>58</sup> *League of Women Voters of Virginia v. Virginia State Bd. of Elections*, No. 6:20-CV-00024, 2020 WL 2158249, at \*9 (W.D. Va. May 5, 2020).

<sup>59</sup> *Id.* at \*10 (W.D. Va. May 5, 2020).

ruled that we were “likely to prevail on [our] constitutional challenge to the Witness Requirement,” because it forced our clients and the voting public “to place their health at risk during the COVID-19 pandemic.”<sup>60</sup>

- In Missouri, in response to our case, the legislature recently passed a bill eliminating Missouri’s notary requirement for high-risk individuals for the 2020 elections cycle, but leaving the requirement in place for all other voters.<sup>61</sup> We have ongoing litigation on this issue.
- In Minnesota, our case was filed last month, on June 5, on behalf of the NAACP and individual voters, asking to suspend Minnesota’s requirement that voters get a witness to sign their ballot envelope due to the risk of exposure to COVID-19, and also asking that absentee ballots be sent to all registered voters. The case is currently pending
- In North Carolina, we filed a lawsuit this month on July 10 asking a North Carolina state court to block the state from enforcing its witness requirements while the COVID-19 emergency orders are in place. The case is currently pending.

In addition to our cases, two other federal courts have blocked witness signature requirements. First, in Wisconsin a district court enjoined the witness requirement for Wisconsin’s April primary<sup>62</sup>—but that ruling was stayed by the U.S. Court of Appeals for the Seventh Circuit.<sup>63</sup> That stay had serious consequences for voters, as inadequate certification of ballots—which is understood to refer to absence of a witness signature—was the number one reason for absentee ballot rejection in Wisconsin’s April primary, accounting for more than 14,000 lost votes.<sup>64</sup> Second, in Alabama, a district court granted a preliminary injunction against Alabama’s witness signature requirement,<sup>65</sup> but an application to stay that ruling was granted the Supreme Court.

### III. Importance of In-Person Voting Opportunities

In-person voting remains fundamental to the democratic process and, as explained in Section I, is necessary for large segments of the population to be able to vote at all, such as individuals with disabilities, those with limited English proficiency, individuals with limited postal access, or those who register after mail-in ballots have been sent out.<sup>66</sup>

<sup>60</sup> *Thomas v. Andino*, No. 3:20-CV-01552-JMC, 2020 WL 2617329, at \*21 (D.S.C. April 28, 2020).

<sup>61</sup> Kurt Erickson and Tynan, *On Final Day, Missouri Lawmakers Approve New Vote-By-Mail Options*, ST. LOUIS POST-DISPATCH (May 15, 2020), <https://bit.ly/2ZE62Na>.

<sup>62</sup> *Democratic Nat’l Comm. v. Bostelmann*, No. 20-CV-249-WMC, 2020 WL 1638374, at \*20 (W.D. Wis. Apr. 2, 2020).

<sup>63</sup> *Democratic Nat’l Comm. v. Bostelmann*, Case: 20-1538 (7th Cir., April 5, 2020), <https://elections.wi.gov/sites/elections.wi.gov/files/2020-04/7th%20Circuit%20Order%20on%20Stay%20-%207pm.pdf>.

<sup>64</sup> Wisconsin Elections Commission, *April 7, 2020 Absentee Voting Report at 30*, (May 15, 2020), [https://elections.wi.gov/sites/elections.wi.gov/files/2020-05/May%2020%2C%202020.Final\\_.pdf](https://elections.wi.gov/sites/elections.wi.gov/files/2020-05/May%2020%2C%202020.Final_.pdf).

<sup>65</sup> *People First of Alabama v. Merrill*, No. 2:20-CV-00619-AKK, 2020 WL 3207824 (N.D. Ala. June 15, 2020).

<sup>66</sup> See generally *supra* Section I.

Additionally, as we saw during the Washington D.C. primary, where thousands did not receive their requested ballots,<sup>67</sup> and in Georgia, where several hundred voters were mailed the wrong ballot,<sup>68</sup> in-person voting remains an important backstop for voters who encounter problems with the absentee voting process. Moreover, some voters simply prefer to vote in person because they believe it is a more reliable way of casting their ballot and ensuring it counts, which is reasonable since absentee ballots are consistently rejected at higher rates than ballots of voters who vote in person. Moreover, as noted by election experts Nathaniel Persily and Dr. Charles Stewart III:

Voter behavior is highly resistant to change. Many Americans have voted in person their entire adult lives, and some view it as an expression of civic pride and duty. Still others do not trust the postal system to deliver their ballot or have absorbed the criticism by Trump and others and, on principle, will not vote by mail. People with certain disabilities may vote more easily in person, as may those who need language assistance.<sup>69</sup>

For all these reasons—and as advised by the CDC—states should extend and increase in-person voting opportunities to the extent public health and safety permit to minimize crowding and long wait times at polling locations. States must also ensure safe and hygienic voting conditions for voters and poll workers.

#### IV. Federal legislation is Necessary to Protect Voters

While the ACLU and other litigating organizations have made good progress in expanding access to absentee voting during the primaries, state-by-state litigation will not ultimately solve the threat to voting rights and foreseeable risk to public health and safety. Voters need full and fair access to the voting process while the pandemic is ongoing and clarity about their rights and voting options. There are four important steps Congress can take to protect voters.

*First*, Congress should enact for the 2020 elections a federal requirement for no excuse mail-in absentee voting, with additional funding and minimum specifications about vote by mail processes to help ensure safety, security, and ease of access. To be clear, Congress has the constitutional authority to require states, rather than simply encourage with funds, to take these important steps to protect the right to vote in a federal election.<sup>70</sup> Requirements must ensure the following:

<sup>67</sup> Trevor M. Stanley, *D.C.'s vote-by-mail process backfired in the primaries. Let's hope it gets it right by November*, WASHINGTON POST (July 17, 2020), [https://www.washingtonpost.com/opinions/local-opinions/dcs-vote-by-mail-process-backfired-in-the-primaries-lets-hope-it-gets-it-right-by-november/2020/07/15/4b061124-c1ee-11ea-b4f6-cb39cd8940fb\\_story.html](https://www.washingtonpost.com/opinions/local-opinions/dcs-vote-by-mail-process-backfired-in-the-primaries-lets-hope-it-gets-it-right-by-november/2020/07/15/4b061124-c1ee-11ea-b4f6-cb39cd8940fb_story.html).

<sup>68</sup> Mark Niese, *Wrong absentee ballots mailed to over 700 Georgia voters*, THE ATLANTA JOURNAL-CONSTITUTION (Jul. 19, 2020), <https://www.ajc.com/politics/wrong-absentee-ballots-mailed-to-over-700-georgia-voters/QX6UOJ24LJBB3ND4BFD4H577UA/>.

<sup>69</sup> Nathaniel Persily and Charles Stewart III, *The Looping Threat to Voting in Person*, THE ATLANTIC, June 27, 2020, <https://www.theatlantic.com/ideas/archive/2020/06/looming-threat-voting-person/613552/>.

<sup>70</sup> U.S. CONST. art. I, § 4; see also *Ariz. v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 8 (2013); *Foster v. Love*, 522 U.S. 67, 69 (1997).

- i. Every voter must be offered a no excuse mail-in ballot;
- ii. Multiple methods of requesting an absentee ballot, such as online or in conjunction with voter registration services;
- iii. Ballots postmarked by Election Day are accepted and counted;
- iv. Ballots include a pre-paid and self-sealing return envelope;
- v. In-person, secured drop boxes available through Election Day until polls close;
- vi. States begin processing absentee ballots prior to Election Day;
- vii. Absentee ballots are not discarded based on errors or technicalities without first notifying voters of defects and giving them an opportunity to cure them, ideally through methods other than visiting a government office.

Second, for the reasons summarized in this testimony, Congress should adopt a federal requirement for the 2020 elections that all states institute a minimum early voting period of 14 days, including at least one Saturday and one Sunday.

Third, Congress should appropriate \$4 billion in total federal funding for the 2020 elections and make it available immediately to states, counties, and municipalities. This funding would assist states and local governments in meeting the costs associated with expanding a no-excuse mail-in absentee voting option to every voter, continuity of safe and hygienic in-person voting, and expansion of voter registration opportunities to address predictable obstacles to voter registration resulting from the pandemic. Federal funding is mission critical for counties to deal with the surge in absentee voting—including investments in technology, software, staffing, and postage—and to guarantee in-person voting options (including expanded early in-person voting) are operational, appropriately sited and/or relocated, staffed, accessible, and equipped with the appropriate health and safety equipment during the pandemic environment.

Resources are also required to expand voter registration services to increase the availability of remote transactions through online registration and account for decreased in-person registration opportunities. A massive investment in public education is also necessary to ensure voters are aware of the changes in voting procedures. Funding must also include specific line items to help guarantee access to members of the public who will face the greatest barriers to voting during a continuing pandemic environment, such as accommodations for voters residing in Indian lands, elderly voters, voters with disabilities, and language minority voters.

Funding should guarantee a minimum of 75% to counties and municipalities through cash or in-kind contributions and should not include a state matching requirement. Unobligated funds should remain available for five years to ensure funds remain available through the next Presidential election cycle, while also giving states flexibility for staffing, procurement needs, and longer-term planning.

Fourth, Congress should make available an additional \$4 million to the U.S. Election Assistance Commission (EAC) for increased administration and operational costs in distributing federal funds to states, and additional state support. Additionally, a massive effort to help with voter education about the changes and new options will be needed, and with additional funding the EAC can help with that.

### **Conclusion**

Litigation alone will not solve these critical problems for voters, and patch-work solutions are insufficient for protecting public health during our democratic process. Congress must act swiftly so states and local election officials can begin preparing *now* and plan to address the exponential surge in absentee voting, staffing demands, and necessary technological upgrades. Supplies—including software, printers, ballot paper, tabulators, voting machines, pens, and letter openers—must be ordered immediately. Supply vendors will need ample time to ramp up production to meet the expected surge in demand for their products. Training programs for a new contingent of election workers must be developed and executed. Congress must act now to ensure elections proceed and Americans can vote freely and fairly this November.

### **Appendix A - ACLU COVID-19-Related Voting Rights Litigation**

The ACLU has filed or intervened in eleven lawsuits to protect voting rights and absentee ballot access in response to the impact of COVID-19 on the voting process.

#### **Eligibility to Vote By Mail**

##### **1. Texas Democratic Party v. Debeauvoir – Texas (Absentee Voting)**

**Summary:** On April 1, the ACLU joined a lawsuit seeking to declare that due to the COVID-19 crisis, all registered voters are eligible to receive a mail-in ballot. The lawsuit argues that all registered voters should be eligible to vote-by-mail on the basis of “disability” in the Texas Election Code’s vote-by-mail provision. The suit also charges that the court should order the state to accept and tabulate all mail-in ballots received by eligible voters under this category.

**Status:** On April 15, a Texas judge granted a preliminary injunction effectively permitting all registered voters to vote by mail-in ballot as a result of the COVID-19 public health crisis. On May 14, an appeals court ruled that the lower court order must remain in effect while appeals proceed. But on May 15, the Texas Supreme Court stayed that order. On May 27, the Texas Supreme Court ruled in related litigation that lack of immunity to COVID-19 does not constitute a basis for voting by mail in Texas. The ruling leaves unclear what, if any preexisting conditions, might qualify a voter to vote by mail during the pandemic.

##### **2. Missouri NAACP v. Missouri – Missouri (Absentee Voting and Notary Requirement)**

**Summary:** On April 17, the ACLU [filed a lawsuit on behalf](#) of the Missouri NAACP to ensure all eligible voters have access to absentee mail-in voting in Missouri. Due to the COVID-19 pandemic, many voters may choose to self-isolate. Missouri requires an excuse for voters to access mail-in absentee ballots. The lawsuit seeks a ruling from the court that voters confining themselves to avoid contracting COVID-19 are eligible to vote under the state’s “confinement due to illness” excuse. The lawsuit charges that refusing no-excuse mail-in absentee voting, or alternatively, refusing absentee ballots to those self-confining to avoid exposure to COVID-19, is a violation of the right to vote under the Missouri Constitution.

**Status:** In response to our litigation, on May 15, the Missouri legislature [passed a bill](#) permitting all Missouri voters to vote by mail during the 2020 elections, and eliminating the notary requirement for certain voters at high risk of severe COVID-19 health complications, but leaving the notary requirement in place for other voters. On May 18, the trial court dismissed this case, but the Missouri Supreme Court subsequently reversed that decision and remanded back to the trial court for further proceedings. Plaintiffs’ challenge to the notary requirement remains ongoing.

### 3. [Thomas v. Andino](#) – South Carolina (Absentee Voting and Witness Requirement)

**Summary:** The ACLU filed a federal lawsuit on April 22 challenging South Carolina's requirements that (1) all absentee ballots have a third-party witness signature on the ballot envelope and (2) voters must have a valid excuse as defined by state law for voting by mail. State election officials rejected the view that self-isolation due to the COVID-19 pandemic qualifies as a valid excuse "because of injury or illness" under state law. The lawsuit seeks to block the state from enforcing the requirements, and to have the court issue guidance instructing local officials to count all otherwise valid absentee ballots that are missing a witness signature for the state's upcoming elections.

**Status:** In response to our litigation, on May 13, the Governor [signed legislation](#) ensuring all eligible voters could vote by mail in the June primary due to the COVID-19 pandemic. On May 25, the federal district court granted the ACLU's request for a preliminary injunction and [blocked](#) the witness signature requirement for ballots cast in the June primary in response to the ACLU's lawsuit. Proceedings regarding plaintiffs' challenge to the excuse requirement and the witness requirement remain ongoing for the November general election.

### 4. [Lay v. Goins](#) – Tennessee (Absentee Voting)

**Summary:** On May 15, the ACLU filed a lawsuit in state court seeking to declare that Tennessee's constitution guarantees a right to vote safely by mail during the COVID-19 crisis; or alternatively, that voters with preexisting medical conditions rendering them at risk of severe health complications from COVID-19 are entitled to vote by mail under the state's existing illness excuse for absentee voting.

**Status:** On June 4, a trial court in Tennessee ruled in favor of the plaintiffs, issuing a temporary injunction requiring the state to permit all eligible voters to vote by mail. The case is currently on appeal before the Tennessee Supreme Court.

### 5. [Collins v. Adams](#) – Kentucky (Absentee Voting and Photo ID)

**Summary:** On May 27 the ACLU filed a federal lawsuit challenging Kentucky's photo ID law during the pandemic for voters unable to obtain photo ID because DMV offices are closed or inaccessible, and who lack means to submit required photocopies of their IDs with their absentee ballots. The case also seeks to extend Kentucky's current no-excuse absentee voting rules from its primary to the general election.

**Status:** The complaint was filed on May 27 in the U.S. District Court for the Western District of Kentucky.

### 6. [Connecticut NAACP v. Merrill](#) – Connecticut (Absentee Voting)

**Summary:** The American Civil Liberties Union and ACLU of Connecticut filed a federal lawsuit seeking to make absentee mail-in voting available to every eligible voter during the COVID-19 pandemic. The lawsuit was filed on behalf of the Connecticut State Conference of NAACP Branches and the League of Women Voters of Connecticut, as well as an

individual Connecticut resident who requires a safe alternative to voting in-person during COVID-19 because her age places her at higher risk for severe illness from COVID-19.

Status: The case is currently pending in federal court.

#### **Witness Signature Requirements**

##### **7. People First of Alabama v. Merrill – Alabama (Witness and Photo ID Requirements)**

Summary: The ACLU and ACLU of Alabama joined a lawsuit brought by NAACP LDF, Southern Poverty Law Center, and Alabama Disabilities Advocacy Program seeking to ease absentee voting restrictions for vulnerable voters, such as voters with disabilities and elderly voters. The case was filed on behalf of several Alabama voters who require a safe alternative to voting in-person at a polling place during the COVID-19 pandemic because their health conditions make them higher risk for severe illness and death from COVID-19.

Status: After winning a preliminary injunction in trial court blocking enforcement of the state's witness requirement for absentee ballots and photo ID law for voters who are over 65 or disabled, the order was stayed by the Supreme Court pending the disposition of the appeal in the Eleventh Circuit. The Supreme Court's stay resulted in the restrictions enjoined by the trial court to be put back in place for Alabama's July 14 runoff election.

##### **8. League of Women Voters of Virginia v. Virginia State Board of Elections (Virginia Witness Requirement)**

Summary: On April 17, 2020, the ACLU filed a federal lawsuit challenging the state's witness requirement for mail-in absentee voting. Under Virginia law, any voter submitting an absentee ballot must open the envelope in front of another person, fill out the ballot, then have the third-person sign the outside of the ballot envelope before mailing it back. The lawsuit asks the court to block the witness requirement during the COVID-19 crisis and issue guidance instructing election officials to count otherwise valid ballots missing a witness signature. Proceedings will continue for the November general election.

Status: On May 5, the court [approved a consent decree](#), pursuant to which the State agreed to remove the witness requirement for voters during the June primary. Proceedings will continue with respect to the November general election.

##### **9. NAACP Minnesota-Dakotas Area State Conference v. Simon – Minnesota (Witness Requirement & Prohibition on Universal Distribution of Absentee Ballots)**

Summary: On June 5, the ACLU filed a lawsuit on behalf of the NAACP and individual voters, asking to suspend Minnesota's requirement that voters get a witness to sign their ballot envelope due to the risk of exposure to COVID-19, and also asking that absentee ballots be sent to all registered voters.

Status: Proceedings are ongoing.

**10. [Chambers v. State of North Carolina](#) – North Carolina (Witness Requirement)**

Summary: On July 10, the ACLU filed court in North Carolina state court asking the court to block the state from enforcing the witness requirements while COVID-19 emergency orders are in place and/or community transmission of COVID-19 is occurring, and order it to issue guidance instructing city and county election officials to count otherwise validly cast absentee ballots that are missing witness signatures.

Status: The lawsuit was filed in Wake County Superior Court in Raleigh, North Carolina, on July

**Other Barriers to Voting By Mail**

**11. [Donald J. Trump for President, Inc. v. Boockvar](#) – Pennsylvania (Absentee Voting)**

Summary: The ACLU, ACLU of Pennsylvania, and others moved to intervene as defendants in a recent lawsuit brought by the Trump campaign and Republican Party attempting to block voters in Pennsylvania from depositing their mail ballots in drop boxes instead of mailboxes, a proven secure and streamlined process often used by states that conduct all-mail elections.

Status: The case is currently pending in federal district court.

**12. [League of Women Voters of Michigan v. Benson](#) – Michigan (Absentee Deadline)**

Summary: The ACLU filed a lawsuit in Michigan appeals court to challenge the state's deadline for receipt of absentee mail-in ballots. The state requires all absentee ballots to be received by Election Day in order to be counted. The lawsuit charges that this requirement violates the Michigan constitution and seeks a court declaration that election officials should accept and tabulate all otherwise valid ballots postmarked by Election Day.

Status: The ACLU filed a complaint for mandamus in the Michigan Court of Appeals on May 22, 2020. A decision is pending.

**13. [Western Native Voice v. Stapleton](#) – Montana (Prohibition on Ballot Collection)**

Summary: On March 12, 2020, the ACLU and NARF brought suit in Montana state court on behalf of Western Native Voice (WNV) challenging a Montana statute restricting Native Americans' access to the ballot. A majority of Montana's citizens vote by mail, and the state's rural tribal communities rely on get-out-the-vote (GOTV) organizers like WNV who collect and transport ballots. Montana's Ballot Interference Prevention Act (BIPA) imposed severe restrictions on GOTV organizers which would deny ballot access to many Native American voters.

Status: On May 20, the Montana District Court [issued a temporary restraining order](#) blocking the law pending further proceedings. Trial is scheduled for September.

#### 14. [Black Votes Matter v. Raffensperger](#) – Georgia (Failure to Provide Postage)

**Summary:** On April 8, the ACLU [filed a complaint](#) on behalf of Black Votes Matter in federal district court challenging the constitutionality of a Georgia law requiring citizens to buy postage stamps when submitting mail-in absentee ballots and absentee applications. The COVID-19 pandemic makes voting unrealistic for voters, meaning most will have to submit mail-in absentee ballots if they wish to vote. Forcing citizens to pay for postage to mail in their ballots means they must pay to participate in the democratic process. The lawsuit charges that this is equivalent to a poll tax and is thus unconstitutional. The lawsuit is seeking a preliminary injunction to force Georgia to send all voters prepaid returnable envelopes for mail-in absentee ballots and absentee ballot applications.

**Status:** On April 30, the court denied Plaintiffs' motion for a preliminary injunction regarding the June primary election. *Black Voters Matter Fund et al v. Raffensperger*, 20-cv-01489-AT, Doc. No. 83 (N.D. Ga. April 30, 2020). The case remains ongoing.

#### **Ballot Initiatives**

#### 15. [Thompson v. DeWine](#) – Ohio Ballot Initiative Signature Requirements

**Summary:** On April 30 the ACLU filed for emergency approval to intervene in Ohio federal district court to ensure access to the ballot in November. The ACLU is representing the Ohioans for Secure and Fair Elections (OSFE) who seek to amend the Ohio Constitution. Due to the COVID-19 pandemic, OSFE seeks to extend the deadlines and ease restrictions applicable to petitions for proposed amendments to the Ohio Constitution.

**Status:** On May 21 the district court ordered the Ohio Secretary of State to accept electronic signatures and extend the deadline. On May 26, the United States Court of Appeals for the Sixth Circuit [stayed the district court order](#).

**Appendix B – States that Have Altered Eligibility Rules for Voting By Mail**

**Due to the COVID-19 Pandemic**

Thirteen states have made the switch to no-excuse mail-in voting in light of the pandemic for the primaries:

<b><u>State</u></b>	<b><u>Description</u></b>
<b>Alabama</b>	Alabama has allowed “any qualified voter who determines it is impossible or unreasonable to vote at their voting place” as a result of COVID-19 to vote by mail in primary runoff elections being held in July by reason that “a physical illness or infirmity [] prevents [the voter’s] attendance at the polls.” <sup>71</sup>
<b>Arkansas</b>	Arkansas has determined that Ark. Code Ann. §§ 7-5-402, which only allows absentee voting for people who are “absent or unable to attend an election due to illness or physical disability,” should be read “so that all eligible qualified electors currently entitled to vote in the March 31, 2020 election may request the appropriate absentee ballots from their county of residence.”
<b>Connecticut</b>	The Governor of Connecticut has issued an executive order modifying Conn. Gen. Stat. Ann. § 9-135 to allow any eligible voter to vote by absentee ballot in the August 11, 2020 primary if “he or she is unable to appear at his or her polling place . . . because of the sickness of COVID-19.” <sup>72</sup>
<b>Delaware</b>	A Delaware executive order provides that for upcoming primary and special elections, “the qualification of ‘sick or physically disabled’ [in Delaware vote-by-mail provisions] shall apply to and include any such voter who is asymptomatic of COVID-19 . . . and who herself or himself freely chooses to use such qualification to vote by absentee ballot.” <sup>73</sup>

<sup>71</sup> Governor of Arkansas, Exec. Order No. 20-08, (Mar. 20, 2020), <https://bit.ly/2TheWwc>,

<sup>72</sup> Conn. Exec. Order No. 7QQ (May 20, 2020) <https://bit.ly/2LWF0Zq>.

<sup>73</sup> Governor of Delaware, Exec. Dep’t, *Sixth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat* (Mar. 24, 2020), <https://bit.ly/3bKVfTM>.

<b>Indiana</b>	The Indiana Election Commission issued an order stating that “[a]ll registered and qualified voters are afforded the opportunity to vote no-excuse absentee by mail.” <sup>74</sup>
<b>Kentucky</b>	The Governor of Kentucky issued an executive order stating that “[a]ll Kentuckians should utilize absentee voting by mail for the June 23, 2020 primary if they are able to do so.” <sup>75</sup>
<b>Massachusetts</b>	Massachusetts law clarifying that “any person taking precaution related to COVID-19 in response to a declared state of emergency or from guidance from a medical professional, local or state health official, or any civil authority shall be deemed to be unable by reason of physical disability to cast their vote in person,” which is one of the reasons set forth in the state constitution that permits a Massachusetts voter to vote by mail. <sup>76</sup>
<b>Missouri</b>	Missouri has allowed any registered voter to cast a mail-in ballot in 2020 elections. <sup>77</sup>
<b>New Hampshire</b>	New Hampshire has interpreted its “physical disability” provision to “appl[y] equally to voters who are experiencing symptoms of COVID-19 . . . and those who are self-quarantining as a preventative measure.” <sup>78</sup>
<b>New York</b>	The Governor of New York has issued an executive order stating that every eligible voter will receive an application for an absentee ballot with postage paid to return the application. <sup>79</sup>

<sup>74</sup> Ind. Elec. Comm’n. Order No. 2020-37, *Concerning Emergency Provisions Affecting the 2020 Indiana Primary Election*, March 25, 2020, <https://bit.ly/2yznaJ1>; Chris Sikich, *Indiana Election Officials have message for Hoosiers: Please, Please, Please Vote by Mail*, INDYSTAR, (May 15, 2020) <https://bit.ly/2Abpbv8>.

<sup>75</sup> Ky. Exec. Order 296, (April 24, 2020), <https://bit.ly/3d3jfdj>.

<sup>76</sup> An Act Granting Authority to Postpone 2020 Municipal Elections in the Commonwealth and Increase Voting Option in Response to the Declaration of Emergency to Respond to COVID-19, ch. 45 (2020), <https://bit.ly/2LFSZTc>.

<sup>77</sup> Jaclyn Discroll and Rachel Lippman, Missouri Governor Signs Bill Making Absentee Voting Easier for Some in Pandemic (Jun. 4, 2020), *available at* <https://bit.ly/2AWcvZs>.

<sup>78</sup> Memorandum from the Sec’y of State and Att’y General to New Hampshire Election Officials re: Elections Operations During the State of Emergency 2 (Apr. 10, 2020), <https://bit.ly/2ZdZ8xV>.

<sup>79</sup> N.Y. Exec. Order No. 202-23 (Apr. 24, 2020) <https://on.ny.gov/3ekb0mj>.

<b>South Carolina</b>	The South Carolina General Assembly passed a bill, which was signed by the Governor and which allows any voter to cite the state of emergency resulting from the COVID-19 pandemic as a recognized reason to request an absentee ballot. <sup>80</sup>
<b>Virginia</b>	The Virginia Department of Elections issued a statement clarifying that “[v]oters may choose reason ‘2A My disability or illness’ to vote absentee in upcoming elections due to COVID-19.” <sup>81</sup>
<b>West Virginia</b>	<p>West Virginia now permits all registered voters to vote absentee in forthcoming elections due to “[i]llness, injury or other medical reason which keeps [the voter] confined,” defining “other medical reason” as “any threat to a person’s health posed by an epidemic, pandemic, outbreak, disease, virus, or other emergency, which creates potential harm to the public interest, peace, health, safety, or welfare of citizens or voters.”<sup>82</sup></p> <p>West Virginia construes “confined” as being “restricted to a specific location for reasons beyond that person’s control, including a recommendation by state or federal authorities for the person to self-quarantine, avoid public places or close contact with other persons.”<sup>83</sup></p>

<sup>80</sup> Morgan Newell, *S.C.’s Absentee Ballot Expansion Bill Means Changes to Voting this Primary Season*, WBTV (May 13, 2020), <https://bit.ly/2yxuYe8>.

<sup>81</sup> Va. Dep’t of Elections, <https://bit.ly/3dU4YbW> (last visited May 18, 2020). In addition to this administrative clarification that was triggered by the ongoing pandemic, the Virginia General Assembly amended Virginia’s election laws to permanently allow for no-excuse absentee voting starting with the November 2020 general election. VA LEGIS 1149 (2020), 2020 Virginia Laws Ch. 1149 (H.B. 1).

<sup>82</sup> W. Va. Code R. §§ 153-53-2–153-53-3.

<sup>83</sup> W. Va. Code R. § 153-53-2.



Statement of  
Business for America  
Washington, DC

U.S. Senate Committee on Rules & Administration  
Hearing on 2020 General Election Preparations

July 21, 2020

Dear Senators Blunt, Klobuchar, Leahy, and Shelby:

Business for America, on behalf of more than 200 American businesses, submits this letter addressed to U.S. congressional leaders for the record of the hearing on election preparations before the Senate Rules Committee on July 22, 2020. The letter has been signed by more than 200 companies representing more than 140,000 employees and \$83B in annual revenue, as well as 18 regional business associations representing thousands of businesses from across the country.

As Election Day approaches and the coronavirus pandemic continues, we are concerned that state and local election officials lack the resources necessary to ensure that the election will run smoothly. Many have reported that currently they are unable to meet the surging demand for secure absentee ballots, unable to provide safe in-person polling locations with early voting to minimize lines and prevent crowding, unable to fully guard against potential cyberattacks, and unable to count every ballot on a timely, accurate basis.

In running our companies, we work hard to give our customers a trust-building experience and confidence in our products. We believe the same principle should apply to elections. If sufficient resources are not allocated, we will endanger the personal health of American voters and election workers, risk millions of ballots not being handled effectively, create the potential for chaos due to uncertain election results, and further erode trust in our representative democracy.

At a time of national crisis, the federal government must do everything it can to ensure our elections proceed smoothly and that all citizens have an opportunity to cast their ballots. Anything less will result in the legitimacy of the election's outcome being called into question, which would be highly disruptive to our social and economic well-being.

The businesses that we represent believe that as American business leaders, we have a responsibility to our employees, customers, communities, and country. Today we request that the necessary funds be allocated for state and local election officials to ensure that voting in the 2020 election is safe, the results are accurate, and every voter has a voice.

—Business for America



July 21, 2020

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Russell Senate Office Building, 317  
Washington, DC 20510

The Honorable Charles Schumer  
Minority Leader  
United States Senate  
Hart Senate Office Building, 322  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
1236 Longworth House Office Building  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
2468 Rayburn House Office Building  
Washington, DC 20515

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, and Leader McCarthy:

Thank you for your leadership in bringing forward the previous COVID-19 legislation to support the economy and the American public through this pandemic. As we navigate an uncertain future and work to address the public health and economic crisis, we must also protect our fundamental rights and democratic institutions. Paramount among these is the integrity of our elections.

As American business leaders, we stand together to protect the physical safety of our employees and communities while also protecting their right to be heard on Election Day. Public health is essential but so is civic health. If we take action now, we do not have to sacrifice one to achieve the other.

**We call on Congress to provide state and local governments with the resources they need to ensure that all eligible voters can vote safely, including methods such as:**

- **Making vote by mail available to all eligible voters.** Allow voters to register online, request mail-in ballots to complete in the safety of their homes and return ballots via the U.S. Postal Service, postage paid.
- **Extending early in-person voting.** Offer at least two weeks of early voting at physical polling locations, including weekend voting, to avoid overcrowded polling places and to adhere to social distancing guidelines.

The necessary funding for safe voting upgrades, estimated at \$4 billion, will ensure state and local officials have the personnel and equipment necessary to distribute mail-in ballots, administer early voting locations safely, and tally votes accurately and efficiently.

As business leaders, our responsibility is not just to our employees, customers, and communities — it is also to our country. We pledge to do our part by educating our employees about voting by mail and ensuring they have time to vote and can complete their ballots by November 3, 2020.

We urge Congress to allocate the funding to state election officials so they may run our elections in a safe and secure manner. Every American citizen deserves to have their vote counted without risking their health.

Respectfully,  
The undersigned businesses and business associations

## Corporate Signatories

247Solar	CivicMakers
A2 Walk and Talk Therapy	Clare V.
aBoBoBook	Classy
Activist Skincare	Cobbs Creek Healthcare
Aerie EDI Group	Comedy Central
All Good	Cox Automotive
Allvecia Natural Skin Care	Cox Communications
Alpharank	Cox Enterprises
American Green Consulting Group	Credo Mobile
Amicus Solar Cooperative	Danforth Pewter
Amyris	The Daniele Company
Anji Mountain	Dealer.com
Arabella Advisors	Demeter Fragrance Library
Arcweb Technologies	Denali Summit Partners
Arizona Federal Credit Union	Design Energy
Arosa+LivHome	Designlab
Arriviste Coffee	Diamond + Branch Marketing Group
Aspen Skiing Company	Digital Deployment
Avocado Green Mattress	The Disruption Society
Azavea	DN Tanks
Azimuth Energy	DSM North America
Backpacker's Pantry	Dwellsy
Ballot	ECOS
bambu	Edthena
Basic American Foods	Eileen Fisher
Beautycounter	Emerger Strategies
Bee's Wrap	Eventbrite
Ben & Jerry's Homemade	Everlane
Better APC	Fifth Dot Studio
bibo coffee co.	First Class Tutoring
The Big Playhouse	First Merchants Financial Services
Blue Mountain Outfitters	Flex Fusion Studios
Bollare	Flying Fish Company
Brigata	Forever Wild Seafood
Bryant Infrastructure	Fulfilling Destiny Enterprises
Bureo	Full Spectrum Wellness
Burgess Aircraft Management	Fully
Burgess Law Firm	Generation Conscious
Burton	The Glinsky Group
C.F. Bender	GreenWeaver Landscapes
C&M Motors	Guild Education
c change	Gyro Creative Group
Carolina Solar Energy	H2 Clipper
CauseLabs	Hannon Armstrong
Cheshire Law Group	Hanover Partners

Harry's	Mosaic Creation
The Hess Twins	MTV
HeyMama	New Belgium Brewing Company
HigherRing	New Directions Collaborative
Hims & Hers	Nixon
Hock Bratcher	Nomads
InMoment Software	Oveja Negra
Invisible Thread	Owen Jones and Partners
IVC Media	Oxide Design Co.
Jackson/Clark Partners	Parachute
JANE	Paradoxa Botanicals
Janska	Patagonia
JOY COLLECTIVE	Prosperity Candle
Joy Culture Events	Quinn Foods
Judith Lawrence Associates	Rachel Pally
JustLaws	Ranker
Kakao	Rasa
KEEN	Redemption Plus
Kemphorne Analytics	The Redwoods Group
Ketchum	REI
King Arthur Flour	Relish Studio
Kit Lender	Resilient Being
Klean Kanteen	REY architectural design
La Colombe Coffee	Richer Poorer
Lantos Technologies	Rivanna Natural Designs
Leadership Momentum	RSF Social Finance
Legacy Vacation Resorts	S1 Medical
Lime	Salon 5844
LineSync Architecture	Salt Palm Development
Lumi	Saperde
Lush Fresh Handmade Cosmetics	Seventh Generation
MaCher	The ShangriLa Group
Maine Beer Company	Shifting Patterns Consulting
Make it Radiant	Smack Happy Design
Mango Materials	Spirit Forward Healing
Marketing Partners	Square
Marrow	Stories By Design Events
Massage Vermont	Sunriver Sports
Master Clinician Network	Sustainable Brands
McCrea	sweetgreen
MCS Industries	Tahoe Mountain Sports
Mediocre Creative	Talenthouse Consulting
MegaFood	Teatulia Organic Teas
Metro Pacific Business Development Services	Techmana
Mighty Cricket	Technicians for Sustainability
MMercer Consulting	Teddy Stratford Apparel
Monarch Services	Teton Mountaineering
MoneySolver	Thinkshift Communications

THIRD EAR	Verbiage Audio
Tolerable Planet Enterprises	Vermont Creamery
Trailspace	Violet Grey
Travel & Nature	Visceral
Triangle Gluten-Free	W.S. Badger Company
Trillium Asset Management	Warby Parker
Unilever	Weddings of Color
Uptown Chair Upholstery	Work + Play
UserTesting	World of Good

### Business Groups & Trade Associations

American Independent Business Alliance  
 The Alliance for Business Leadership  
 Business for a Better Portland  
 Business for America  
 Florida for Good  
 Greater Seattle Business Association  
 Good Business Colorado Association  
 Local First Arizona  
 New Jersey Sustainable Business Council  
 North Carolina Business Council  
 Ohio Sustainable Business Council  
 Plexus LGBT + Allied Chamber of Commerce  
 Rocky Mountain Employee Ownership Center  
 Small Business Majority  
 Social Venture Circle  
 St. Louis Regional Chamber  
 Think Local First DC  
 Vermont Businesses for Social Responsibility

July 20, 2020

To Members of the United States Senate:

Wisconsin's primary election on April 7<sup>th</sup> of this year was an expression of the democratic spirit in a crisis, as thousands lined up to fulfill their civic duty. The right to vote is an essential element of our democracy and Americans should not have to choose between their rights of citizenship and their own health.

For epidemiologists and public health experts, Wisconsin's election took on other meanings, alarming many of us who have devoted ourselves to combating infectious diseases for all of our professional lives. Despite the Wisconsin Governor's plan to delay the election until June because of the *COVID-19* pandemic, the state legislature and the state supreme court refused to allow this postponement. Thus, many of us in public health looked on with horror as thousands of people in Wisconsin were forced to choose between exercising their right to vote and staying home to protect themselves from exposure to the new coronavirus *SARS-CoV-2*; those choosing the former were imperiling their own lives by voting in person that day. Though there were [new cases of COVID-19 among those who voted in person that day and those who worked at the polls in Wisconsin](#), the impact of the decision to go ahead with the primary on April 7<sup>th</sup> on the spread of the disease may never be known. However, as Dr. Ben Weston, the Medical Director for the Milwaukee County Office of Emergency Management, [has said](#): "*While we continue to monitor cases of Covid-19 linked to election activity, we know that gatherings such as (the election) are detrimental to the efforts to slow the spread of this pandemic.*"

Americans should never again be asked to choose between performing one of the most hallowed obligations and privileges of citizenship—voting for our representatives at the local, state and federal levels—and our health. This November 2020, we have a Presidential election before us. We also have the prospect of a resurgence of the coronavirus, *SARS-CoV-2*, which to date has killed over 140,000 Americans and infected more than 3.7 million people in the United States. Both the Director of the Centers for Disease Control and Prevention, Dr. Robert Redfield, the Director of the National Institute of Allergy and Infectious Diseases, Dr. Anthony Fauci, along with many other scientists, have warned about the possibility of a [resurgence of SARS-CoV2 this fall](#). Furthermore, until an effective vaccine is developed and widely administered in the US, [intermittent outbreaks of COVID-19 may reoccur at least until 2022](#). The potential for reoccurrences of *SARS-CoV-2* will require new rounds of social distancing to keep each outbreak in check.

In order to ensure the integrity of the electoral process and protect the public health at the same time, it is incumbent on our leaders to prepare for a Presidential election by mail, in which ballots are sent to all registered voters, to allow them to vote from home and ensure their health and safety in the event of a new outbreak of *SARS-CoV-2*. Several states already conduct most elections by mail, and [many states are preparing for by-mail voting in the fall](#). However, states will need resources to rapidly prepare to ensure that a vote-by-mail option is available to all voters. The costs of this effort—for ballot printing, postage costs, dropboxes for absentee ballots and appropriate security, secure electronic absentee ballot request technology, ballot tracking, improvements to absentee ballot processing, including additional facilities and staffing—are [estimated to total \\$4 billion](#) and will require a Congressional appropriation to support this work. In addition, while we hope most Americans will have the opportunity to vote by mail, maintaining the safety of in-person voting will also be required for November 2020, as well as subsequent elections as long as *SARS-CoV-2* circulates in the United States. These additional measures, including those that ensure polling facilities that meet public health standards, will entail [\\$271.4 million](#) in federal funds.

Members of Congress must ensure funding for the rapid scale-up of by-mail voting nationwide in time for the 2020 Presidential election, and our local and state election officials must do all they can to support American citizens' right to vote, while protecting them from *SARS-CoV-2* infection and from spreading the virus during a pandemic. The right to vote should not have to be sacrificed or compromised to ensure our health and safety. If you act now, we can all vote without fear of acquiring or spreading *COVID-19* as we exercise this fundamental democratic right in November 2020.

Respectfully yours,

Name	Title	Institution
Gregg Gonsalves, PhD	Associate Professor	Yale School of Public Health and Yale Law School
Carl T. Bergstrom, PhD	Professor	University of Washington
Laurie Litman, MS	President	350 Sacramento
John Beardsley, BA, LMT	Retired	350 Seattle
Michael O'Loughlin, PhD	Professor	Adelphi University
Scott Pytluk, PhD	Core Faculty	Adler University
Amelia Hausauer, MD	Director of Dermatology	Aesthetx
Jeffrey Bruce Hillenberg, PhD	Psychologist	Affiliated Psychologists of Michigan
Katherine E. Ginsbach, MS, JD	Medical- Legal Partnership Attorney	Alaska Native Medical Center
Alissa Baker, MD	Assistant Professor	Albert Einstein College of Medicine
Laura Korin, MD, MPH	Professor	Albert Einstein College of Medicine
George Shaw, MD	Physician	Allegheny Health Network
Carly M. Goldstein, PhD	Assistant Professor (Research)	Alpert Medical School of Brown University
Donna M. Staton, MD, MPH	Pediatrician and Director of International Community Access to Child Health Program	American Academy of Pediatrics
Linda Garcia-Shelton, PhD, MHSA	Clinical Psychologist, and Public Health Practitioner	American Board of Professional Psychology Foundation
Kitturah Schomberg-Klaiss, DO	Physician	American Family Care
Phyllis Rifkin-Russell, LMHC, CGP	Psychotherapist	American Group Psychotherapy Association
Linda Garcia- Shelton, PhD, MHSA	Clinical Health Psychologist	American Psychological Association
Joyce R. Gaufin, BS	Former President	American Public Health Association
Thespina Yamanis, MPH, PhD	Associate Professor	American University
Michael Friedman, MPH, PhD	Assistant Professor	American University of Antigua
Marie Coignet, PhD	Epidemiologist, Staff Scientist	AncestryDNA
Adam Hege, PhD, MPA	Professor	Appalachian State University
Gregory N. Shrader, PhD	Psychologist	Arizona State University
Mindy McEntee, PhD	Postdoctoral Scholar	Arizona State University
Duncan Maru, MD, PhD	Senior Faculty	Arnhold Institute for Global Health, Icahn School of Medicine at Mount Sinai
Janet K. Ashworth, PhD	Clinical Psychologist	Ashworth Psychological Services, PLLC
Winnifred Cutler, PhD	President and Founder	Athena Institute for Women's Wellness
Sacha Ramirez, MD	Physician	Aurora Advocate
Mark S Lowenthal, Psy.D	Licensed Psychologist	Barnabas Health
Hoda J Badr, PhD	Associate Professor	Baylor College of Medicine
Marisa Hilliard, PhD	Associate Professor of Pediatrics	Baylor College of Medicine and Texas Children's Hospital
Susan Cheng, PhD, MPH	Department Chair and Associate Professor	Benedictine University
Georgene Polyak, PhD	Associate Professor	Benedictine University
Mary Walsh, M.Ed.	Teacher	Big Lake High School
Jennifer Thompson, MD	Clinical Program Leader	Boehringer Ingelheim Pharmaceuticals

Stephen Soldz, PhD	Professor	Boston Graduate School of Psychoanalysis
Mardge Cohen, MD	Physician	Boston Health Care for the Homeless Program
Benjamin P Linas, MD, MPH	Associate Professor	Boston Medical Center and Boston University
Jonathan Shaffer	PhD Candidate	Boston University
Jacob Bor, SD	Assistant Professor	Boston University
Avik Chatterjee, MD, MPH	Assistant Professor	Boston University School of Medicine
Carolina Herrera, MA	Doctoral Candidate	Boston University School of Public Health
Jennifer Weuve, MPH, ScD	Associate Professor	Boston University School of Public Health
Calpurnia Roberts, PhD	Senior Policy Manager	Boston's Mayor's Office of Workforce Development
Morgan Shields, Ph.D. (expected 2020)	PhD Candidate	Brandeis University
Elizabeth Janiak, ScD	Research Investigator and Assistant Professor	Brigham and Women's Hospital, Harvard Medical School
Rachel Mealy, M.S.	Doctoral student	Brown University
Stephanie Catanese, MD	Physician and Assistant Professor of Medicine	Brown University
Josiah D. Rich, MD, MPH	Professor of Medicine and Epidemiology	Brown University
Anashua Rani Elwy, PhD	Associate Professor	Brown University, Warren Alpert Medical School
Sarah Hsu	Medical Student	Brown University, Warren Alpert Medical School
Andrea Boggio, JSD	Professor	Bryant University
David Bezanson, PhD	Clinical Psychologist Neuropsychologist	CA Climate Health Now
Christopher T. Kondo, PhD	Professor	Cal State Fullerton
Michael Latner, PhD	Professor, Research Scientist	California Polytechnic State University, Union of Concerned Scientists
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Juan Alvarez, PhD	Psychologist	California State University, San Marcos
Allie P Laurie Jr, M.A.	Psychology Intern	California State University, San Marcos
Andrew Choi, PhD	Psychology Postdoctoral Fellow	Cambridge Health Alliance / Harvard Medical School
Stacey Benson, PhD	Managing Health Scientist	Cardno ChemRisk
Naseem Dillman-Hasso, BA	Lab Manager	Carleton College
Margaret Falbo, DNP	Adjunct faculty	Carnegie Mellon University
Alan D. Levine, PhD	Professor	Case Western Reserve University
Kevin K. Makino, MD, PhD	Post-pediatric child psychiatry fellow	Case Western Reserve University
Linda Webb, LCSW	Clinical Social Work Psychotherapist	Catskill Addiction Coalition
Gary Howell, PsyD	Clinical practice and professor	Center for Psychological Growth & NLU
Erin McGuire Garza, MD, FAAP	Pediatrician	Central Oregon Pediatric Associates
J Gabriella	Physician	Charlotte Maxwell Clinic
Heinsheimer, MD	Director of Research and Health Equity and Licensed Psychologist	Cherokee Health Systems
Eboni Winford, PhD		

Berenice Rushovich, M.S.W	Research Scientist	Child Trends
Cassandra Howard, RN, BSN	Registered Nurse	Children's Hospital Minnesota
Bruce Bostrom, MD	Pediatric Oncologist and Hematologist Director of Training and Associate Clinical Director	Children's Hospital of Minnesota
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Susan Sencer, MD	Chief, Specialty Pediatrics	Children's Hospital of Minnesota
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Natalie Chin, MPH	Community Member	Climate Health Now
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Mary Ann Chiasson, MS, MPH, DrPH	Professor of Clinical Epidemiology	Columbia University
Jacqueline Merrill, RN, MPH, PhD	Professor of Nursing	Columbia University
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Marjaneh Moini, MD	Physician	John Muir Medical Group
David Bressler, MD	Physician	
Michael Ruiz, MD	Physician	

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Ravi Gupta, MD	Resident Physician	Johns Hopkins University
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Della Wright, MPH	Evaluator	Johns Hopkins University
David D Celentano, ScD, MHS	Professor	Johns Hopkins University
Mona Shattell, PhD, RN	Associate Dean	Johns Hopkins University School of Medicine
Justin Lowenthal	MD-PhD Candidate	Johns Hopkins University School of Public Health
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Eve Yalom, MD	Medical Doctor	Kaiser (Scripps)
Sally Kaufman, MD	Physician	Kaiser Permanente
Stephen Uong, MPH	Healthcare Data Analyst	Kaiser Permanente Medical Group
Jacqueline Kiang, MD	Physician	Kaiser Permanente Northern California
Candye Kroenke, ScD	Research Scientist	Kent State University
Tara C Smith, PhD	Professor	Keck School of Medicine
Caroline Hwang, MD, MMM	Professor/Physician	Khmer Health Advocates, Inc.
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Shara Sand, Psy.D	Retired Associate Professor	Lakeside School
Lindsay Aegerter, PhD	English Teacher	Lansing Community College and Jackson College
Abby Mortensen, BS, MS	Instructor	Legal Voice
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Michaela Kirby, Psy.D. Angie Millan, RN, DNP, FAAN	Professor	Los Angeles Community College
Sandra Mukasa, MPH, MCP	Policy & Research Coordinator	Los Angeles Homeless Services Authority
Grayson Holmbeck, PhD	Professor	Loyola University Chicago Mailman School of Public Health, Columbia University
Therese McGinn, PhD	Professor	Mailman School of Public Health, Columbia University
Jennifer S Hirsch, PhD	Professor	Main Street Psychology, LLC
Deborah Dawson, Psy.D.	Psychologist	Marion County Public Health Department
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Kenneth A. Freedberg, MD, MSc	Professor of Medicine	

Elise Pechter MPH, CIH	Industrial Hygienist	MassCOSH
Tina Marie Kristine Strickland, MD	Physician	Maternal Fetal Medicine
Bethanne Keen, PhD	Health Psychologist	Mayo Clinic Arizona
Dr. Anna Lowell, DO/MPH	Family Physician	MCR Health
Sadie Larsen, PhD	Associate Professor	Medical College of Wisconsin
Steven A. John, PhD, MPH	Assistant Professor	Medical College of Wisconsin
Jada Hamilton, PhD, MPH	Assistant Attending Psychologist	Memorial Sloan Kettering Cancer Center
William Tew, MD	Associate Attending Physician	Memorial Sloan Kettering Cancer Center
Janis Bohan, PhD	Professor Emerita	Metropolitan State University of Denver
Marjorie Scott, PhD	Psychology Professor	Michigan School of Psychology
Kelly Hirko, PhD	Assistant Professor	Michigan State University
Madeleine Lenski, MSPH	Research Specialist, Epidemiology	Michigan State University
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James C. Anthony, MSc, PhD	Professor, Epidemiology & Biostatistics	Michigan State University & Johns Hopkins University
Mark P. Behar, PA-C	Primary Care Provider in Family Medicine	Milwaukee Health Services, Inc.
Michael D. Mendoza, MD, MPH, MS	Commissioner of Public Health	Monroe County Health Department
Robert Byron, MD	Physician	Montana Health Professionals for a Healthy Climate
Milton Fuentes, PsyD	Professor	Montclair State University
Allie Bullock, BS	Graduate Student Research Assistant	Montclair State University
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Penny Jones, B.A., CRP	Retired recycling education specialist	Morris County, NJ, Municipal Utilities Authority
Ashley Chory, MPH	Research Manager	Mount Sinai
Jamie Ostroff, PhD	Chief, Behavioral Sciences Service	MSKCC
Crystal Adams, MPH, PhD	Assistant Professor	Muhlenberg College
Elizabeth (Lisa) Del Buono, MD	Surgical Pathologist	Munson HealthCare
Mark Cannon MD PhD	Physician	Munson Healthcare System
Reba Gilman, M.Ed.	VP of Education	Museum of Flight
Karlotta Bartholomew, PhD	Clinical Psychologist	N/A
Pamela Koehler, JD, MPH	Epidemiologist	N/A
Eli Grant, PhD	Health Research Scientist	N/A
Robin Movich	Teacher	N/A
Yvette Lam, MD	Gastroenterologist	N/A
Kathleen Meehan-de la Cruz, MD	Physician	N/A
Christina Wojnawsky, PA-C, MPH candidate, ATC	Physician Assistant	N/A
Jessica Lehrfeld, DO	Physician	N/A
Anna Borisovskaya, MD	Physician	N/A
Lida Tumer MD	Physician	N/A

Katherine Eastwood, MD	Physician	N/A
April Corley, MD	Physician	N/A
Soo Mee Pak, MD	Ophthalmologist	N/A
Sonia V Compton, MD	Physician	N/A
L. Kyle Horton, MD, MBA	Internal Medicine Physician	N/A
Garth Walker MD	Emergency Medicine Physician	N/A
Susan Kim, MD	Cardiac Electrophysiologist	N/A
Grace de Guzman MD	Emergency Medicine Physician	N/A
Sadeea Abbasi, MD, PhD	Gastroenterologist	N/A
Anita P. Somani MD	OB/GYN	N/A
Aliye Runyan, MD, MS	Gynecology and Family Planning	N/A
Jamie Weisman, MD	Dermatologist, Clinical Research	N/A
Ijeoma Azonobi, MD MPH	Medical Director	N/A
Katherine Rutherford MD	Physician	N/A
Purnima Patel, MD	Physician	N/A
Lou Ann Crume MD	Psychiatrist	N/A
Elizabeth Lassen, DO	Psychiatrist	N/A
Rahwa Ghermay, MD	Physician	N/A
Anita Chandra-Puri, MD	Pediatrician	N/A
Alisa Lorbalestrier MD	Emergency Physician	N/A
Rachel Reichlin, MPH, MSN, RN	Program Officer	N/A
Elizabeth G Finigan, MD	Physician	N/A
Dahlia Ferlito, MPH	Management Analyst	N/A
Michelle Bell, PsyD	Psychologist	N/A
Rhea Boyd, MD, MPH	Pediatrician	N/A
Lori Kondo	Private Practitioner	N/A
Rhonda Linde, PhD	Psychologist	N/A
Sharon H. Perrotta, Psy.D.	Retired Psychologist	N/A
Lucinda Monica, PsyD	Psychologist	N/A
Sigrid Larson, MD	Physician	N/A
Jane Leavitt, MS, FNP	Family Nurse Practitioner	N/A
Michael Hausauer LCSW	psychotherapist	N/A
Mithila Jegathesan, MD	Pediatrician	N/A
Margaret Vernon, PhD	Retired Psychologist	N/A
Jessica Duncan Cance, MPH, PhD	Research Public Health Analyst	N/A
Fatima Watt, PsyD	Clinical Psychologist	N/A
Christine Mason, PhD	Licensed Psychologist	N/A
Jamie Weisman, MD	Dermatologist	N/A

Joelle Boeve, MD	Anesthesiologist	N/A
Sandra J Winter, PhD, MHA	N/A	N/A
Joanna Bisgrove, MD	N/A	N/A
Anita Peñuelas MD, MPH	N/A	N/A
Larissa Guran, MD, MPH	Physician	N/A
Kathleen McGraw, MD	Physician	N/A
Patti Payne	N/A	N/A
Shahzad Tabibi, MD, FACOG	Physician	N/A
Phyllis Slife, DO	Physician	N/A
Tiffany Lahr, MD	Physician	N/A
Sharon R.Weil-Chalker, MD	Pediatric Cardiologist	N/A
Angela Lo, MD	Physician	N/A
Keli Donnelly, DO	Physician	N/A
Phyllis Slife, DO	Physician	N/A
Erika Roshanravan, MD	Family Physician	N/A
Jessica Rosen, MD	Emergency Physician	N/A
Erica Schuyler, MD	Neurologist	N/A
Rabia Choudry, MD	Neurologist	N/A
Alicia Hart, MD	Emergency Physician	N/A
Kendra Mendez, MD	Emergency Physician	N/A
Kate Grossman, MD	Physician	N/A
ously Le Blanc, MD	Physician	N/A
Veronica Contreras, DO	Physician	N/A
Vivian Y. Chang, MD, MS	Physician	N/A
Faith Galderisi, DO FAAP	Physician	N/A
Melissa Lipton, MD	Physician	N/A
Kari Lea Kari Cooper, MD, FACEP	Emergency Physician	N/A
Jessica Schemm, MD	Psychiatrist	N/A
Valerie Chatham MD	Emergency Physician	N/A
Sharon R.Weil-Chalker, MD	Pedia	
Kimberlynn Heller DO	OBGYN	N/A
Manisha Sharma MD FAAFP	Physician	N/A
Josette M Thompson MD	Physician	N/A
Jennifer Schubert, DO	Physician	N/A
Victoria Leiphart, MD	Physician	N/A
Natalie Robiou, MD	Physician	N/A
Carrie Danner, MD, FAAP	Pediatrician	N/A
Lindsay Stanley, MD	Physician	N/A
Srividya Bhadriraju, MD, MBA	Physician	N/A

Luisa Massari, MD	Physician	N/A
Sharette K. Gray, MD	Physician	N/A
Dorit Koren, MD, FAAP, MGH	Physician	N/A
Roberta E. Sonnino, MD, FACS, FAAP	Physician	N/A
Kay Vandenberg, MD, FACOG	Physician	N/A
Smitha R Chadaga, MD	Physician	N/A
Anne W Giuliano MD, CWPS, RVP	Physician	N/A
Shobha Mehta, MD	Physician	N/A
Inna Hughes MD, PhD	Physician	N/A
LeeAnn Tanaka, DO	Physician	N/A
Marilyn L Replogle, MD	Physician	N/A
Kelly Motadel, MD, MPH	Pediatrician	N/A
Mollie Herman, PhD	Psychologist	N/A
Christine M Cha, MD	Radiation Oncologist	N/A
Rosanne Hoffmann, PhD	STEM Project Leader (Educational product developer)	N/A
Pallavi Sindhu, MD	Physician	N/A
Andrea Palmer MD	OBGYN	N/A
Anika Denali Luengo, MD, FACOG	Physician	N/A
Heather Burks, MD	OBGYN	N/A
Norma Perales, MD	Physician	N/A
Stephanie Dukhovny, MD OBGYN	N/A	N/A
Meredith Lash-Dardia, MD	Professor	N/A
Ritika Arora, MD	Radiologist	N/A
Xiomara Munoz, DO	N/A	N/A
Midori Seppa	Pediatrician	N/A
Janae Brill, MD, MPH	Physician	N/A
Kathryn Malakorn-Lew MD, MPH	Internal Medicine Physician	N/A
Kristin Prentiss Ott, MD	Emergency Medicine Physician	N/A
Melinda Balarbar, MD	N/A	N/A
Jessica Halprin, MD	Internist	N/A
Kacia Lee, MD	Physician	N/A
Aviva Schein, MD	Pediatrician	N/A
Kathryn Lin, MD	Physician	N/A
Anne-Marie McCoy, MD	Physician	N/A
Regan Duffy MD MPH	Oncologist	N/A
Sara Oberhelman, MD, FAAFP	Physician	N/A
Kristina Schultdt, DO	Physician	N/A

Marin McCutcheon MD, MPH	Physician	N/A
Erica Kellenbeck, MD	Emergency Medicine	N/A
Mariam Kabir, MD, PhD	Physician	N/A
Jane van Dis MD	OB/GYN	N/A
Leila Khan, MD	Physician	N/A
Saira Najma Khan, MD	Emergency Medicine Physician	N/A
Carol Cheney	Endocrinologist	N/A
Rachael Lax, PhD	Clinical Psychologist	N/A
Barbara Kraft, MSW	Retired	N/A
Meredith Renda, MD	Pediatrician	N/A
Carla Barnes	Retired Engineer	N/A
Reverend D. Wiggins	Reverend	N/A
Linsey O'Donnell, DO	Physician	N/A
Emily Matlin, DO	Neurologist	N/A
Indu Gupta, MD	Pediatrician	N/A
Andrea Matsumura, MD	Physician	N/A
Patricia Smolter DO	Emergency Room Physician	N/A
Caren Reaves, MD, FACOG	Physician	N/A
Miyuki Murphy, MD	Radiologist	N/A
Yeva Johnson, MD, MPH	Medical Epidemiologist and Volunteer Faculty	N/A
Mona Mangat, MD	Physician	N/A
Michelle Wong, MD, FAAP	Physician	N/A
Anita Somani MD	Ob/Gyn	N/A
Jenny Abrams, MD	Physician	N/A
Kris Spanjian, MD	Critical Care Medicine	N/A
Lindsay Stanley, MD	Internal Medicine	N/A
Rana Samuel, MD	Clinical Assistant Professor, Dept. of Pathology and Anatomical Sciences	N/A
Deepa Kamath, DO, MPH	Infectious Diseases Physician	N/A
Pamelyn Close, MD, MPH	Adult and Pediatric Palliative Medicine	N/A
Robin Telerant, MD	Geriatric Medicine	N/A
Mary Kay Ness MD	Physician	N/A
L. Kyle Horton, MD, MBA	Physician	N/a
Hannah Kotch MD	Radiologist	N/A
Tejal Shah, MD	Physician	N/A
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Zach Radcliff, PhD	Pediatric Psychologist	Nemours and A.I. DuPont Pediatrics

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Wendy Ellen Parmet	Professor of Law	Northeastern University
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Christine Rini	Professor	Northwestern University
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Amanda J. Shallcross, ND, MPH	Assistant Professor	NYU School of Medicine
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Michelle Geller, LCSW	Social Worker	Old Irving Park Community Clinic
Terry Bush, PhD	Research Scientist	Optum
Kelly Carpenter, PhD	Senior Research Scientist	Optum Center for Wellbeing Research
Susan Bakewell-Sachs, PhD	Professor	Oregon Health and Science University
Kim Hoffman, PhD	Research Scientist	Oregon Health and Science University
Joshua Mendelsohn, PhD	Assistant Professor	Pace University
Erica Gollub, DrPH, MPH	Professor	Pace University
Andréa Sonenberg, PhD, WHNP, CNM-BC	Professor	Pace University
Sheryl Scalzo, MPH	Clinical Assistant Supervisor	Pace University
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Peter Goldblum, PhD, MPH	Professor Emeritus	Palo Alto University
Laurie Lippold, MSW	Public Policy Director	Partners for Our Children
Diane Bruessow, PA-C, DFAA	Faculty	Partners for Our Children Program and Yale University
Eric Ramirez-Ferrero, PhD, MPH, MSc	Technical Director	Pathfinder International
Cecelia Walter, RN, BSN	High School Nurse	Paul VI High School
Bruce S Zahn, Ed.D	Professor	PCOM
Jessica Henninger, MA, MS	Student	PCOM
Jes Matsick, PhD	Professor	Pennsylvania State
Britney Wardecker	Assistant Professor	Pennsylvania State University
Cara Exten, PhD, MPH	Assistant Professor	Pennsylvania State University
Emily Hohman, PhD	Assistant Research Professor	Pennsylvania State University
Gianna Frazee, MD	Physician	Permanente Medical Group
Bret Andrews, DO	Physician	Permanente Medical Group
Nicole Ryan, MS	Psychology Intern	Philadelphia College of Osteopathic Medicine
Elizabeth Gosch	Professor	Philadelphia College of Osteopathic Medicine
David Chamy, Psy.D. Candidate	Intern	Philadelphia College of Osteopathic Medicine
Portia E Womer, MPH	Graduate student	Philadelphia College of Osteopathic Medicine
Howard Pattis, MS Real Estate	President	Pinnacle Real Estate, Inc.
Sharon McEvoy, ARNP	Family Nurse Practitioner	Planned Parenthood
Lara Vaz, PhD	Senior Learning Director	Population Reference Bureau
Joanna L. Perkins, MD, MS	Medical Director, Hematology-Oncology PhD Candidate, Ecology & Evolutionary Biology	PRA Health Sciences
Joseph Bak-Coleman	PhD Candidate, Ecology & Evolutionary Biology	Princeton University
Dylan H. Morris	PhD Candidate, Ecology & Evolutionary Biology	Princeton University
Flavio Epstein, PhD	Licensed Clinical Psychologist	Private Practice
Harold D Kooden, PhD	Clinical Psychologist	Private Practice
Victoria DiCicco, PhD	Clinical Psychologist	private practice

Chester D. Copemann, PhD	Emergency Response Specialist	Private Practice
Norton Kalishman, MD	Physician	Private Practice
Carol R Heffer, MA	Licensed Mental Health Counselor	Private Practice
Shenna Shepard, PsyD	Psychologist	Private Practice
Ilana Lev-El, PsyD	Psychologist	Private Practice
Julie Parsons, PhD	Private Practice Clinician	Private Practice
Kathleen Tracy, PhD	Licensed Psychologist	Private Practice
Heather Anne Jones, MBA	Manager	Private Practice
Ann Betz, LCSW	Psychotherapist	Private Practice
Gail Straw, MSSW	LICSW, Psychotherapist	Private Practice
Elsa Alanis	Psychologist	Private Practice
Brenda Austin, PhD	Health Care provider	Private Practice
Don Gaede, MD	Private Practice	Private Practice
Christine Newsom, M.D.	Retired Internist	Private Practice
Deborah Rosen M.Ed.	Educator	Private Practice
Kathryn Campana, PhD	Psychologist	Private practice
Janice Tomakowsky, PhD, MPH	Clinical Psychologist	Private Practice
Carol R. Wenzel-Rideout, PsyD	Clinical Psychologist	Private Practice
Lawrence Mendelsohn, MD	Clinician	Private practice
Sarah E. Baker, PhD	Clinical Psychologist	Private Practice
Jane E. Runion, PhD	Licensed Psychologist	Private Practice
Howard Markus, PhD	Psychologist	Private Practice, University of Rochester Medical Center
Padmini Nehru, MD	Physician	Pro Sports Club
Kate Harrison, BSN-RN	Registered Nurse	Providence Health
Jane Rapinchuk, MD	Psychiatrist	Psychiatry Indiana Health Group
John Heil, DA	Clinical Psychologist	Psychological Health Roanoke
Shannon Offerman, MD	Physician	Radiation Oncology Associates
Maisha Amen, PhD	Professor	Ramapo College
Maya Poran, PhD	Associate Professor of Psychology	Ramapo College
Kathleen Fagan, MD, MPH	Consultant	Retired
Wendy Kaplan	Retired	Retired
Arlene Hoffman, PhD	Retired	Retired
Susan B. Klastorin, M.Ed.	Teacher	Retired
Susan McBay, MSW	Retired	Retired
Judith Farber, PhD	Retired	Retired
Jennifer Hessel	Retired	Retired
Leah Rosenkrantz, ACSW, LCSW	Family Therapist	Retired
Carol N Hirsh, MSW	Social Worker	Retired
Vicki Kirsch	Retired	Retired
Christine Browning, PhD	Retired Psychologist	Retired

Anna C. Walden, PhD	Psychologist	Retired
Joel Eritz, MS	Teacher	Retired
Anita Reich, MA	Retired	Retired
Gail Gappell	Retired	Retired
Carol S Gown	Attorney, Retired	Retired
Philip Cooper	None	Retired
Stanley Habib, CPA	Retired	Retired
Margit Berg, BSN	Retired	Retired
Susan Stillman, MD	Retired	Retired
Morton Newman	Retired	Retired
James Prince, MD	Clinician	Retired
Charles H. Stinson, MD	Associate Professor, Clinician	Retired
Karina Maher, MD	Physician	Retired
Deborah Wallace, PhD	Retired	Retired
T Stephen Jones, MD	Retired	Retired
Susan Neitlich, MALS, MFA	Educator	Retired
Katherine White, MD	Physician	Retired
Gilda Lorensen, MD	Physician	Retired
Rachel David, MD	Physician	Rochester Regional Health
Rael Slavensky, RN, MA, MPH, MSN	Public Health Nurse Retired	Rock Island County Health Department
Amy Webb Girard, PhD	Associate Professor	Rollins School of Public Health, Emory University
Kristin Schneider, PhD	Associate Professor	Rosalind Franklin University of Medicine & Science
Aviva Ariel-Donges, PhD, MPH	Postdoctoral Fellow in Health Psychology	Rush University Medical Center
Laura Zimmermann, MD, MS	Physician	Rush University Medical Center
Angela Fong, PhD	Instructor	Rutgers Cancer Institute of New Jersey
Vincent M. B. Silenzio, MD, MPH	Professor of Urban-Global Public Health	Rutgers School of Public Health
Stephan Schwander, MD, PhD	Associate Professor	Rutgers School of Public Health
Stacy N. Davis, PhD, MPH	Faculty	Rutgers School of Public Health
Stephanie Shiau, PhD, MPH	Instructor	Rutgers School of Public Health
Leslie Kantor, PhD, MPH	Chair, Department of Urban-Global Public Health	Rutgers School of Public Health
Paul Duberstein, PhD	Professor and Chair, Department of Health Behavior, Society, and Policy	Rutgers School of Public Health
Patrick Connelly, Psy.D	Professor	Rutgers University
Robin M Cogan	Nursing Faculty	Rutgers University
Cynthia Golembeski, MPH	PhD and JD student	Rutgers University
Karen Riggs Slean, Psy.D.	Associate Teaching Professor	Rutgers University
Chongyi Wei, PhD	Associate Professor	Rutgers University
Nir Eyal, DPhil	Henry Rutgers Professor of Bioethics	Rutgers University
Carolyn Heckman, PhD	Associate Professor	Rutgers University
Kristen Riley, PhD	Assistant Professor	Rutgers University

Nancy L. Bloom, PsyD	Clinical psychologist	Rutgers University
Marybec Griffin, PhD, MPH, MA	Assistant Professor	Rutgers University
Marybec Griffin, PhD, MPH, MA	Assistant Professor	Rutgers University
Deana Stevens, PsyD	Clinical Psychologist	Rutgers University Alumna
Kinya Swanson, PsyD	Clinical and Forensic Psychologist	Rutgers University Graduate School of Applied and Professional Psychology
Perry Halkitis, PhD, MSD, MPH	Dean, Professor & Director CHIBPS	Rutgers University School of Public Health
Linda C Knust, PsyD	Licensed Psychologist	Rutgers, GSAPP
Michael K. Gusmano, PhD	Associate Professor	Rutgers, The State University of New Jersey
Olga F. Jarrin, PhD, RN	Assistant Professor	Rutgers, The State University of New Jersey
Dorothy W. Cantor, PsyD	Retired	Rutgers, the State University of New Jersey
Brian P. Grady, MD	President	San Francisco Marin Medical Society
Carrie Lande, MBA	Manager	San Francisco State University
Lisa Moore, DrPH, MPH	Associate Professor	San Francisco State University
Toby Adelman, RN, PhD	Professor Emeritus	San Jose State University
Elizabeth O. Dietz, EdD, RN, CS-NP, CSN	Professor Emeritus, School of Nursing	San Jose State University
Morgan Leafe, MD, MHA	Pediatrics Physician	Santa Barbara
Shweta Ghosh, PhD	Psychologist	SCH
Adrienne Markus, MS, CHC	Certified Health Coach	School of Applied Functional Medicine
Katharine M. Woessner, MD, FAAP	Physician	Scripps Clinic Medical Group
Lori G. Byron, MS, MD, FAAP	Medical Doctor	SCL Health
Jacob Bentley, PhD	Associate Professor	Seattle Pacific University
Wendy S Goffe	Adjunct Professor	Seattle University
Kimberly Licht	Teacher	Self Employed
Maria Erlitz	Leadership Consultant	Self-Employed
Judith A Kovach, PhD	Clinical Psychologist	Self-Employed
Julie Nagel, MSW	Consultant/Supervisor	Self-employed
Mary Harb Sheets, PhD	Psychologist	Self-employed
Kate Bond, RN	RN Case Manager	Self-employed
Maureen Benjamins	Senior Research Fellow	Sinai Health System
Dazon Dixon Diallo, DHL, MPH	President and CEO	SisterLove, Inc
Emmanuel Balogun, PhD	Assistant Professor	Skidmore College
Lindsay Bullock, CAE	Executive Director	Society of Behavioral Medicine
Jean M Breny, PhD	Professor and Chair	Southern Connecticut State University
Beverly Greene, PhD	Professor of Psychology	St. John's University
Nancy Ruddy, PhD	Professor	Stanford Healthcare, Antioch New England
Kate Lorig, DrPH	Professor Emerita	Stanford University
Joshua Salomon, PhD	Professor	Stanford University
Cynthia Mahoney, MD	Retired, Associate Clinical Professor	Stanford University

Judy Nguyen, MD	Clinical Assistant Professor	Stanford University
Hannah Valino, MD, MPH	Resident Physician	Stanford University
Barbara Erny, MD	Physician	Stanford University
Lynne Wittenberg, MPH	Project Coordinator	Stanford University
Muriel Beattie, PhD	Retired College Professor	State University of New York, Oneonta
Dodie Gillett, PhD	Clinical Assistant Professor	Stony Brook Medicine
Jennifer Bowers, MA, PhD	PhD Student and Research Fellow	Stony Brook University
Sharon Lewinski, RN	Nurse	Strong Memorial Hospital
Jack DeHovitz, MD, MPH, MHCDS	Distinguished Service Professor	SUNY Downstate Health Sciences University
Priya Jadeia, MD	Breast Surgeon	Summit Medical Group
Ann Susan Mohler, MD	Pediatrician	Sutter Health
Nancy Mead, RN, BSN, NCSN	Registered Nurse	Swift River School
Michael Koski, PhD	Professor and Psychologist	Teachers College
Sarah McClure	Operations	Technology Business
Linda Yang, MPH	Program Evaluation Research Analyst	Telecare Corporation
Julie Bressler, MAJE	Rabbi	Temple Beth Shalom
Scott Burris	Professor of Law and Public Health	Temple University Beasley School of Law
Melissa DuPont-Reyes, PhD, MPH	Assistant Professor	Texas A&M University
Elana Maurin, MHS, PhD	Associate Professor	The Chicago School of Professional Psychology
Adrianna W Zimring, PhD	Health Service Psychologist	The Evidence Based Practice of Nevada
Whitney Owens, PsyD	Licensed Psychologist	The Evidence Based Practice of Nevada
Antwan Jones, PhD	Associate Professor	The George Washington University
Darlyne G Nemeth, PhD	Clinical, Medical, & Neuropsychologist	The Neuropsychology Center of Louisiana, LLC.
Mindy Fullilove, MD	Professor of Urban Policy and Health	The New School
Lara Sucheston-Campbell, PhD	Associate Professor	The Ohio State University
Sandy Summers, RN, MSN, MPH	Registered Nurse and Non-profit director	The Truth About Nursing
Jess Seline	Master of Public Health Graduate Student	The University of Arizona
Scott J. Hunter, PhD	Professor	The University of Chicago
Kimberly Powers, PhD	Associate Professor of Epidemiology	The University of North Carolina at Chapel Hill
Lee C. Balance, MD	Adjunct Faculty	Touro College of Osteopathic Medicine, Mare Island
Nancy Mramor, PhD	Psychologist	Transformedia, LLC
Andrea Gordon, MD	Associate Professor	Tufts University School of Medicine
Katherine Theall, PhD	Professor	Tulane University
Amanda Millstein, MD	Medical Doctor	UBCP Hilltop Pediatrics
Amanda Millstein, MD	Medical Doctor	UBCP Hilltop Pediatrics
Angela-Maithy Nguyen, MPH	Epidemiologist	UC Berkeley
Martha Early, PhD	Pediatric Psychologist	Unity Point
Elizabeth Vasquez	Associate Professor	University at Albany
Alicia Agnoli, MD, MPH, MHS	Assistant Professor	University of California, Davis

Christine Colella, DNP, APRN-CNP	Nurse Practitioner and Professor	University of Cincinnati
J. Nicholas Dionne- Odom, PhD, RN	Assistant Professor	University of Alabama, Birmingham
Karen Cropsey, PsyD	Professor	University of Alabama, Birmingham
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Cheryl Ritenbaugh, PhD, MPH	Professor Emerita	University of Arizona
Douglas Taren, PhD	Professor of Public Health	University of Arizona
Kaaren Coffin, M.A.	Former Visiting Professor	University of Arizona
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N/A	N/A	University of California Berkeley, School of Public Health
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Dayna Isaacs, MPH	Medical Student	University of California, Davis
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John L. Griffin, B.S.	Retired Real Estate Developer	University of California, Berkeley
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Stephen M Shortell, PhD	Professor	University of California, Berkeley
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Julia Schleimer, MPH	Research Data Analyst	University of California, Davis
Leigh Ann Simmons, PhD, MFT	Professor and Chair	University of California, Davis
Elizabeth Berg, BS	PhD Student	University of California, Davis
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Steffanie Strathdee, PhD	Professor and Associate Dean, Global Health Sciences	University of California, San Diego
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Jennifer C Taylor, PhD	Design Fellow	University of California, San Diego
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Maria Ekstrand, PhD	Professor	University of California, San Francisco
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Kristi Alexander, PhD		
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Maylyn Martinez MD	Hospitalist	University of Chicago
Lisa Mordell MS	research specialist	University of Chicago
Mai Tuyet Pho, MD MPH	Assistant Professor	University of Chicago
Alisa McQueen MD	Associate Professor	University of Chicago
Rita Rossi-Foulkes, MD	Associate Professor	University of Chicago
Diane S. Lauderdale, PhD	Professor Helen Ross Professor of Social Service Administration	University of Chicago
Harold Pollack		University of Chicago
Michael Gold, MBA	Founder and Principal	University of Chicago
Denise K. Gormley, PhD, RN	Professor and Associate Dean	University of Cincinnati

Suzanne Perraud, RN, PhD	Professor and Senior Associate Dean Emeritus	University of Cincinnati
Angela Clark, PhD, RN	Assistant Professor	University of Cincinnati
Greer Glazer, RN, PhD, FAAN	Dean	University of Cincinnati College of Nursing
Stephen J. Cummings, PhD	Psychologist	University of Colorado
Danielle Loeb, MD, MPH	Associate Professor	University of Colorado
Jennifer Reich, PhD	Professor	University of Colorado
Jimi Adams, PhD	Associate Professor	University of Colorado, Denver
Sarah S. Willen, PhD, MPH	Associate Professor of Anthropology and Director, Research Program on Global Health & Human Rights	University of Connecticut
Julie Wagner, PhD	Professor	University of Connecticut
Thomas Buckley, PharmD, MPH	Associate Professor of Pharmacy Practice	University of Connecticut
Elena Rhoads-Baeza, MD, PhD	Assistant Clinical Professor	UCI
Natalie Dean, PhD	Assistant Professor	University of Florida
Linda Cottler	Professor and Associate Dean for Research	University of Florida
Michael G. Perri, PhD, ABPP	Dean, College of Public Health and Health Professions	University of Florida
Maya Maxym, MD PhD	Assistant Professor	University of Hawai'i,
David Stupplebeen, PhD, MPH	Evaluation Coordinator	University of Hawai'i, Mānoa
Karen Egonis, JD	Attorney	University of Houston
Nathan Grant Smith, PhD	Associate Professor	University of Houston
Blas Gonzalez, CMA	Certified Medical Assistant	University of Illinois
Shikha Jain MD FACP		University of Illinois
Corina Wagner, M.Ed., MBA	Senior Research Specialist	University of Illinois at Chicago
Aisha Harris, MD	Physician	University of Illinois Chicago
Hari Athreya	Physician	University of Illinois Chicago
Roni Diamant-Wilson, MD	Researcher	University of Illinois, Chicago
Ashley Imburgia, Psy.D.	Assistant Professor	University of Illinois, Chicago
Wendy Bostwick, PhD, MPH	Associate Professor	University of Illinois, Chicago
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Linda Rae Murray, MD, MPH, FACP	Past President, American Public Health Association	University of Illinois, Chicago, School of Public Health
Elizabeth Jarpe-Ratner, PhD, MPH, MST	Clinical Assistant Professor	University of Illinois, Chicago, School of Public Health
Elizabeth C. Berigan, MD	Staff Physician, Department of Internal Medicine	University of Iowa Hospitals and Clinics
Monica Kurylo, PhD, ABPP	Professor and Director of Neurorehabilitation Psychology	University of Kansas Medical Center
Jennifer Havens, PhD, MPH	Professor, Epidemiologist	University of Kentucky
Courtney Smith, PhD	Assistant Professor	University of Louisville
Barbara Stetson, PhD	Associate Professor	University of Louisville
Bryan D. Carter, PhD	Professor of Pediatrics	University of Louisville School of Medicine

Devon Payne Sturges, DrPH	Assistant Professor	University of Maryland University of Maryland, Baltimore School of Medicine
Lydia Temoshok, PhD	Retired Professor of Medicine	University of Massachusetts
Risa Silverman, MPH	Outreach Director	University of Massachusetts Medical School
Heather-Lyn Haley, PhD	Assistant Professor	University of Massachusetts, Boston
Sharon Home, PhD	Professor	University of Miami
Steven Safren, PhD	Professor Professor and Director of Community Engagement	University of Michigan
Trina Shanks, PhD	PhD Candidate	University of Michigan
Tarlise Townsend, BA, BS	Assistant Professor, Psychologist	University of Michigan
Dana Albright, PhD	Professor	University of Michigan
Marie O'Neill, PhD	Assistant Professor	University of Michigan
Predrag Klasnja, PhD	Assistant Research Scientist	University of Michigan
Andrew Brouwer, PhD, MS, MA	Research Investigator	University of Michigan
Jana Hirschtick, PhD	Assistant Professor	University of Michigan
Alison Mondul, PhD, MSPH	Planning and Evaluation Coordinator	University of Michigan
Lindsay TerHaar, MPH	Professor	University of Michigan
Matthew L. Boulton, MD, MPH	Research Director	University of Michigan School of Public Health
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Ryan Malosh, PhD, MPH	Hunein F & Hilda Maassab Professor of Epidemiology	University of Michigan School of Public Health
Betsy Foxman, PhD, MSPH	Assistant Professor	University of Michigan School of Public Health
Holly Jarman, PhD	Professor	University of Michigan, Ann Arbor
Scott L. Greer, PhD	Registered Nurse	University of Michigan, Flint
Michelle Van Elsacker, BSN, RN, CCM	Professor	University of Michigan, School of Public Health
Carlos Mendes de Leon, PhD	Professor ad Honorem	University of Minnesota
Joanne Disch, PhD, RN	Associate Professor	University of Minnesota
Debra DeBruin, PhD	Assistant Professor	University of Minnesota
Christine Conelea, PhD	Adjunct Professor, Acting Chair HHS Secretary's Advisory Committee on Infant Mortality	University of Minnesota
Edward P Ehlinger, MD, MPH	Associate Professor Emerita	University of Minnesota
Joan Patterson, PhD	Associate Professor	University of Minnesota
Andrew Busch, PhD	Dean, College of Liberal Arts	University of Minnesota, Duluth
Jeremy Youde, PhD	Associate Professor	University of Minnesota, School of Public Health
Sarah Gollust, PhD	Professor Emerita	University of Missouri
Marjorie R Sable	Associate Professor and Clinical Psychologist	University of Missouri, Kansas City, School of Medicine, Children's Mercy Hospital
Dustin Wallace, PhD	Graduate Student Researcher	University of Missouri, St. Louis
Kathryn Cherry, PhD	Assistant Professor and Licensed Psychologist	University of Nebraska Medical Center
Christian Klepper, PsyD	Public Health Professional	University of New Mexico
Justin Garoutte, MPH	Associate Professor	University of New Mexico
Jessica Goodkind, PhD		

Elizabeth Dickson, PhD, RN	Assistant Professor	University of New Mexico, College of Nursing
Tonia Poteat	Professor	University of North Carolina
Kathryn Wouk, PhD	Postdoctoral Research Fellow	University of North Carolina
Benjamin Mason Meier, JD, LL.M., PhD	Professor	University of North Carolina Chapel Hill
Shelley Golden, PhD, MPH	Assistant Professor	University of North Carolina, Chapel Hill
Trude Ann Bennett, DrPH	Associate Professor Emerita	University of North Carolina, Chapel Hill
Daniel Westreich, PhD	Associate Professor of Epidemiology	University of North Carolina, Chapel Hill
Sandra Soto, PhD	Assistant Professor	University of North Carolina, Chapel Hill
Yanica F. Faustin, PhD, MPH	Research Scientist	University of North Carolina, Gillings School of Global Public Health
Sandra E. Echeverria, PhD	Associate Professor	University of North Carolina, Greensboro University of Oklahoma Health Science Center
Diane J. Willis, PhD	Professor Emeritus, Pediatric Psychology	
George M. Shaw, MD, PhD	Professor	University of Pennsylvania
Batrice H. Hahn, MD	Professor of Medicine	University of Pennsylvania
Sage Myers, MD MSCE	Associate Professor of Pediatrics	University of Pennsylvania
Katharine Bar, MD	Assistant Professor of Medicine	University of Pennsylvania
Lisa Schwartz, PhD	Associate Professor and Research Scientist	University of Pennsylvania
Jacqueline Dunbar- Jacob, PhD	Professor and Dean	University of Pittsburgh
Margaret Q Rosenzweig, PhD	Professor	University of Pittsburgh
Sandra Engberg, PhD, RN, CRNP	Professor	University of Pittsburgh
Carol Washburn, EdD	Director	University of Pittsburgh
Sarah Belcher, PhD, RN	Assistant Professor and Research Scientist	University of Pittsburgh
Heidi A.S. Donovan, PhD, RN	Professor	University of Pittsburgh
Sam Donovan, PhD	Research Scientist	University of Pittsburgh
Betty Braxter, PhD	Associate Professor	University of Pittsburgh
Cherri Rogers, BSN	Clinical Coordinator	University of Pittsburgh
Amanda Raczkowski, MFA	Department Coordinator	University of Pittsburgh
Michele D. Levine, PhD	Associate Professor	University of Pittsburgh
Lora E Burke, PhD, MPH	Professor	University of Pittsburgh
Na-Jin Park, PhD	Assistant Professor	University of Pittsburgh
Bettina Dixon, DNP, CRNA	Assistant Professor	University of Pittsburgh
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Diana Schroeder, DNP, RN	Professor of Nursing	University of Pittsburgh, Johnstown

Colleen A. Redding, PhD	Research Professor	University of Rhode Island
Supriya Mohile	Professor	University of Rochester
Jacques Robert, PhD	Professor	University of Rochester
Nikeshia Gilmore, PhD	Research Assistant Professor	University of Rochester
Mathew Devine, DO	Physician	University of Rochester
Supriya Mohile, MD	Professor of Oncology	University of Rochester
Holly Ann Russell, MD, MS	Assistant Professor Family Medicine	University of Rochester
Erika Ramsdale MD	Professor	University of Rochester
Colleen T. Fogarty, MD, MSc	Professor of Family Medicine	University of Rochester
Anne Nofziger, MD	Physician and Medical School Faculty	University of Rochester
Ellen Poleshuck, PhD	Associate Professor	University of Rochester
Elizabeth Brown, MD, MPH	Associate Professor	University of Rochester
Aaron Black, PhD	Senior Psychologist	University of Rochester
Celeste Song, MD, MS	Assistant Professor, Department of Family Medicine	University of Rochester
Susan H McDaniel, PhD	Professor	University of Rochester Medical Center
Allison Magnuson, DO	Assistant Professor	University of Rochester Medical Center
Ronald Epstein, MD	Professor of Family Medicine	University of Rochester Medical Center
William H Watson, PhD	Associate Professor of Psychiatry (Psychology) and Neurology	University of Rochester Medical Center
Michael G. Hirsh, MD	Retired Pediatrician	University of Rochester Medical Center
Robert A Pierce, PhD	Clinical Associate Professor of Psychiatry	University of Rochester Medical School
Elizabeth H Naumburg, MD	Professor and Associate Dean, Advising	University of Rochester School of Medicine
David C. Holub, MD, FAAFP	Associate Professor of Family Medicine	University of Rochester School of Medicine & Dentistry
Thomas Campbell, MD	Professor	University of Rochester School of Medicine and Dentistry
Marie Sergent, PhD, CGP	Psychologist	University of Rochester, Private Practice
William Barker, MD	Emeritus professor	University of Rochester, School of Medicine
Christine Caruso, PhD, MPH	Director of Undergraduate Public Health	University of Saint Joseph
Ann M. Mayo, DNSc	Professor	University of San Diego
Alison Cohen, PhD, MPH	Assistant Professor	University of San Francisco
Thomas Patterson, PhD	Professor	University of San Francisco
Abraham Wandersman, PhD	Professor	University of South Carolina
Melissa Stansbury, MS, PhD	Research Assistant	University of South Carolina
Laura Hein, PhD, RN	Associate Professor	University of South Carolina
Tyan Parker Dominguez, PhD	Clinical Professor	University of Southern California
Marcy Souza, DVM, MPH, MPPA	Associate Professor and Director of Veterinary Public Health	University of Tennessee
Rebecca Krukowski, PhD	Associate Professor	University of Tennessee Health Science Center
MSN, RN, WOC,	Medical Educator	University of Tennessee Health Science Center

Regina Lederman, PhD	Professor Emeritus	University of Texas Medical Branch University of Texas Southwestern Medical Center
Sandi Pruitt, PhD	Associate Professor	
Gabriela Moats, MA	Graduate Student	University of Texas, Austin
Amy Patterson, PhD	Professor	University of the South
Katarina Friberg		
Felsted, PhD	Associate Professor	University of Utah
Constance van Eeghen		
DrPH, MHSA, MBA	Assistant Professor	University of Vermont
Courtney Landau	Clinical Assistant Professor of Psychiatry and Pediatrics	University of Vermont, Larner College of Medicine
Fleisher, PhD, ABPP		
Kathryn Quissell, PhD, MPH, MSc	Assistant Professor	University of Virginia University of Washington, School of Medicine
Lynn M Oliver, MD	Associate Professor	
Karen Weiss, PhD	Associate Professor	University of Washington
Kolina Koltai, PhD	Postdoctoral Fellow, Information Studies	University of Washington
Sarah B. Andrea, PhD, MPH		
Zehava Chen-Levy, PhD	Postdoctoral Scholar, Epidemiology	University of Washington
Theodore Klastorin, PhD	Retired university professor	University of Washington
Julia Bent, DVM	Professor	University of Washington
Sharon Baden, BA	Veterinarian	University of Washington
Scott Halliday, MS	Retailer	University of Washington
Samuel Eastern, BS	Graduate Student	University of Washington
	Pharmacist	University of Washington
Keshet Ronen, PhD, MPH		
Alexey J. Merz, PhD	Clinical Assistant Professor	University of Washington
Azita Emami, PhD	Professor of Biochemistry, and of Physiology & Biophysics	University of Washington School of Medicine
Bernard Goffe, MD	Professor and Executive Dean	University of Washington
Andrew J. Saxon, MD	Clinical Professor (Retired)	University of Washington Medical School; CDC, Epidemic Intelligence Service
Sandra Clarren, PhD	Professor	University of Washington School of Medicine
Ashley Moss, PhD	Retired Clinician	University of Washington, Retired
	Attending Psychologist and Acting Assistant Professor	University of Washington, Seattle Children's Hospital
Daniel Olshansky, BS		University of Washington, University of California- Berkeley
Ann Behrmann, MD	Landscape Design Consultant	University of Wisconsin School of Medicine and Public Health
Ryan McKelley, PhD	Pediatrician	
Shauna Meyer MD	Professor	University of Wisconsin, La Crosse
Christopher W. Olsen, DVM, PhD	Professor	University of Wisconsin Family Medicine
Lisa Cadmus-Bertram, PhD	Professor Emeritus and Director	University of Wisconsin, Madison
Eric Rubenstein, PhD	Assistant Professor	University of Wisconsin, Madison
Jonathan Alan Patz, MD, MPH	Research Scientist	University of Wisconsin, Madison
Cynthia Smith, BA	Professor and Director, Global Health Institute	University of Wisconsin, Madison
Louise Doss Martin, MA, ACSW, ABD	Graduate Student, Counselor-in-training	University of Wisconsin, Madison
	Retired, CAPT, US Public Health Service	US Public Health Service

Laravic Flores, MD	Family Physician	Valley Family Medicine Residency
Christina Savage, PhD	Postdoctoral Scientist	Vanderbilt University
Beverly Cail, DNP, FNP-C, ENP-C	Family Nurse Practitioner	Veteran Affairs
Sarah Raskin, PhD, MPH	Assistant Professor	Virginia Commonwealth University
Patricia Kinser, PhD	Associate Professor	Virginia Commonwealth University
Sarah Soung, MD	Physician	Virginia Mason
David Obuck	Information Technology Project Manager	Virginia Mason Medical Center
Stephanie Smith, PhD	Associate Professor	Virginia Tech
Kathy Siegel	Real Estate Consultant	Vista Sotheby's International Realty
Robin W. Simon, PhD	Professor of Sociology Assistant Professor, Director of Behavioral Health	Wake Forest University
Aubry Koehler, PhD	Psychologist and Departmental Manager	Wake Forest University School of Medicine
Jessica Tomasula, PhD	Research Investigator	Wake Med Children's Hospital
Renae Smith-Ray, PhD, MA	Clinical Forensic Psychologist	Walgreens Center for Health and Wellbeing Research
Michael L. Hendricks, PhD, ABPP	Professor	Washington Psychological Center, P.C.
Kenneth E. Freedland, PhD	Epidemiologist	Washington University
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Josefa Sinkin, MD	Assistant Professor	Watsonville Community Hospital
Angela Jacques Tiura, PhD	Professor	Wayne State University
John P. Moore, PhD	Professor	Weill Cornell Medicine
Jessica Tyler, PhD	Professor	Weill Cornell Medicine
Kevin Larkin, PhD	Professor	West Virginia University
Kimberly Kelly, PhD	Associate Professor	West Virginia University
Christopher Cannon, MPH	Director of Research and Evaluation	Whitman Walker Health
Jodie Kliman, PhD	Professor, Clinical Psychologist	William James College
Marianne Sullivan, DrPH	Professor	William Paterson University
Eliza Holland, CNM, MSN	Certified Nurse Midwife	Women's Health Associates, LLC
Stacy Flowers, PsyD	Associate Professor	Wright State University
Poonam Daryani, MPH	Clinical Fellow	Yale Law School and School of Public Health
Ana Ramas	Doctor, Assistant Clinical Professor	Yale New Haven Health System
Datunashvili, MD	Certified Nurse-Midwife, APRN	Yale New Haven Hospital
Hallie Mathia, MSN, CNM, WHNP-BC	Nurse-Midwife	Yale New Haven Hospital
Jessica Pipitone	Professor, Medicine and Public Health	Yale School of Medicine
Stanek, CNM	Professor, Internal Medicine	Yale University School of Medicine
Mary Tinetti, MD	Professor of Medicine	Yale School of Medicine
Lynn Fiellin, MD	Director, Global Health Education	Yale School of Medicine
Thomas M. Gill, MD	Assistant Professor of Medicine	Yale School of Medicine
Anne Kellett	Associate Professor of Medicine	Yale School of Medicine
Sheela Shenoi MD MPH	MD Candidate	Yale School of Medicine
Sandra Springer, MD		Yale School of Medicine
Joseph Ladines-Lim, ScD		Yale School of Medicine, University of Michigan

LaRon E. Nelson, PhD, RN, FNP, FNAP, FAAN	Associate Professor and Associate Dean of Global Health & Equity	Yale School of Nursing
Michelle Telfer, DNP, MPH, CNM	Assistant Professor	Yale School of Nursing
Loren Fields, DNP, APRN	Professor and Nurse Practitioner	Yale School of Nursing
Shelley Geballe, JD, MPH	Assistant Professor of Clinical Public Health Professor of Epidemiology and Medicine and Department Chair	Yale School of Public Health
Albert I Ko		Yale School of Public Health
Hanna Ehrlich	PhD Candidate	Yale School of Public Health
Reza Yaesoubi, PhD	Assistant Professor	Yale School of Public Health
Marie Brault, PhD	Associate Research Scientist	Yale School of Public Health
Sara Niesobecki, MPH	Program Coordinator	Yale School of Public Health
James Meek, MPH	Associate Director, Yale Emerging Infections Program	Yale School of Public Health
A. David Paltiel, PhD	Professor	Yale School of Public Health
Taiga Christie, MPH, EMT	Program Manager	Yale School of Public Health HAPPY Initiative
Kyle Higgins, BA	Research Assistant	Yale School of Public Health, Yale Emerging Infections Program
Teresa Chahine, ScD	Lecturer	Yale University
Alyssa Parpia, MPH	PhD Candidate	Yale University
Harlan M Krumholz, MD	Professor	Yale University
Kirsty Clark, PhD, MPH	Postdoctoral Research Fellow	Yale University
David Vlahov, PhD, RN	Professor	Yale University
Talha Ali, PhD	Postdoctoral Fellow	Yale University
Margaret Holland, PhD, MPH	Research Scientist and Lecturer	Yale University
Joseph S. Ross, MD, MHS	Professor of Medicine and Public Health	Yale University
Jasmine, Travers, PhD	Postdoctoral Research Fellow	Yale University
Sarah Brothers, MA, MPhil	PhD Candidate, Research Associate	Yale University
Steve D. Whittaker, PhD	Postdoctoral Associate	Yale University
Alyssa Amick	Graduate Student	Yale University
Michael Skonieczny, MA	Deputy Director, Yale Institute for Global Health	Yale University
Tamara Rissman, MPH	Epidemiologist	Yale University
Ryan McNeil, PhD	Assistant Professor	Yale University
Margaret Grey, DrPH, RN	Professor	Yale University
Jordan Sloshower, MD	Psychiatrist	Yale University
Tracy L. Rabin, MD, SM	Assistant Professor of Medicine	Yale University School of Medicine
Julie A. Womack, MSN, PhD	Associate Professor	Yale University School of Nursing
Gina Novick, PhD, CNM	Associate Professor	Yale University School of Nursing; Fellow of the American College of Nurse-Midwives
Veronica Barcelona, PhD, MSN, MPH, RN	Assistant Professor	Yale University School of Nursing
Michelle Pievsky, PhD	Postdoctoral Fellow	Youth Consultation Service
Andrea Boms, MPH, RRT-NPS	Research Scientist and CEO	ZEN Clinical & Bioscience

**Letter from Declaration for American Democracy (DFAD) Organizations Urging the Senate to Make Additional Investments in State and Local Elections**

Senator Roy Blunt, Chairman  
Senate Committee on Rules & Administration  
Russell Senate Office Building, Room 260  
Washington, DC 20510

Senator Amy Klobuchar, Ranking Member  
Senate Committee on Rules & Administration  
Dirksen Senate Office Building, Room 425  
Washington, DC 20510

July 21, 2020

Dear Chairman Blunt and Ranking Member Klobuchar:

As you prepare to hold a hearing to examine the critical needs that our states must address in advance of the 2020 elections, our below organizations strongly urge you to invest additional resources for elections in the Senate version of the Heroes Act. Our organizations are part of the Declaration for American Democracy (DFAD), a coalition of more than 160 groups representing tens of millions of Americans, and we urge you to support the \$3.6 billion in election funding that was included in the House-passed Heroes Act so all voters can have their voices heard and votes counted this year.

Election officials throughout the country and on both sides of the aisle have spoken up to ask for Congress to prioritize additional resources for state and local elections. Nearly all (if not all) states do in fact need Congress to make additional investments so we can ensure that voting is safe, accessible, and secure this year. This year's elections face unprecedented challenges from the COVID-19 crisis and the economic recession. Millions of Americans, many of whom have lost their jobs and potentially their health care, should not have to choose between their health and their right to vote. Congress has a critical role to play to ensure that no voters are disenfranchised this year.

The \$400 million in election funding included in the CARES Act was a fine first step, but states need significantly more resources. As you know, voters in some states' primaries faced significant barriers, including:

- Waiting in hours' long lines (up to five or more hours in [certain instances](#));
- Finding their polling locations closed;
- Not receiving absentee ballots; and
- Receiving their absentee ballots but not having them returned in time or not having them counted

We cannot let these problems be repeated in this November's election. Voters have been able to cast their ballots during wars, natural disasters, and pandemics, and the COVID-19 pandemic

presents unique circumstances to voting this year. Our democracy requires continued investments, and we strongly urge you to provide \$3.6 billion for election funding in the Senate version of the Heroes Act.

Sincerely,

Brady United Against Gun Violence  
Center for American Progress (CAP)  
Church World Service  
Citizens for Responsibility and Ethics in Washington (CREW)  
Clean Elections Texas  
Climate Reality Project  
Common Cause  
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces  
DemCast USA  
Democracy 21  
Democracy Initiative  
Fix Democracy First  
Franciscan Action Network  
Greenpeace USA  
League of Conservation Voters (LCV)  
League of Women Voters of the United States (LWW)  
Let America Vote/End Citizens United Action Fund  
March for Our Lives  
National Advocacy Center of the Sisters of the Good Shepherd  
National Council of Jewish Women  
NETWORK Lobby for Catholic Social Justice  
New American Leaders Action Fund  
Pax Christi USA  
Progressive Turnout Project  
Public Citizen  
Reclaim Our Democracy  
Revolving Door Project  
SEIU  
Stand Up America  
Voices for Progress  
20/20 Vision

cc: All Members of the Senate Committee on Rules & Administration



U.S. ELECTION ASSISTANCE COMMISSION  
1335 EAST-WEST HIGHWAY, SUITE 4300  
SILVER SPRING, MD 20910

July 21, 2020

The Honorable Roy Blunt  
Chairman, Committee on Rules & Administration  
United States Senate  
Washington, D.C. 20510

The Honorable Amy Klobuchar  
Ranking Member, Committee on Rules & Administration  
United States Senate  
Washington, D.C. 20510

Dear Chairman Blunt and Ranking Member Klobuchar,

I want to thank you for hosting an important and timely hearing on preparations for the 2020 general election. As you know, the U.S. Election Assistance Commission is an independent, bipartisan federal agency created by the Help America Vote Act of 2002,<sup>1</sup> which tasks the agency with helping election officials improve the administration of elections and helping Americans participate in the voting process.

The Novel Coronavirus, or COVID-19, has presented unprecedented challenges around our country. Amid the ongoing debates about the health of our communities and our economy, election administrators face the difficult task of determining how to best conduct safe, secure, accessible and accurate elections. At the EAC, we have pivoted substantially to focus our attention on how we can support state and local election officials as they make tough decisions about their remaining primaries and the general election.

Through the Elections Infrastructure Government Coordinating Council (GCC) and Sector Coordinating Council's (SCC) Joint COVID Working Group, the EAC has helped to disseminate a series of documents that provide guidance on considerations for how to administer and secure election infrastructure in light of COVID-19.<sup>2</sup> We will continue to work with our partners at the federal, state and local level, as well as private industry, to ensure the safest and most secure systems of voting.

Knowing that more Americans than ever are voting by mail or absentee ballot during this pandemic, the EAC has also worked with the states who had previously implemented vote by mail systems to identify lessons learned and best practices to be shared. The states or

<sup>1</sup> 42 U.S.C. § 20901 et seq.

<sup>2</sup> U.S. Election Assistance Comm., *Coronavirus (COVID-19) Resources*, available at <https://www.eac.gov/election-officials/coronavirus-covid-19-resources>.

jurisdictions that had previously moved to mail driven elections had years or even decades to make the transition. Election administrators that are currently expanding their mail and absentee operations, however, do not enjoy this same luxury. Learning from their colleagues will be crucial to successfully implementing procedures to handle the anticipated surge in mail and absentee ballot demand this year.

Toward this effort, EAC held bipartisan hearings with election officials from across the country to highlight the challenges of balancing fair, accessible, and transparent elections that also provide for the physical safety of voters and elections officials during the primary election season.<sup>3</sup> With some reassurance that their experiences amid this pandemic provide lessons for November, election officials consistently summarized their approach to the general election as one where they, “hope for the best, but prepare for the worst.” To implement these lessons, the election officials emphasized the need for additional resources that can supplement and relieve the financial burden on state and local jurisdictions.

Among their primary concerns, election officials anticipate using more mail and absentee ballots than they did during the primaries, which in many instances, reached record highs. To respond to the demand, witnesses highlighted the following needs (among many others): technology to process, track, and secure ballot requests; tools to verify and count absentee and mail-in ballots; Postal Service logistics; increased coordination with outside vendors; and additional voter and public education about the absentee and mail ballot process.

We know that many jurisdictions cannot realistically transition to full vote by mail, and that to do so would risk disenfranchising many Americans. As a result, many jurisdictions are seeing significant cost increases associated with running both the largest mail and absentee election they have ever had to run, while also providing for polling locations that are as safe as possible for voters and poll workers. That means polling places that allow for proper social distancing, personal protective equipment, hand sanitizing and hand washing options as well as regular disinfecting of voting equipment and regularly touched surfaces. These challenges are made more difficult to plan and budget for because historical rates of voter turnout provide less guidance for anticipating the level of in-person and mail or absentee voting this November.

Over the next several months, election officials must also provide resources, retain, recruit, and train poll workers, ensure the availability of sufficient polling places, and promote early, in-person voting and mail-in ballots to reduce election day lines and crowding.

While unprecedented, these challenges are not insurmountable. Based on the extensive feedback our dedicated state and local election officials have provided from the primary election season, we know what needs to be done and the resources to succeed.

While state and local officials are primarily responsible for conducting and funding elections, no one could have prepared for the expenses associated with conducting elections during this

<sup>3</sup> U.S. Election Assistance Comm., *Lessons Learned from the 2020 Primary*, available at <https://www.eac.gov/videos/public-hearing-eac-lessons-learned-2020-primary-elections>. See also U.S. Election Assistance Comm., *Election Response to COVID-19 Administering Elections During the Coronavirus Crisis*, available at [https://www.youtube.com/watch?v=5Kclfu\\_PZgM](https://www.youtube.com/watch?v=5Kclfu_PZgM).

pandemic. The EAC is committed to assisting election officials in any way we can during the remaining months before the November election and stand ready to quickly distribute any additional funding Congress may provide.

If we can be of any assistance to the Committee, please do not hesitate to contact us. Thank you for your time.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Hovland". The signature is fluid and cursive, with the first letter of the first name being a large, stylized capital "B".

Benjamin W. Hovland, Chairman  
U.S. Election Assistance Commission



July 6, 2020

The Honorable Mitch McConnell  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Nancy Pelosi  
1236 Longworth House Office Building  
Washington, DC 20003

The Honorable Charles E. Schumer  
322 Hart Senate Office Building  
Washington, DC 20510

The Honorable Kevin McCarthy  
2468 Rayburn House Office Building  
Washington, DC 20515

Dear Leader McConnell, Speaker Pelosi, Leader McCarthy and Leader Schumer:

Every aspect of America's electoral system is under stress well beyond the pressures of a normal presidential election year. Election officials across the country face unprecedented challenges, as they now must add protection of public health to their responsibilities for access, integrity, security, and accuracy. The combination of a pandemic, continuing cybersecurity concerns, changes in and upgrades to equipment, and opportunities to vote in more ways than ever before has significantly altered election administration in ways that are likely permanent.

Since 2000, professional development, training, and education have been the hallmark of successful election operations. As the nation transitioned from punch card and lever machines to today's electronic voting systems, local election officials and the state election offices that oversee key systems including voter registration have benefitted from professional development, training, and education about the field. Through professional development, training, and education, election officials have developed tools to address the issues brought on by COVID-19, cybersecurity challenges, expanded voting options, online tools for voters and the general public, and education about the voting process so that voters can retain trust and confidence in the American election system. We know this first hand through our work with election officials across the country who participate in the Election Center's professional certification program as well as conferences, workshops, and topic-specific training.

Federal funding for election administration through the CARES Act is a precious commodity and much appreciated by all who receive it. However, we believe that safe and secure elections require additional funding for election administration, not limited to COVID or cybersecurity,

that is available broadly for professional development, training, and education, in order to support the efforts of election officials to address today's challenges and perhaps even more important, to build capacity for the issues of the future.

Because of this, we urge you to support additional funding for elections in the next coronavirus stimulus package. Election officials across the country are preparing to hold elections in multiple ways in order to address the effects of the pandemic, and every aspect of election administration is affected. Election operations now require more staff, more training, and new logistics for finding, designing, equipping, and operating pollsites for in-person voting, and new processes to scale up to offer expanded opportunities to vote by mail, or early in-person voting. Public health requirements involve voters and workers at in-person voting sites, and also pertain to election office operations. Throughout, election offices also continue to address cybersecurity threats, both for existing operations and for the new approaches that they are required to implement.

These challenges will only grow as turnout increases, as recent primary elections have illustrated. We encourage Congress to support federal funding for such activities in the next round of coronavirus stimulus funding, to provide support more than 8,000 localities as they strive to run safe and secure elections in their communities, and the states and territories that support these efforts. We are confident that election officials know how to conduct safe and secure elections without regard to partisanship or specific policy choices, and we are dedicated to the value of professional development, training, and education in building their capacity to do so.

Respectfully,

The Election Center Board of Directors

Susan Gill, Chair

Thomas Wilkey, Vice Chair

Kathleen Hale

Dean Logan

Alice Miller

Steve Moreno

Julie Pearson

Tim Mattice, Election Center Executive Director, *ex officio*

The Election Center Legislative Committee

David Stafford, Co-Chair

Travis Weipert, Co-Chair



**STATE OF MINNESOTA**  
Office of Minnesota Secretary of State  
Steve Simon

July 28, 2020

Senator Mitch McConnell  
Senator Charles E. Schumer  
Senator Richard C. Shelby  
Senator Patrick J. Leahy  
Senator Roy Blunt  
Senator Amy Klobuchar

Dear Senators:

As Secretaries of State of both major political parties who oversee the election systems of our respective states, we write in strong support of additional federal funding to enable the smooth and safe administration of elections in 2020. The stakes are high. And time is short.

The COVID-19 pandemic is testing our democracy. A number of states have faced challenges during recent primary elections. Local administrators were sometimes overwhelmed by logistical problems such as huge volumes of last-minute absentee ballot applications, unexpected shortages of poll workers, and difficulty of procuring and distributing supplies. As we anticipate significantly higher voter turnout in the November General Election, we believe those kinds of problems could be even larger.

The challenge we face is to ensure that voters and our election workers can safely participate in the election process. While none of us knows what the world will look like on November 3<sup>rd</sup>, the most responsible posture is to hope for the best and plan for the worst. The plans in each of our states depend on adequate resources.


While we are truly grateful for the resources that Congress made available in the CARES Act for election administration, more funding is critical. Current funding levels help to offset, but do not cover, the unexpectedly high costs that state and local governments face in trying to administer safe and secure elections this year. Additional funding would be particularly critical in ensuring that local jurisdictions have sufficient staff to handle the many unforeseen challenges that will come with conducting a national election during a pandemic. Importantly, we hope that any appropriation will be free of mandates such as a "state match" requirement – which would have the effect of excluding many states from being able to access the funds.

We respectfully request that you continue to help states prepare our election systems for operations during the pandemic by appropriating supplemental election administration funds to


the states. Our democracy depends on it. Without additional funds, there is a risk of serious election disruptions. Thank you for your consideration.

Sincerely,

  
Secretary of State Steve Simon  
Minnesota

  
Secretary of State Kim Wyman  
Washington


  
Secretary of State Kathy Boockvar  
Commonwealth of Pennsylvania

  
Secretary of State Maggie Toulouse Oliver  
New Mexico

  
Secretary of State Nellie Gorbea  
Rhode Island


  
Secretary of State Alex Padilla  
California

  
Secretary of State Jena Griswold  
Colorado

  
Secretary of State Jim Condos  
Vermont

  
Secretary of State Katie Hobbs  
Arizona

  
Secretary of State Jocelyn Benson  
Michigan

  
Secretary of State Tahesha Way  
New Jersey

The Leadership Conference  
on Civil and Human Rights

1629 K Street, NW 202.466.3311 voice  
10th Floor 202.466.3435 fax  
Washington, DC www.civilrights.org  
20006



July 22, 2020

Senator Roy Blunt  
Chair  
United States Senate Committee on Rules & Administration  
United States Senate  
Washington, DC 20510

Senator Amy Klobuchar  
Ranking Member  
United States Senate Committee on Rules & Administration  
United States Senate  
Washington, DC 20510

Dear Chairman Blunt and Ranking Member Klobuchar,

The Leadership Conference on Civil and Human Rights is a coalition of more than 220 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States. The Leadership Conference works to strengthen our democracy to ensure that civil rights are protected and that all voices are represented in the political process. Through our work, we aim to achieve a democracy where every voter can participate in the electoral process, no matter who they are and regardless of their race, color, language, economic status, or ability. We advance this ideal by working in coalition with hundreds of national and state organizations on advocacy and education. Ultimately, we aim to create an America as good as its ideals.

We appreciate the opportunity to provide the Senate Rules Committee with our insights into the 2020 primary election, particularly as it impacted voters of color during the COVID-19 public health crisis. We will address some of the problems voters experienced during early in-person voting and vote-by-mail periods, followed by a number of recommendations for states and other jurisdictions to adopt in time for the November general presidential election to ensure a fair and inclusive election.

**2020 Primaries: Election administrative failures resulted in chaos and disenfranchisement, especially for voters of color**

The main takeaway from the 2020 state primaries is this: elections administrators and officials, alongside state governments, failed their citizens and caused mass disenfranchisement. It is



July 22, 2020  
Page 2 of 8

worth acknowledging the strain under which officials are currently performing their duties. However, it is also necessary to emphasize that the problems surrounding this year's primaries are nothing new. Machine breakdowns, unreasonably long lines, polling place closures, faulty vote-by-mail practices, and under-trained staff and poll workers have persisted across the country for many years. So, while we acknowledge the unique circumstances posed by the pandemic, we also recognize that today's problems are a direct result of long-standing ills in elections practices across the country, ills that we have never fully addressed or remedied, some of which were exacerbated by the Supreme Court's 2013 evisceration of the Voting Rights Act's preclearance protocol. This pandemic has exposed and heightened the system's failures, many of which have had an ongoing discriminatory impact on communities of color.

It is essential to remedy these ills now, particularly since the pandemic is making voting even harder than it was before for Black, Brown, and other minority voters. As [Charles Blow](#) noted in the *New York Times*, in cities with a black majority or plurality – New Orleans, Milwaukee, and Chicago – ... “black people represent 70 to 80 percent of the deaths, though their percentages of the population don't come close to that.” COVID-19 is hitting communities of color hardest (and likely will in November too), making voting that much harder for these citizens, particularly because states and counties, to date, have failed to take necessary measures to ensure true accessibility for vote-by-mail and in-person voting. The fact is that states and counties have been on notice for months now regarding the need to conduct fair, safe, and accessible elections, and yet few rose to the task of doing what was necessary to avoid disenfranchisement. As we note below, polling place closures have hurt Black communities the hardest – and when these same communities aren't afforded reliable ways to vote by mail, then they must make the hard choice of risking their health (and that of their communities), while standing in line sometimes for hours on end, or missing the opportunity to participate in the political process. A functioning democracy would not require its citizens to make such a choice.

The states exhibiting the highest levels of election assistance failures or discriminatory practices are discussed below.

#### *Wisconsin*

Wisconsin exemplifies a deeply flawed elections system, one that may work for most whites but that consistently fails its Black communities. An [investigation](#) into the April 7 Wisconsin primary revealed an “absentee ballot crisis,” an inadequate elections computer system, “overwhelmed” clerks, and misleading ballot information. Many voters in Wisconsin who requested absentee ballots received empty envelopes or ballots *after* Election Day. Indeed, the system was overwhelmed: Fewer than 12% of votes cast in the 2016 primary were absentee compared with 73% in 2020. The vast majority of people who responded to the investigation stated that they requested absentee ballots at least two weeks in advance of Election Day but did not receive them on time. One county official called the primary “chaos,” and another said there was “no way humanly possible” to keep up with the flood of absentee ballot requests. A



July 22, 2020  
Page 3 of 8

spokesperson for the Wisconsin Elections Commission acknowledged faults with the state's ballot tracking system, postal delivery, and mailing vendor errors.

Among Wisconsin voters who did receive and return absentee ballots, many such ballots went uncounted. Despite a federal court order that would have allowed absentee ballots to be submitted by April 13 because so many voters had not received their ballots by Election Day, the U.S. Supreme Court [reversed the decision](#), leaving those ballots that weren't postmarked by Election Day uncounted. Although many election officials worked overtime to process requests and ballots – and they should be commended for their efforts – because [the state legislature and judiciary played fast and loose with fair elections proposals](#), voters lost in the end.

Voting in person during the Wisconsin primary went no smoother. In Milwaukee, a city of 600,000 people and home to the largest communities of color in the state, voters [stood in line for hours](#) at one of only five polling places, down from 180. Many such voters had requested but failed to receive an absentee ballot in the mail. Madison, a city of 250,000 and with a whiter population, had 66 polling places. While Madison residents easily popped in and out of the polling place to vote, some Black voters waited for hours to vote in Milwaukee. No American deserves that. These disparities in polling place access, moreover, account for gaps in voter participation across racial groups in the state. As our All Voting is Local Campaign wrote in a [report](#) co-authored with Demos:

A new analysis of 2020 election data in Milwaukee City shows that wards with higher Black and Hispanic populations had significantly lower voter turnout compared to wards with a high percentage of white residents. Average turnout in Black and Hispanic wards was 30 percentage points lower than the average voter turnout in white wards.... While white wards had an average of 49 percent voter turnout, Black and Hispanic wards had an average of about 18 percent turnout.

Wisconsin's primary failed its voters. But the problem was compounded by roadblocks that pre-existed the pandemic, including an onerous voter ID law, requiring individuals to present photo ID when voting in-person *and* when requesting an absentee ballot by mail. Voting by absentee ballot, moreover, requires the presence of a witness. This makes vote-by-mail difficult for many under any circumstance, but during a pandemic in which the most vulnerable of us may be sheltering at home alone – and without access to photocopiers – the rules make voting nearly impossible for those with low incomes. This may be especially true for voters of color, who are more often than whites to be low-income and thus less likely to have the resources necessary to comply with these requirements. Indeed, Black voters in Wisconsin are [50% less likely](#) than White voters to have the required forms of ID to vote.



July 22, 2020  
Page 4 of 8

### *Pennsylvania and Ohio*

[Thousands](#) of absentee ballots in Pennsylvania similarly did not reach primary voters in time for Election Day, leaving many voters with no choice but to vote in person after failing to receive their ballots in the mail. And although the Governor extended the deadline to accept mail-in ballots, so long as they were postmarked by June 2, this decision came too late and applied only to six counties. In Ohio, election officials were inundated with nearly two million requests for absentee ballots, resulting in [thousands](#) of voters not receiving absentee ballots in time to vote by mail in the April 28 primary.

### *Georgia*

Georgia, as in 2018, was the epicenter of election dysfunction and voter suppression. This year, due to undelivered absentee ballots, malfunctioning voting machines, poll worker shortages, and polling place closures, some voters endured lines of over seven hours to cast their ballot. As of the [day before the June 9 primary election](#), at least 600,000 absentee ballots (representing at least one percent of all ballots cast) had not been received by election officials. Fulton County, home to Atlanta and a high Black population, was the subject of most complaints. As voting expert Michael McDonald of the United States Election Project [noted](#), “I have never seen the scale of election failures happening in Georgia today.”

Indeed, the system in Georgia – like that of many other states – was overwhelmed and underfunded. County election officials there mailed out 1.6 million absentee ballots this year, at least three times that which it normally does during a primary: “I’ll tell you where the biggest breakdown was, in my opinion, was how long it took us to process the absentee ballot applications,” [said Fulton County Commissioner Liz Hausmann](#). “Folks had gotten those application request forms six to eight weeks ago. And so when they weren’t getting a response, and they couldn’t find out what had happened to their request, they didn’t have faith that they could reply in time if they even got it.”

The disenfranchisement seen in this primary is comparable to that from 2018. During that election, we saw attempts to cancel voter registration applications (Georgia Secretary of State Kemp, now Governor, refused to process [53,000](#) voter registration applications, 70% of which came from Black voters, until a court issued a preliminary injunction), imposition of photo ID laws known to keep [11%](#) of the population (disproportionately affecting voters of color) from casting ballots, attempts to toss ballots due to a [severe signature-matching](#) law (again, resolved by litigation), and polling places [shuttered](#) in primarily Black and Latino neighborhoods. Much of this was made possible, moreover, because of the Supreme Court’s 2013 decision in *Shelby v. Holder*, which permitted states like Georgia, Texas, North Carolina and others with a history of voter discrimination to build disenfranchisement into their election systems, sometimes with the very aim of keeping Black voters from participating.



July 22, 2020  
Page 5 of 8

### *Kentucky*

In Kentucky, over “937,000 [voters requested](#) early ballots as of Wednesday [June 17<sup>th</sup>], or 27% of all registered voters in the state,” a spike from around 1.5% per election. Fewer than 200 polling places were open in Kentucky on Election Day, and Jefferson County (home to Shively, a city with Kentucky’s highest Black population) only had one polling place for [616,000](#) registered voters, and Fayette County only had one polling place for over 250,000 registered voters. In Louisville, hundreds of voters were left banging on the door when the polling place closed at 6:30 pm; voters were ultimately let in to vote after a court order kept the polling place open until 9:00 pm.

### **Solutions for the 2020 general election: How to ensure the chaos and disenfranchisement are avoided in November**

The only way to salvage the 2020 general election is to appropriate additional federal funds – \$3.6 billion, as calculated by voting experts and election officials – to all states as soon as possible. There is no time for delay, as states must prepare their election infrastructures this summer. As experts and administrators together have [determined](#), “jurisdictions will need to purchase and deploy critical equipment and supplies months before this November’s election.” Due to necessary social-distancing protocols, states will have to implement or reinforce their online voter registration systems, fool-proof their online absentee application databases in order to greatly reduce clerks’ data-entry times (and avoid the crises we’ve seen unfold in the states to date), enhance ballot printing capacities (as states will need a “vastly increased quantity” of ballots for absentee voting), and purchase both high-speed scanners and ballot drop-boxes. Additionally, states will need funds to hire additional staff (to process absentee requests and mailed-in ballots), purchase necessary personal protective equipment to ensure safety at polling places, and adequately train all staff – and educate voters – on new procedures. These measures are not optional if we are to conduct a functional election during an ongoing pandemic.

Additional funding is especially critical because states, in addition to facing increased costs to hold safe and accessible elections, have already used much of their existing federal funding to cover emergency expenses caused by the pandemic. During a July 8, 2020 [Election Assistance Commission meeting](#), election administrators from Georgia, Kentucky, Ohio, Virginia and Wisconsin all testified that they had used CARES Act funds on primary elections in their states during the COVID-19 pandemic, and that existing money would not cover the costs of the general election. Jared Dearing, the executive director of the Kentucky state board of elections, and Barbara Goeckner, a municipal elections official from Wisconsin, both testified that the primary had used over 60% of their existing federal funding despite expecting turnout to more than double from the primary election to the general. No panelist at the EAC meeting thought their existing funding could adequately cover the cost of holding the upcoming November election. States are facing severe budget crises due to the health care and economic costs of the pandemic, and they are in dire of need of federal assistance.



July 22, 2020  
Page 6 of 8

Accordingly, the Leadership Conference is advocating for \$3.6 billion of funding to be tied to policy reforms including a nationwide requirement that states offer online and same-day voter registration, at least 15 consecutive days of early in-person voting, and no-excuse absentee vote-by-mail that is available and accessible to all voters with postage paid by the government.

#### **Vote-by-mail: A necessary, but incomplete, solution to COVID-19**

As many have advocated, Americans must be provided the opportunity to vote by mail this November if we are to have an election that is safe, well-attended, and truly democratic. Elections conducted primarily through the mail have already been held successfully this election cycle. In the Michigan presidential primary held on March 10, over [one million people](#) voted by mail, doubling the number of absentee ballots cast in the 2016 presidential primary election. Municipal elections in Michigan were held May 5, amidst the COVID-19 pandemic in the state, and over 99% of ballots in that election were cast by mail or dropbox, with record breaking turnout for an election of its kind.

To capitalize on the potential of voting by mail, states should mail applications or ballots to every registered voter on their rolls, and eligible voters who can vote by mail, should do so – to protect themselves, their neighbors, and polling-place workers. States that do not send out absentee ballots to all registered voters should send them absentee ballot applications as early as possible so that they can mail and return them with enough time to have them count. Otherwise, we'll see grand-scale disenfranchisement, as we already did in Wisconsin, Georgia, and other states during the primaries.

Vote-by-mail should be conducted with the following guidelines:

- States should dispense with requirements that voters submit copies of photo IDs or, as is currently mandated in Wisconsin, obtain notary (or other witness) signatures. Many people, particularly low-income voters, won't have access to these.
- Counties should provide pre-paid postage for all return-ballot envelopes and count all ballots postmarked by Election Day. Voters should not have to guess at how long it will take their mailed ballot to be received by county offices.
- Those who vote by mail must be given notice of perceived signature (or other) defects and a true opportunity to cure such defects. Some voters of color are more likely to have their absentee ballots rejected when they vote by mail. For example, an [ACLU Florida study](#) found that “younger voters, Black voters, and Latino voters are more likely to have their vote-by-mail ballots rejected than older voters and White voters.” Additionally, the Lawyers' Committee for Civil Rights Under Law [found](#) that only 2.5 percent of White voters in Gwinnett County, GA had their absentee ballots rejected in 2018, compared to



July 22, 2020  
Page 7 of 8

14.8 percent of Asian American voters, 8 percent of Black voters, and 4.3 percent of Latino voters. Voters of color, on average, typically have less time and access than White voters to travel to election offices to cure signature problems. To address these disparities, voters should be given adequate time to cure ballot defects.

To be sure, the vast majority of Americans will likely vote by mail this November, since this will be the safest way to cast a ballot. But for the election to be truly accessible, every state should be required to offer in-person methods of voting, even if on a smaller scale than traditionally offered. Of course, downsizing from 180 polling precincts to five, as occurred in Milwaukee, is an unacceptably low percentage. States, moreover, can provide these options safely and effectively through several measures, including social distancing, regular sanitizing, and employment of staff at polling places who are less susceptible to COVID-19.

In-person voting is still necessary, notwithstanding the dangers posed by COVID-19, because many groups simply will not have access to the ballot without it. This is so for many reasons, including the following:

- Mail is difficult to access in a number of areas, particularly in tribal lands and low-income neighborhoods. Many Native Americans living on tribal lands, moreover, don't have street addresses. In [Arizona](#), for example, only 18% of voters living on tribal lands outside of Maricopa and Pima Counties have physical addresses and receive mail at home; the Navajo Nation, the largest tribal land in the United States (physical size of West Virginia) doesn't have an addressing program, and most residents live in remote communities.
- Some voters – across demographics – prefer voting in-person. They trust a process they can see unfold before their eyes. This is particularly true for groups who, for historical reasons, have legitimate distrust in government.
- Limited English proficient voters (particularly in jurisdictions covered by section 203 of the Voting Rights Act), and functionally illiterate individuals simply can't avail themselves of vote-by-mail, especially if they live alone; they need the kind of assistance that would otherwise be provided at polling places. Federal law requires more than 260 jurisdictions to provide language assistance to voters.
- The paper ballots used in a vote-by-mail system are not accessible to some voters with disabilities, including those who are blind or low vision, those with limited or no manual dexterity, and those with limited literacy. For instance, a voter who is blind would not be able to see and mark a paper ballot, and the U.S. Census Bureau reported in 2016 that the [blind and low vision population](#) alone represents 2.4% of the U.S. population.



July 22, 2020  
Page 8 of 8

- People experiencing homelessness or who are otherwise in transition face special challenges when voting or registering to vote. Vote-by-mail is not always a viable option for such voters.

Unless states offer voters a number of options through which to submit completed ballots, many voters – particularly persons of color, Native Americans, and other historically marginalized citizens – simply will not have access to the ballot. Unless the upcoming general election is a fair and accessible one, by providing Americans with a variety of voting options, it will not be a democratic one.

**Restoration of the Voting Rights Act: How we prevent disenfranchisement in the future**

To avoid some of the disasters of the recent primaries – and the previous several elections – we must restore the Voting Rights Act. Many of the problems we have seen in recent elections could have been prevented if we had Section 5 of the Voting Rights Act still intact, the powerful preclearance provision that required the Department of Justice to approve voting changes in jurisdictions with a history of voting discrimination. June 25, 2020 marked the seventh anniversary of *Shelby County v. Holder*, and the 2020 election will be our second presidential election without the full protections of the Voting Rights Act. In December 2019, the U.S. House of Representatives passed H.R. 4, the Voting Rights Advancement Act, a transformative bill that would restore and modernize the Voting Rights Act, but the Senate has yet to take up this critical legislation. We must collectively move forward to ensure passage of this key priority to prevent state-sanctioned discrimination in elections. Otherwise, we will continue to see voter suppression and barriers to the ballot box for communities of color.

Thank you for the consideration of our views.

Sincerely,

Vanita Gupta  
President & CEO



STATE OF MINNESOTA  
Office of Minnesota Secretary of State  
Steve Simon

June 9, 2020

Senator Amy Klobuchar  
425 Dirksen Senate Building  
Washington, DC 20510

Dear Senator Klobuchar:

I am writing today to urge you and the United States Senate to pass additional funding for the upcoming 2020 elections. While I am grateful for the recent Help America Vote Act (HAVA) Funds appropriated in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, it simply is not enough.

Minnesota's total share of the CARES Act HAVA funds was \$6,930,610, with a required \$1,391,647 state match. To put this into perspective, this is approximately \$2.28 for each Minnesota voter and election judge. This is not enough. Minnesotans rightfully expect voting in person to be safe, which means state and local election officials will be:

- providing hand sanitizer, masks, disinfectant spray, sneeze guards, and other sanitary measures to help prevent the spread of COVID-19 at the polling place and absentee voting locations;
- purchasing supplies and hiring additional staff to encourage and promote the CDC recommended social distancing guidelines in the polling place;
- hiring additional staff to account for the expected exponential increase in absentee voting, which is a labor intensive process that requires processing by an election worker both on the front end of the process (the application), and the back end (processing the ballot), two processes made much more difficult by social distancing; and
- creating and providing educational materials on how to vote absentee to ensure voters understand their voting options and can make the best decision for themselves, their families, and their communities.

The estimated \$2.28 per voter and election judge is not sufficient to cover these necessary costs.

State and local governments are already stretched financially during this pandemic. An additional appropriation could help ensure safe, healthy, and secure elections that don't put the future of our local government budgets in jeopardy.

Please feel free to let me or my office know if you have any questions. You can reach Samm Bonawitz, Director of Government Relations, at [samm.bonawitz@state.mn.us](mailto:samm.bonawitz@state.mn.us) or 651-201-1334.

Sincerely,

A handwritten signature in cursive script that reads "Steve Simon".

Steve Simon

180 State Office Building | 100 Rev. Dr. Martin Luther King, Jr. Blvd. | Saint Paul, MN 55155-1299  
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July 21, 2020

**Sent via electronic mail:**

Senator Roy Blunt  
Senate Cmte. on Rules and Admin.  
United States Senate  
260 Russell Senate Office Building  
Washington, D.C. 20510

Senator Amy Klobuchar  
Senate Cmte. on Rules and Admin.  
United States Senate  
425 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Blunt and Ranking Member Klobuchar,

I write to you on behalf of the NAACP Legal Defense and Educational Fund, Inc. ("LDF"). Thank you for holding this important hearing on COVID-19's impact on elections.

LDF was founded in 1940 by Thurgood Marshall. It has been an entirely separate organization from the NAACP since 1957. Through litigation, advocacy, and public education, LDF seeks structural changes to expand democracy, eliminate disparities, and achieve racial justice in a society that fulfills the promise of equality for all Americans. Beginning with *Smith v. Allwright*,<sup>1</sup> our successful Supreme Court case challenging the use of whites-only primary elections in 1944, LDF has been fighting to overcome obstacles to ensure the full, equal, and active participation of black voters. From that era to the present, LDF has been involved in the struggle to secure, protect, and advance voting rights for Black voters and other communities of color. LDF has always been a pioneering force in our nation's quest for greater equality and will continue to advocate on behalf of Black people, both in and outside of the courts, until equal justice for all Americans is attained.

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<sup>1</sup> 321 U.S. 629 (1944).





### *Impact of COVID-19*

The COVID-19 pandemic has led to unprecedented crises and loss throughout the country. To date, there have been more than 3.8 million confirmed cases of COVID-19 in the United States and over 141,400 deaths.<sup>2</sup> The pandemic is also disproportionately impacting black people. The Centers for Disease Prevention and Control (“CDC”) recently reported that Black people account for 22% of COVID-19 cases with known demographic information, despite comprising only 13% of the population.<sup>3</sup> The report found that among people with underlying health conditions, COVID-19 related hospitalizations are six times higher and deaths are 12 times higher than among people with no underlying health conditions.<sup>4</sup> Additionally, the CDC reported that COVID-19 incidence is highest among persons aged 80 or older, and COVID-19 fatalities are most commonly reported among persons aged 80 years or older regardless of the presence of underlying condition.<sup>5</sup> Black people are also experiencing a tremendous economic loss. It is estimated that 45% of Black workers have lost their jobs or had their hours cut due to the COVID-19 pandemic, compared to 31% of White workers.<sup>6</sup> Elections held during this pandemic and without proper and comprehensive safety procedures, disproportionately endanger older voters, Black voters, and voters with pre-existing health conditions who are particularly at-risk for complications and death from contracting the virus.<sup>7</sup> This pandemic has become not only a public

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<sup>2</sup> *Coronavirus in the U.S.: Latest Map and Case Count*, New York Times (last visited Jul. 21, 2020, 3:45 PM) [https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html?action=click&pgtype=Article&state=default&module=styln-coronavirus&region=TOP\\_BANNER&context=storylines\\_menu](https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html?action=click&pgtype=Article&state=default&module=styln-coronavirus&region=TOP_BANNER&context=storylines_menu)

<sup>3</sup> Erin K. Stokes, Laura D. Zambrano, Kayla N. Anderson, et al, *Coronavirus Disease 2019 Case Surveillance*, Centers for Disease Prevention and Control (Jun. 15, 2020)

[https://www.cdc.gov/mmwr/volumes/69/wr/mm6924e2.htm?s\\_cid=mm6924e2\\_w](https://www.cdc.gov/mmwr/volumes/69/wr/mm6924e2.htm?s_cid=mm6924e2_w).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Danielle Kurtzleben, *Job Losses Higher Among People of Color During Coronavirus Pandemic*, National Public Radio (Apr. 22, 2020) <https://www.npr.org/2020/04/22/840276956/minorities-often-work-these-jobs-they-were-among-first-to-go-in-coronavirus-layo>.

<sup>7</sup> Erin K. Stokes, Laura D. Zambrano, Kayla N. Anderson, et al, *Coronavirus Disease 2019 Case Surveillance*, Centers for Disease Prevention and Control (Jun. 15, 2020) [https://www.cdc.gov/mmwr/volumes/69/wr/mm6924e2.htm?s\\_cid=mm6924e2\\_w](https://www.cdc.gov/mmwr/volumes/69/wr/mm6924e2.htm?s_cid=mm6924e2_w).



health emergency and economic crisis, but a threat to the very foundation of our democracy: free and fair elections.

***Congressional Action is Urgently Needed***

To combat the suppressive effect of COVID-19, Congress must proscribe responsive measures for election administration, and provide the necessary funding and resources to ensure that every eligible American can register and vote, that every ballot cast by an eligible voter is counted, that each and every election is secure, safe, and accessible. And, that all election officials, poll workers and voters are as protected as possible.

While the provision of alternative methods to in-person voting is warranted and must be provided, these measures cannot replace or come at the expense of safe, accessible, and secure in-person voting. Congress must approach upcoming elections with a “both/and” mentality. Voters must be presented with a host of voting options administered safely and in accordance with CDC guidelines<sup>8</sup> in order to ensure each eligible voter has the opportunity to safely and securely cast a ballot. The resources and reforms needed to ensure a safe election include:

- At least \$3.6 billion in financial assistance;
- At least 15 consecutive days of in-person early voting in federal elections, with early voting available at least 10 hours per day and early voting sites located within walking distance of public transportation;
- Ensure that every voter can access no-excuse absentee ballots with prepaid postage in all federal elections, prohibit states from requiring notarization or witness signatures to cast an absentee ballot, and during emergencies, such as COVID-19, require states to automatically mail absentee ballots to all registered voters no later than two weeks before Election Day;

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<sup>8</sup> *Recommendations for Election Polling Locations*, Centers for Disease Control and Prevention (Updated Mar. 27, 2020) <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.



- Expand voter registration opportunities including requiring that any eligible citizen can register to vote online and requiring that any voter be allowed to register to vote on the same day that they vote (same-day voter registration);
- Defray the costs to states of undertaking public education campaigns to educate voters about new voting and registration options in the wake of COVID-19;
- Provide accommodations for voters residing on Indian lands, such as permitting tribes to designate buildings as ballot pickup and collection locations;
- Remove the 20 percent matching fund requirement in order for states to obtain federal funding for election assistance; and
- Require that at least 50 percent of funding for states be passed along to units of local government, which are responsible for the administration of elections for federal office.

### *Recent Election Challenges*

For more than a decade, LDF's Prepared to Vote initiative has disseminated non-partisan public education materials to prepare voters for elections and engaged volunteers around Election Day in targeted jurisdictions, primarily in the South, to work on the ground at polling places answering questions and providing voters with important information about how to comply with election laws.

Since the beginning of the pandemic, LDF's Prepared to Vote initiative has monitored key elections with a specific focus on COVID-19's impact on election administration. As COVID-19 infections continue to rise,<sup>9</sup> specifically in the South, it is

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<sup>9</sup> Julie Bosman and Mitch Smith, *Coronavirus Cases Spike Across Sun Belt as Economy Lurches into Motion*, New York Times (Jun. 16, 2020) <https://www.nytimes.com/2020/06/14/us/coronavirus-united-states.html>.



clear that states do not have transmission under control. Even when taking into account increased availability of testing, experts conclude that the increase in confirmed cases in the Sun Belt states is a result of increased transmissions.<sup>10</sup>

Recent elections across the country have resulted in a tragedy of disenfranchisement which underscores the urgent need for legislation and funding responsive to the COVID-19 pandemic. In April, Wisconsin held an election in which thousands of mask-wearing Americans stood in staggered lines extended over city blocks<sup>11</sup> as they waited to vote amidst the most dangerous pandemic this country has faced in a century. Wisconsin's April election resulted in at least 71 people contracting COVID-19 after voting in-person or working at the polls.<sup>12</sup> At least one study concluded that those counties with "more in-person voters per voting location had significantly higher rates of COVID-19 transmission after the election than counties with lower density."<sup>13</sup> Too many elections have since occurred in unsafe conditions which force voters to make the unconscionable choice between their health and safety and exercise of the franchise. Requiring eligible voters to risk contracting a serious and potentially fatal virus in order to vote is a form of voter suppression—particularly against Black and Latinx voters and voters with underlying health conditions, who have contracted and died of COVID-19 complications at a disproportionate rate.

### *South Carolina*

In Richland County, South Carolina less than a month before the June 9<sup>th</sup> election, the County Elections Director announced a poll worker shortage as concerns of contracting coronavirus persisted. The county, which normally retains 900 to 1,000 poll workers to staff elections, had only 500 or 600 poll workers on

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<sup>10</sup> *Id.*

<sup>11</sup> Benjamin Swasey & Alana Wise, *Wisconsin Vote Ends As Trump Blames Governor For Long Lines*, NPR (Apr. 7, 2020) <https://www.npr.org/2020/04/07/828835153/long-lines-masks-and-plexiglas-barriers-greet-wisconsin-voters-at-polls>.

<sup>12</sup> David Wahlberg, *71 People Who Went to the Polls on April 7 Got COVID-19; Tie to Election Uncertain*, Wisconsin State Journal (May 16, 2020) [https://madison.com/wsj/news/local/health-med-fit/71-people-who-went-to-the-polls-on-april-7-got-covid-19-tie-to/article\\_cf5ab183-8e29-579a-a52b-1de069c320c7.html](https://madison.com/wsj/news/local/health-med-fit/71-people-who-went-to-the-polls-on-april-7-got-covid-19-tie-to/article_cf5ab183-8e29-579a-a52b-1de069c320c7.html).

<sup>13</sup> Chad D. Cotti, Bryan Engelhardt, et. al., *The Relationship between In-Person Voting, Consolidated Polling Locations, and Absentee Voting on COVID-19: Evidence from the Wisconsin Primary* (May 10, 2020). Available at SSRN: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3597233](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3597233).



election day.<sup>14</sup> The shortage of poll workers resulted in merely 70 polling places being open for the election, as opposed to the standard 149 polling places.<sup>15</sup> In turn, the polling site closures forced jurisdictions to consolidate polling locations which, coupled with understaffing, created long lines and reported wait times of three hours<sup>16</sup>—including after the official close of polls.<sup>17</sup>

The consolidation of polling sites created confusion and long lines not only in Richland County but across South Carolina. West Ashley High School became the polling location for six precincts yet only had five voting machines available for voters.<sup>18</sup> At the Mount Pleasant Christ Church polling place, one voter attested that long lines were the result of poll workers having only one laptop to check voters in and only eight voting machines.<sup>19</sup> Multiple voters were forced to wait in lines for

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<sup>14</sup> Greg Hadley, *Voters Report Races Missing from Ballots at Richland Polls During SC Primary*, The State (Jun. 9, 2020) <https://www.thestate.com/news/politics-government/election/article243404346.html>.

<sup>15</sup> Chris Trainor, *Richland County to Cut Polling Places for June 9 Primary—Possibly by More than Half*, Free Times Post and Courier (May 26, 2020 updated June 10, 2020) [https://www.postandcourier.com/free-times/news/covid19/richland-county-to-cut-polling-places-for-june-9-primary-possibly-by-more-than-half/article\\_fe3f0cf0-9f7f-11ea-9408-0f94663bb936.html](https://www.postandcourier.com/free-times/news/covid19/richland-county-to-cut-polling-places-for-june-9-primary-possibly-by-more-than-half/article_fe3f0cf0-9f7f-11ea-9408-0f94663bb936.html).

<sup>16</sup> Brindolyn (@Brindolyn), Twitter (Jun. 9, 2020, 7:52 PM) <https://twitter.com/Brindolyn/status/1270503972604968960>; Natalie Parsons (@natalieparsons), Twitter (Jun. 9, 2020, 2:51 PM) <https://twitter.com/natalieparsons/status/127042825004951552>; Torchie (@Torchie123), Twitter (Jun. 9, 2020, 2:38 PM) <https://twitter.com/Torchie123/status/1270425152833171456>.

<sup>17</sup> Sooji Nam (@soojinamtv), Twitter (Jun. 9, 2020, 6:01 PM) [https://twitter.com/sooji\\_namtv/status/1270476179477323777](https://twitter.com/sooji_namtv/status/1270476179477323777); Sooji Nam (@soojinamtv), Twitter (Jun. 9, 2020, 6:25 PM) [https://twitter.com/sooji\\_namtv/status/1270482234307497985](https://twitter.com/sooji_namtv/status/1270482234307497985).

<sup>18</sup> Gavin Jackson (@GavinJackson), Twitter (Jun. 9, 2020, 1:3 PM) <https://twitter.com/GavinJackson/status/1270408674322845697>.

<sup>19</sup> Cocky Karen (@pinksoccermom), Twitter (Jun. 9, 2020, 6:47 PM) <https://twitter.com/pinksoccermom/status/1270487601263398913>.



more than two hours before being able to cast their ballots<sup>20</sup> and some left before being able to cast a ballot.<sup>21</sup> One voter remarked:

“We voted at Oak Point which combined 5 precincts. We were lined up in the sun for hours! There were only 4 workers, 1 serving curbside, and only a total of 4 machines, 2 for Oak Brook, and 2 for River Springs people. Surely we hope it is a lot better in November! Many were not happy with having to wait about 2 hours in the hot sun!!”<sup>22</sup>

Moreover, on election day counties across the state failed to effectively communicate information about polling place changes, closures and opening delays to voters. At least one polling place in Clarendon County was delayed in opening and a voter was forced to wait nearly an hour before casting a ballot.<sup>23</sup> At least one voter visited two closed polling places before confirming the correct polling site with the Election Protection Hotline.<sup>24</sup> Whether because of unexpected and increased traffic due to polling site changes, confusion about COVID-19 protocol or technical difficulties, the South Carolina Election Commission’s website was down and inaccessible for part of the morning of election day.<sup>25</sup> Voters noticed and, via social media, were redirected to a working site.<sup>26</sup> It is not clear how voters who had

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<sup>20</sup> Brodie Hart (@BrodieHart) Twitter (Jun. 9, 2020, 5:30 PM) <https://twitter.com/BrodieHart/status/1270468421428359181>; Will Deal (@willtoles), Twitter (Jun. 9, 2020, 4:54 PM) <https://twitter.com/willtoles/status/1270459314856132609>; Kevin Olivett (@KevinOlivett), Twitter (Jun. 9, 2020, 6:38 PM) <https://twitter.com/kevinolivett/status/1270485480874926080>; A. Scott (@theQweenlex), Twitter (Jun. 9, 2020, 5:44 PM) <https://twitter.com/theQweenlex/status/1270471859197394944>.

<sup>21</sup> Kevin Yeager (@KevinYeagerSC), Twitter (Jun. 9, 2020, 4:33 PM) <https://twitter.com/KevinYeagerSC/status/1270453879419871232>; Ed Moats, *South Carolina Votes Comment Section*, Facebook (Jun. 9, 2020) <https://www.facebook.com/scvotes/photos/a.314864018557052/3138691536174272/?type=3>.

<sup>22</sup> Pat Derick Blackwall, *Comments Section*, *ColaToday* (Jun. 9, 2020) [https://colatoday.gamcity.com/2020-primary-election-day-sc/?fb\\_comment\\_id=3064847843593560\\_3066499110095100](https://colatoday.gamcity.com/2020-primary-election-day-sc/?fb_comment_id=3064847843593560_3066499110095100).

<sup>23</sup> Larry Whorton, Facebook (Jun. 9, 2020, 9:42 AM) <https://www.facebook.com/larryhwhorton/posts/898641270657352>.

<sup>24</sup> Vicki Perry, Facebook (Jun. 9, 2020, 8:03 AM) <https://www.facebook.com/vikki.perry/posts/10158319862212264>.

<sup>25</sup> SC State Election Commission (@scvotes), Twitter (Jun. 9, 2020, 9:02 AM) <https://twitter.com/scvotes/status/1270344945975656448>.

<sup>26</sup> Mrs. J (@shannonjuliano), Twitter (Jun. 9, 2020, 9:19 AM) <https://twitter.com/shannonjuliano/status/1270344775930183680>.



questions but were not on social media, received information while the SCvotes.org site was down.

Throughout election day, numerous voters experienced serious issues with casting ballots, which potentially invalidated their vote. In Greenville County, because of inexperienced poll workers and confusion about split precincts some voters were given—and cast—the wrong ballot.<sup>27</sup> Inexperienced poll workers struggled with new and insufficiently tested voting machines that were not programed properly. As a result, key races were left off of ballots,<sup>28</sup> and confusion and malfunctioning machines forced some poll workers to distribute handwritten ballots.<sup>29</sup>

### *Georgia*

The June 9<sup>th</sup> election in Georgia was, simply put, a catastrophe and sadly one that was entirely avoidable. Georgia's failure to comprehensively test new voting machines coupled with a shortage of, and insufficiently trained, poll workers left the state woefully unprepared to administer an election and put voters at risk of contracting COVID-19.

In the summer of 2019, Georgia awarded Dominion Voting Systems ("Dominion") a \$107 million election contract to update voting machines across the state.<sup>30</sup> The installation of the Dominion voting machines occurred between late 2019 and March 2020. It is reportedly the largest rollout of elections equipment in U.S. history<sup>31</sup> with 30,000 machines, 30,000 printers, 3,500 scanners, and 8,000

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<sup>27</sup> Ariel Gilreath, *South Carolina primary voting problems crop up in Greenville and statewide, officials say*, Greenville News (Jun. 9, 2020) <https://www.greenvilleonline.com/story/news/politics/elections/2020/06/09/split-precincts-create-primary-voting-problems-greenville-sc/5329453002/>.

<sup>28</sup> Hadley *supra* note 13.

<sup>29</sup> Zach Pippin (@zachpippin), Twitter (Jun. 9, 2020, 1:58 PM) <https://twitter.com/zachpippin/status/1270415012587323392>; Noah Feit, Sarah Ellis and Isabella Cuetto, *Handwritten ballots issued, long lines at Richland County precincts*, The State (Jun. 9, 2020) <https://www.thestate.com/news/politics-government/election/article243381281.html>

<sup>30</sup> Mark Niesse, *Georgia buys new voting machines for 2020 presidential election*, Atlanta Journal-Constitution (Jul. 30, 2019) <https://www.ajc.com/news/state--regional-govt--politics/georgia-awards-contract-for-new-election-system-dominion-voting/tHh3V8KZnZivJoVzZRLQ4O/>.

<sup>31</sup> *Id.*



electronic voter registration terminals to service 7 million voters<sup>32</sup> installed in 2,660 precincts.

After this massive installation of new voting equipment, the state of Georgia failed to sufficiently test the new voting machines. Additionally, hundreds of poll workers quit before the election due to fears of contracting COVID-19.<sup>33</sup> As a result, many poll workers were hired at the last minute and some were even trained on the job the very same day as the election.<sup>34</sup> On the day of the election, many poll workers had difficulty setting up voting equipment, turning on voter check in computers, and installing touchscreens.<sup>35</sup> Indeed, some poll workers encountered the same difficulty encoding voter access cards that was documented during a very limited test run in November of 2019.<sup>36</sup>

Issues on election day occurred both as a result of insufficiently trained poll workers and malfunctioning equipment, and had compounding effects. Poll workers who could not operate voting machines offered voters provisional ballots and some

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<sup>32</sup> Stephen Fowler, *More Than 7 Million Georgians Are Registered to Vote In The March 24 Presidential Primary*, Georgia Public Broadcasting (Feb. 25, 2020) <https://www.gpbnews.org/post/more-7-million-georgians-are-registered-vote-march-24-presidential-primary>.

<sup>33</sup> Mark Niesse, Greg Bluestein and Tyler Estep, *New voting machines lead to lines and problems on Georgia election day*, Atlanta Journal-Constitution (Jun. 9, 2020) <https://www.ajc.com/news/state--regional-govt--politics/new-voting-machines-cause-lines-and-problems-georgia-election-day/8UMCg2RisHAYXSJltZ9hO/>.

<sup>34</sup> *Id.*

<sup>35</sup> Mark Niesse and Alan Judd, *Election fiasco reveals flaws with Georgia's new voting system*, Atlanta Journal-Constitution (Jun. 13, 2020) <https://www.ajc.com/news/state--regional-govt--politics/election-fiasco-reveals-flaws-with-georgia-new-voting-system/FoZjtLGPYccOrHzXHhPbDL/>.

<sup>36</sup> Niesse *supra* note 32.



quickly ran out of provisional ballots.<sup>37</sup> Multiple precincts were forced to extend their polling hours because of long lines and issues with the voting machines.<sup>38</sup>

Moreover, many voters were forced to vote in-person despite requesting to vote via mail-in, absentee ballot. Some voters' applications for absentee ballots were not processed,<sup>39</sup> and at least one voter reportedly received only an empty envelope in place of a mail-in ballot.<sup>40</sup> Reports also indicate that some of the absentee ballots sent to voters were printed on paper so thin that information bled through to the other side possibly obscuring and misrepresenting voters' input.<sup>41</sup>

The chaos created by the lack of poll workers, lack of training and new machines in Georgia also affected election workers' ability to adhere to and enforce CDC guidelines intended to minimize the risk of COVID-19 transmission at polling sites. One voter remarked that while voters were mostly wearing masks, "poll workers left a lot to be desired, not necessarily taking precautions to protect themselves, and voters, from COVID-19."<sup>42</sup> Another stated that "voters maintained social distancing outside the precinct but less so inside."<sup>43</sup>

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<sup>37</sup> Niese *supra* note 32; *Voters run into issues at the polls across metro Atlanta. Here's what happened*, ESB-TV (Jun. 9, 2020) <https://www.wsbtv.com/news/local/live-updates-voters-run-into-long-lines-other-issues-election-day/H6XEOPWP2NAUZAMNYVW3ISQB3Q/>.

<sup>38</sup> Chuck Williams, *Superior Court judge extends Muscogee County voting hours until 9 p.m. because of confusion at two precincts*, WRBL.com (Jun. 9, 2020) <https://www.wrbl.com/news/politics/superior-court-judge-extends-muscogee-county-voting-hours-until-9-p-m-because-of-confusion-at-two-precincts/>; Cobb County, GA (@cobbcountygovt), Twitter (Jun. 9, 2020, 4:39 PM) <https://twitter.com/cobbcountygovt/status/1270455507246080001>; DeKalb County, GA (@ItsInDeKalb), Twitter (Jun. 9, 2020 6:23 PM) <https://twitter.com/ItsInDeKalb/status/1270481778373992450?s=20>.

<sup>39</sup> AltBlue (@atl\_randy), Twitter (Jun. 9, 2020 9:37 AM) [https://twitter.com/atl\\_randy/status/1270349208969785345](https://twitter.com/atl_randy/status/1270349208969785345); Stephanie A. (@popgunsazzy), Twitter (Jun. 9, 2020 11:16 AM) <https://twitter.com/popgunsazzy/status/1270374262205972480>.

<sup>40</sup> Kevin A. Cronin (@Kevinacronin), Twitter (Jun. 9, 2020 9:23 AM) <https://twitter.com/Kevinacronin/status/1270345834383761408>.

<sup>41</sup> *Election Live Updates: Miller, Whitby Head to Runoff for Macon Mayor*, Macon Telegraph (Jun. 9, 2020) <https://www.macon.com/news/politics-government/election/article243396926.html>.

<sup>42</sup> Greg Bluestein, *It's primary day in Georgia: Here's what to watch in a COVID-19 election*, Atlanta Journal Constitution, (Jun. 9, 2020) <https://www.ajc.com/news/state-regional-govt-politics/primary-day-georgia-here-what-watch-covid-election/JYeDjvUkJpGz40fN8CfwI/>.

<sup>43</sup> Voters run into issues at the polls across metro Atlanta *supra* note 66.



As the COVID-19 pandemic continues and, indeed, surges in states across the country, by failing to ensure that all voters who chose to vote in-person had access to safe and secure polling sites, the states of Georgia and South Carolina risked exacerbating an already catastrophic public health crisis. Without oversight, guidance and legislation from Congress, elections across the country will be subject to reckless and dangerous conditions similar to those in South Carolina and Georgia. The health and safety of voters and the security and veracity of our elections must not be a partisan issue. The right to vote is fundamental to the perseverance of our democracy and a wide range of voting options must be implemented so that citizens may practice safe voting throughout the duration of this pandemic.

### ***Alabama***

Despite pressure from leading medical experts and authorities, Alabama Governor Kay Ivey refused to implement a statewide mandate that masks be worn in public on election day to help prevent the spread of COVID-19.<sup>44</sup> In the absence of such a mandate, county election offices took the lead in implementing social distancing and COVID-19 safety precautions during Alabama's July 14<sup>th</sup> election. Though precautions varied by polling place, reports show poll workers wore masks and/or face shields,<sup>45</sup> continuously disinfected surfaces, and ensured the layout of polling locations would allow for social distancing.<sup>46</sup> Reports also indicate that some polling places maintained separate lines for non-mask and mask wearers and posted guidelines for enforcing COVID-19 precautions outside polling places.<sup>47</sup> One poll worker confirmed that measures were being taken to diligently adhere to

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<sup>44</sup> Paul Gattis, *Alabama mayors, hospital officials call for statewide mask requirement*, AL.com (Jul. 10, 2020) <https://www.al.com/news/2020/07/alabama-mayors-hospital-officials-call-for-statewide-mask-requirement.html>.

<sup>45</sup> Probate Judge Frank Barger, Facebook (Jul. 14, 6:30 AM) [https://www.facebook.com/JudgeBarger/photos/pb.1271662419612962.\\_2207520000.\\_/2991707744275079/?type=3&theater](https://www.facebook.com/JudgeBarger/photos/pb.1271662419612962._2207520000._/2991707744275079/?type=3&theater).

<sup>46</sup> Ugochi Iloka (@UgochiWBRC), Twitter (Jul. 14, 2020 9:22 AM) <https://twitter.com/UgochiWBRC/status/1283029071186857986>.

<sup>47</sup> Jeff Poor (@jeff\_poor), Twitter (Jul. 14, 2020 11:33 AM) [https://twitter.com/jeff\\_poor/status/1283061999317012480](https://twitter.com/jeff_poor/status/1283061999317012480).



social distancing guidelines, though some of the measures were causing delays.<sup>48</sup> They remarked that while the current set-up was “[f]ine for a sleepy one-race runoff” it is “[u]ntenable” for November’s presidential election.”<sup>49</sup>

Still, across the state there were reports of poll worker shortages often as a result of COVID-19 concerns. A Shelby County Probate Judge reported that the county had “a difficult time” staffing some polling locations due to poll workers calling out over the weekend and due to sickness or COVID-19 related concerns.<sup>50</sup> Additionally, the Lee County Clerk could only obtain half the poll workers they usually employ.<sup>51</sup>

Voters who were not comfortable or able to vote in-person voted absentee by mail in record numbers. According to officials in counties around the state, more people requested absentee ballots for the runoff election than in past primary runoff elections. Indeed, the number of absentee ballots issued during the primary was comparable only to the number of absentee ballots requested during a general election.<sup>52</sup> Though more than 43,000 absentee ballots were requested for Alabama’s primary, only 26,500 were returned as of July 13, 2020.<sup>53</sup> Alabama’s refusal to allow no-excuse absentee voting, had a disenfranchising effect as many voters experienced setbacks in obtaining their absentee ballots. One voter “tried 3 times to apply for

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<sup>48</sup> Anne Leader (@anneleader), Twitter (Jul. 14, 2020 8:46 AM) <https://twitter.com/anneleaderegval/status/1283020047984852994>.

<sup>49</sup> Id.

<sup>50</sup> Hilary Simon, *What to expect when you go to the polls for the Alabama Senate runoff*, WRBL.com, (Jul. 14, 2020) <https://www.wrbl.com/news/alabama-news/what-to-expect-when-you-go-to-the-polls-for-the-alabama-senate-runoff/>.

<sup>51</sup> Anne Leader (@anneleader), Twitter (Jul. 14, 2020 9:11 AM) <https://twitter.com/anneleaderegval/status/1283026396353363970>.

<sup>52</sup> Tyler Fingert, *Coronavirus pandemic prompts more people to vote from home in Mobile and Baldwin counties*, Fox 10 (Jul. 13, 2020) [https://www.fox10tv.com/news/coronavirus/coronavirus-pandemic-prompts-more-people-to-vote-from-home-in-mobile-and-baldwin-counties/article\\_6efc2070-c57a-11ea-b13a-73ced95c63ac.html](https://www.fox10tv.com/news/coronavirus/coronavirus-pandemic-prompts-more-people-to-vote-from-home-in-mobile-and-baldwin-counties/article_6efc2070-c57a-11ea-b13a-73ced95c63ac.html).

<sup>53</sup> WHNT News, *More than 43,000 absentee ballots requested for Tuesday runoff election*, WHNT 19 News (Jul. 14, 2020) [https://whnt.com/news/more-than-43000-absentee-ballots-requested-for-tuesday-runoff-election/?utm\\_campaign=socialflow&utm\\_source=t.co&utm\\_medium=referral](https://whnt.com/news/more-than-43000-absentee-ballots-requested-for-tuesday-runoff-election/?utm_campaign=socialflow&utm_source=t.co&utm_medium=referral).



and receive an absentee ballot here in Mobile” and on election day, still had not received their absentee ballot.<sup>54</sup>

While some voters were apprehensive about voting during a pandemic and without statewide safety precautions in place, a voter in Mobile County commented that she found “the method that they’re actually using there was pretty safe.”<sup>55</sup> Another voter stated that voting in Mobile was an “unbelievably organized, controlled, unbelievable experience. [She] was in and out in 5 minutes. Social distancing marks were on the floor everyone was wearing a mask & [she] even got to keep the pen for my paper ballot.”<sup>56</sup> Still, there were reports of voters who did not, or refused to, wear masks. One poll worker estimated that “25% of [their] last 16 voters were maskless.”<sup>57</sup>

In contrast to the high number of absentee ballots, in-person voting on election day was about 7% below projections, with a turnout rate of somewhere between 10-15%.<sup>58</sup> Secretary of State John Merrill attributed at least part of the election’s low turnout to voters’ “extreme caution during the COVID-19 pandemic.”<sup>59</sup> However, instead of implementing voter safety measures in line with CDC recommendations or expanding access to absentee ballots to ensure all eligible voters had the opportunity to safely cast a ballot, Secretary of State Merrill declared that state law does not allow for county election officials to mandate the use of masks as a requirement for being able to vote.<sup>60</sup>

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<sup>54</sup> Cindy Barton (@cindyrf2010), Twitter (Jul. 14, 2020 10:07 AM)

<https://twitter.com/cindyrf2010/status/1283040320075321353>

<sup>55</sup> Nicolette Schleisman, *Mobile County voters head to the polls amid coronavirus pandemic*, News 5 WKRG (Jul. 14, 2020) [https://www.wkrg.com/health/coronavirus/mobile-county-voters-head-to-the-polls-amid-coronavirus-pandemic/?utm\\_source=1.co+&utm\\_medium=referral&utm\\_campaign=socialflow](https://www.wkrg.com/health/coronavirus/mobile-county-voters-head-to-the-polls-amid-coronavirus-pandemic/?utm_source=1.co+&utm_medium=referral&utm_campaign=socialflow).

<sup>56</sup> Goto (@jtopper49), Twitter (Jul. 14, 2020 11: 07 AM)

<https://twitter.com/jtopper49/status/1283055407376867330>

<sup>57</sup> Anne Leader (@anneleaderegal), Twitter (Jul. 14, 2020 1:37 PM)

<https://twitter.com/anneleaderegal/status/1283093155815063553>

<sup>58</sup> WSFA Staff, *RESULTS: Alabama primary runoff election*, WSFA News 12 (Jul. 14, 2020)

<https://www.wsfa.com/2020/07/14/percent-turnout-possible-alabama-runoff-election/>.

<sup>59</sup> Id.

<sup>60</sup> Kim Chandler, *Alabama elections chief: Masks can't be required at polls.*, Associated Press (Jul. 10, 2020)

<https://apnews.com/1fa30dd8ada13ad4c27d93fd9c9da9ad>.



## Louisiana

Issues with Louisiana's July 11<sup>th</sup> primary election began weeks before election day. On July 1<sup>st</sup>, some 4,000 applications for mail-in ballots were discovered sitting at a post office in downtown New Orleans—undelivered and therefore incomplete.<sup>61</sup> Neither the New Orleans Registrar nor the U.S. Postal Service could offer an explanation as to how long the ballots had been sitting there, nor why the applications had not been delivered. The state's failure to process absentee ballot applications, may have, and likely did, prevent people from voting absentee or voting at all during the primary election. Indeed, at least one voter received their absentee ballot about an hour before the deadline to postmark the ballot.<sup>62</sup> Some voters who did not receive their absentee ballots, were able to still go to the polls and vote in-person,<sup>63</sup> however, other voters said they would not, or could not, vote in-person due to medical status and the risk of contracting COVID-19.<sup>64</sup> While the Secretary of State announced that voters whose ballots were not received by the 4:30 PM July 10<sup>th</sup> deadline would be permitted to vote in-person,<sup>65</sup> this response offered no recourse for those who were disenfranchised because they did not receive their absentee ballots and were not able to vote in-person.

In addition to difficulties processing absentee ballots, reports indicate that two days prior to the primary election, parishes in Louisiana faced poll worker shortages as a result of concerns regarding COVID-19. The Orleans Clerk of Court reported "over 2 dozen commissioners...[came] down with the virus and others [chose] not to participate."<sup>66</sup> Similarly in East Baton Rouge, the Clerk of Court's

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<sup>61</sup> Greg LaRose, Orleans registrar: 4,000 mail-in ballot requests sat at post office, WDSU News (updated Jul. 11, 2020) <https://www.wdsu.com/article/orleans-registrar-4000-mail-in-ballot-requests-sat-at-post-office/33279835>

<sup>62</sup> Garrett Hazelwood (@gdhazelwood), Twitter (Jul. 10, 2020 4:35 PM) <https://twitter.com/gdhazelwood/status/1281688436513087490>.

<sup>63</sup> Bartelby Jones (@orbius Quintus), Twitter (Jul. 11, 2020 9:20 AM) [https://twitter.com/orbius\\_Quintus/status/1281941392688898048](https://twitter.com/orbius_Quintus/status/1281941392688898048).

<sup>64</sup> Klaus Nomi Malone (@prokchorp), Twitter (Jul. 11, 2020 9:16 AM) <https://twitter.com/prokchorp/status/1281940469665148933>.

<sup>65</sup> Absentee Ballot Deadlines for the July 11, Secretary of State of Louisiana (Jul. 7, 2020) <https://www.sos.la.gov/Pages/NewsAndEvents.aspx>.

<sup>66</sup> Rob Masson, *Voting officials take precautions ahead of Saturday election*, Fox 8 (Jul. 9, 2020) <https://www.fox8live.com/2020/07/09/voting-officials-take-precautions-ahead-saturday-election/>.



election administrator said that the Parish was operating at their “bare minimum number” of poll workers.<sup>67</sup>

Despite the reality and risk of contracting or inadvertently transmitting COVID-19, a spokesperson for the Secretary of State’s office said that enforcing a statewide mask-requirement would “be disenfranchising” to voters.<sup>68</sup> Masks, therefore, were not required throughout Louisiana—even in places like Jefferson Parish and New Orleans, where mandates that masks be worn when engaging in other activities, like grocery shopping or going to the salon, were already in place. Thus, on July 11<sup>th</sup> voters in Louisiana were forced to risk their health and safety in order to exercise their right to vote. While accounts from voters on election day included positive reports of COVID-19 precautions at polling sites, including efforts to wipe down surfaces and maintain social distancing,<sup>69</sup> voters also reported negative and unsafe experiences. A voter in Orleans Parish reported on social media that poll workers were not wearing masks, laughed at her when she inquired as to why no masks were being worn, and did not make any changes to protect the voter once she explained she was immunocompromised.<sup>70</sup> Another voter recounted that her mother’s polling site “had no sanitizer and tried to hand her a pen.”<sup>71</sup> Her mother left her own hand sanitizer at the polling place.

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<sup>67</sup> Blake Paterson, *Here's what Baton Rouge is doing to keep Saturday's election safe from coronavirus*, The Advocate (Jul. 10, 2020) [https://www.theadvocate.com/baton\\_rouge/news/coronavirus/article\\_380be82a-c200-11ea-a37d-e719d52e7c7a.html](https://www.theadvocate.com/baton_rouge/news/coronavirus/article_380be82a-c200-11ea-a37d-e719d52e7c7a.html).

<sup>68</sup> Matt Sledge, *In first for coronavirus pandemic era, New Orleans area voters head to the polls Saturday*, Nola.com (Jul. 10, 2020) [https://www.nola.com/news/coronavirus/article\\_1fc0f760-c2e6-11ea-94c3-b36f1486abf2.html](https://www.nola.com/news/coronavirus/article_1fc0f760-c2e6-11ea-94c3-b36f1486abf2.html).

<sup>69</sup> Mask Wearing Maenad (@maenadjess), Twitter (Jul. 11, 2020, 11:01 AM) <https://twitter.com/maenadjess/status/1281966839355056128>; Rene Dugar (@renedugar), Twitter (Jul. 11, 2020, 9:20 AM) <https://twitter.com/renedugar/status/1281941504156733441>.

<sup>70</sup> Casey Haeg (Martin) (@caseyhaeg), Twitter (Jul. 11, 2020, 1:41 PM) <https://twitter.com/caseyhaeg/status/1282007211309293573>.

<sup>71</sup> In reality I'm just a glamorous person (@mimi41), Twitter (Jul. 11, 2020 5:06 PM) <https://twitter.com/mimi41/status/1282058740284497921>.



### *Texas*

In Texas, despite largely positive reports on election day,<sup>72</sup> safety precautions regarding COVID-19 were not universally followed. On election day, a voter with an underlying health condition found her regular polling place closed and was forced to vote at a different site where she experienced “[z]ero ability to social distance & [the] election judge handling my IDs” without a mask.<sup>73</sup>

Like in other states, voters in Texas reported not receiving their absentee ballot before election day.<sup>74</sup> As a result, voters who requested absentee ballots because of underlying health concerns and to protect themselves from contracting a potentially fatal virus, were forced to vote in-person or be disenfranchised. A disabled voter had difficulty completing the absentee ballot application and voting by mail, and was only able to vote on election day because their daytime caregiver was willing to clock out of work early to provide transportation to the polls.<sup>75</sup>

Additionally, there were scattered reports of problems like poor signage,<sup>76</sup> machines malfunctioning at least three separate times at one location for the

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<sup>72</sup> Bertha Angela Smith (@parallelfox), Twitter (Jul. 14, 2020 10:22 AM) <https://twitter.com/parallelfox/status/1283044168194039811>; Jonathan Ochart (@jonathanochart), Twitter (Jul. 14, 2020 9:28 AM); Travis County Clerk (@traviscountyclerk), Twitter (Jul. 14, 2020 11:51 AM) <https://twitter.com/TravisCoClerk/status/1283066617321140224>; Fab Miss Em is “social distancing” her ass off (@fabmisssem), Twitter (Jul. 14, 2020 4:02 PM) <https://twitter.com/fabmisssem/status/1283129839399075846>.

<sup>73</sup> Melissa (@Texasgemi), Twitter (Jul. 14, 2020 12:43 PM) <https://twitter.com/Texasgemi/status/1283079804351328256>.

<sup>74</sup> Kimberly O’Neil (justkimonline), Twitter (Jul. 14, 2020 9:30 AM) <https://twitter.com/JustKimOnline/status/1283031233447034884>; Chantel L. Jones (@chanteljones), Twitter (Jul. 14, 2020 9:40 AM) <https://twitter.com/chanteljones/status/1283033709051076614>.

<sup>75</sup> Katija Gruene (@qweekat), Twitter (Jul. 14, 2020 2:35 PM) <https://twitter.com/qweekat/status/1283107951721558018>.

<sup>76</sup> Kireau (@qireau), Twitter (Jul. 14, 2020 5:42 PM) <https://twitter.com/qireau/status/1283154898654298114>.



Democratic (but not the Republican) primary,<sup>77</sup> a long wait followed by technical problems,<sup>78</sup> and improper electioneering.<sup>79</sup>

### *Conclusion*

Across the country we have seen decisions from courts, state and local governments, and election administration officials which ignore or significantly diminish the reality that voters—particularly Black voters, elderly voters and voters with underlying health conditions—face the untenable choice of risking their health and very possibly their lives to exercise the fundamental right that the Supreme Court described 134 years ago as “preservative of all rights,”<sup>80</sup> or be disenfranchised. Congress must take action to ensure that during this unprecedented time, elections are administered without disenfranchising any of our fellow citizens. We are in a state of national crisis now and it is critical that we safeguard both the health and safety of voters and our democracy. We must not, we cannot, sacrifice one for the other.

There is still time for Congress to act. Indeed, as COVID-19 cases continue to rise across the country<sup>81</sup> it is critical that Congress pass legislation requiring compliance with CDC guidelines and providing states with the funds necessary to administer safe, secure and accessible elections. The COVID-19 pandemic has restricted access to the ballot for far too many eligible voters and has exposed the vulnerabilities in our democracy which have allowed voter suppression to go unchecked. Each and every election provides an opportunity for voters to engage with and influence policy, to elect members to represent them and their concerns, and to participate in the political process enshrined in the founding of our nation. In local elections and presidential elections alike, each vote is sacred. One vote, one election in which the right to vote is restricted, is one too many. Congress has the

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<sup>77</sup> Timothy Arnold, CMP, CMM (@LVMtgConcierge), Twitter (Jul. 14, 2020 10:29 AM)

<https://twitter.com/LVMtgConcierge/status/1283045910201741317>.

<sup>78</sup> David Babbs, Facebook (Jul. 14, 2020 9:42 AM)

<https://www.facebook.com/david.b.501/posts/3577320528945797>.

<sup>79</sup> ハッピーエンド (@moon\_WRX), Twitter (Jul. 14, 2020 10:54 AM)

[https://twitter.com/moon\\_WRX/status/1283052300852961280](https://twitter.com/moon_WRX/status/1283052300852961280).

<sup>80</sup> *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

<sup>81</sup> As of, Jul. 21, 2020 COVID-19 cases are rising in 41 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. *Coronavirus in the U.S.: Latest Map and Case Count* *supra* note 2.



authority to act and protect this sacred right which is at risk during these unprecedented times. We urge you to do so.

Sincerely,



Lisa Cylar Barrett  
Director of Policy  
NAACP Legal Defense & Educational Fund  
700 14th Street, NW Suite 600  
Washington, DC 20005



July 21, 2020

The Honorable Mitch McConnell  
Senate Majority Leader  
317 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Charles Schumer  
Senate Minority Leader  
322 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Nancy Pelosi  
House Majority Leader  
1236 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
House Minority Leader  
2469 Rayburn House Office Building  
Washington, D.C. 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi and Minority Leader McCarthy,

On behalf of the National Association of Counties (NACo) and America's 3,069 counties, we urge you to provide additional federal funding to strengthen the integrity and safety of our nation's election system during this uncertain time. As members of NACo's Elections Subcommittee, we understand the importance of this critical funding, which ensures that county governments can run safe and secure elections in our communities.

The unprecedented nature of the rapid spread of COVID-19 has fundamentally altered the landscape of the 2020 election cycle. America's counties traditionally administer and fund elections at the local level, overseeing more than 109,000 polling places and coordinating more than 694,000 poll workers every two years.

Along with administering elections, county officials work tirelessly to preserve the integrity and security of America's elections. Local governments protect against hacks to voter rolls to alter data and attempts to remove election information from county websites. Counties hire and train poll workers to ensure they are well equipped to assist voters and protect against voter fraud or other security risks. Additionally, election officials are prepared for a wide range of "hard security" challenges at polling locations, including mitigating natural disasters, following protocols for an active shooter or fire and other emergencies.

Voter fraud in America is essentially non-existent due in large part to the efforts and actions taken by county election officials every single day.

Beyond these traditional requirements, counties are now grappling with even more costly election-related challenges from providing additional voting options, keeping polling locations clean and complying with social distancing mandates. With concerns over transmission of the virus, counties are working closely with federal, state and local election officials to ensure the highest level of voter access and election security, while also protecting the health and safety of our residents.

We thank you for your bipartisan cooperation in delivering critical resources through the CARES Act. However, some of these resources remain at the state level and therefore have not assisted county security and administration efforts. Counties agree that these dollars are needed at all levels, and they are especially vital to county governments who oversee and administer safe and secure elections.

Therefore, we strongly urge Congress to allocate additional funding to help assist counties continue to administer and protect our nation's elections, and we request that any new funds be administered either in coordination and in consultation with local governments, or are made directly available to local governments.

Thank you for your consideration of this request. We look forward to working with you to ensure adequate funding to strengthen the integrity and safety of our nation's elections.

Sincerely,

Members of NACo's Elections Subcommittee:



Ricky Hatch, Clerk/Auditor, Weber County, Utah  
Elections Subcommittee Chairman



Batina Dodge, Clerk, Scotland County, Mo.  
Elections Subcommittee Vice Chair



Alysoun McLaughlin, Deputy Election Director,  
Montgomery County, Md.  
Elections Subcommittee Vice Chair



Tonia Tunnell, Director of Government  
Relations, Maricopa County, Ariz.  
Elections Subcommittee Vice Chair



Brian Kruse, Election Commissioner,  
Douglas County, Neb.  
Elections Subcommittee Vice Chair

Cc: U.S. Senate Appropriations Committee; U.S.  
House Appropriations Committee



July 21, 2020

The Honorable Roy Blunt  
Chairman of the Committee on Rules and  
Administration  
U.S. Senate  
Washington, D.C. 20510

The Honorable Amy Klobuchar  
Ranking Member of the Committee on  
Rules and Administration  
U.S. Senate  
Washington, D.C. 20510

**NATIVE AMERICAN RIGHTS FUND URGES 3.6 BILLION IN ADDITIONAL  
FUNDING FOR THE 2020 GENERAL ELECTION**

Dear Chairman Blunt, Ranking Member Klobuchar, and United States Senate Committee on  
Rules and Administration Members:

On January 22, 2020, the United States Senate Committee on Rules and Administration is  
scheduled to consider 2020 General Election Preparations. On behalf of the Native American  
Rights Fund (NARF), the nation's oldest and largest nonprofit law firm dedicated to asserting  
and defending the rights of Indian tribes, organizations, and individuals nationwide, we ask you  
to appropriate additional funding for the 2020 elections to address the additional expenses and  
budget deficiencies created by the global COVID-19 pandemic.

Native Americans are particularly vulnerable to the COVID-19 virus. For example, while the  
Mississippi Band of Choctaw Indians' members make up only 2 percent of the state's  
population, they comprise nearly 8 percent of Mississippi's confirmed cases. Mississippi State  
Health Officer Dr. Thomas Dobbs confirmed that tribal members have higher infection and  
mortality rates in the state than other ethnic groups.<sup>1</sup> In Montana and South Dakota respectively,  
Native Americans make up 13 percent of each state's reported cases but are less than 10 percent  
of each state's total population.<sup>2</sup> The Navajo Nation has suffered the most significant impact

<sup>1</sup> Roslyn Anderson, *Miss. Band of Choctaw Indians Hardest Hit in Coronavirus*, WLBT.com (June 12, 2020, 7:10  
PM), <https://www.clarionledger.com/story/news/2020/07/19/covid-toll-mississippi-band-choctaw-indians/5467655002/>.

<sup>2</sup> The Native American population makes up less than 7% of Montana's overall population, and South Dakota's  
Native American population is 9% of the state's total population. See Morgan Matzen, *Health Official Concerned  
for State's Pandemic Response as Native Population is Overrepresented in COVID-19 Cases*, Rapid City Journal  
(June 18, 2020), [https://rapidcityjournal.com/news/local/state-and-regional/health-official-concerned-for-state-s-pandemic-response-as-native-population-is-overrepresented-in-covid/article\\_ff05d3dc-4c74-586b-8d53-7c2e17c4faad.html](https://rapidcityjournal.com/news/local/state-and-regional/health-official-concerned-for-state-s-pandemic-response-as-native-population-is-overrepresented-in-covid/article_ff05d3dc-4c74-586b-8d53-7c2e17c4faad.html); Kaitlyn Nicholas, *Native Americans Account for 13% of Montana COVID-19 Cases*, MTPR.org

representing 45 percent of New Mexico's positive cases. Native Americans make up only 10 percent of New Mexico's population but amount to a staggering 50 percent of New Mexico's virus-related deaths.<sup>3</sup>

Yet, despite increased risk of infection, sickness, and death from COVID-19, Native Americans face additional barriers that make it more difficult to vote safely in the upcoming 2020 election that will require resources to address. Absentee voting from home will not be an option for Native Americans across the country come November.<sup>4</sup> Native Americans often do not get mail delivered to or picked up from their homes, reside in homes that lack a traditional mailing address, and instead – if they receive mail at all – rely on distant post office boxes to pick up and drop off their ballots. When the North Dakota 2020 primary was conducted entirely by mail, in Sioux County only 291 voters out of nearly 3,000 eligible voters managed to successfully cast their ballot. Likewise, some members of the Navajo Nation travel 140 miles roundtrip to access postal services. From parts of the Fort Peck Assiniboine and Sioux Tribes in Montana it is 68 miles to pick up and drop off mail. At the end of these long drives is a public post office outside of Native communities that pose a risk of infection.

Resources are needed to assist Native voters tackle these obstacles. Ballot drop off and collection efforts help mitigate distances. Similarly, a dramatic increase of on-reservation ballot drop boxes open on Election Day are needed throughout Indian Country. Currently, many states have not provided reservations with enough ballot drop boxes to service their communities. In Michigan, the Pokagon Band of Potawatomi do not have a single ballot drop box across the reservation's 4,700 acres despite a push for increased vote by mail in Michigan following a 2018 move to no-reason absentee voting.

For the rest of Native American voters, in-person, on-reservation, extended voting options are the only way to provide fair and safe voting options. These in-person voting options must be staffed for an extended period and fully equipped with personal protective equipment (PPE), disinfectant, and sanitization materials.<sup>5</sup> In remote Native communities, November often means harsh weather where voters cannot safely wait outside, requiring shelter to maintain proper distancing. The cost of safely running these in-person voting options requires resources. Yet, due to inadequate resources, tribes have been on the losing side of obtaining necessary PPE throughout this crisis. Tribes and tribal members in Seattle reportedly lacked access to N-95

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(June 29, 2020, 7:13 PM), <https://www.mtpr.org/post/native-americans-account-13-percent-montana-covid-19-cases>.

<sup>3</sup> Marjorie Childress, *COVID-19 has Spread to Most New Mexico Tribes*, New Mexico In Depth (May 13, 2020), <http://nmindepth.com/2020/05/13/covid-19-has-spread-to-most-new-mexico-tribes/>.

<sup>4</sup> NARF, *Vote by Mail in Native American Communities*, <https://www.narf.org/vote-by-mail/>.

<sup>5</sup> CDC, *Considerations for Election Polling Locations, Interim guidance to prevent spread of coronavirus disease 2019 (COVID-19)* (June 22, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

masks due to the supply shortage throughout the United States.<sup>6</sup> The Society for Healthcare Organization Procurement Professionals reported a 1,064 percent rise in costs for personal protective equipment such as masks and nitrile and vinyl gloves.<sup>7</sup> Until tribal governments received support from the federal government under the CARES Act, tribes such as the Navajo Nation stated they were unable to purchase adequate quantities of personal protective equipment in this highly competitive market.<sup>8</sup> Safety materials and equipment for elections will likewise require a specified allocation in order to meet demand come November.

Without additional funding, Native Americans have very little reason to hope for equitable access. When Native Americans request on-reservation polling places, even without the additional costs necessary to safely operate during the COVID-19 pandemic, local officials often allege a lack of resources prevent them from being able to provide the polling places.<sup>9</sup> Native reservations are often served by small and rural communities that lack the capacity and resources to deal with election administration's upfront unforeseen costs such as money for personnel, polling place locations, ballot printing, ballot drop boxes, etc., especially since in rural communities there is a higher cost per voter resulting from economies of scale.<sup>10</sup> For example, the Havasupai Tribe is located in a gorge outside of the Grand Canyon National Park. Each year, Coconino County officials fly electronic voting equipment down to the Supai village, collect votes for two days, and return the equipment to voting officials by air support.<sup>11</sup> Earlier this year, they lacked sufficient funding to run the mandatory Presidential Preference Election.<sup>12</sup> It is likely that the County will need greater support funding the 2020 election in November.

Rural communities are also facing historic budget crises because of the pandemic. In Neshoba County, Mississippi, July is typically the best month for sales tax revenue due to the Neshoba County Fair and the Choctaw Indian Fair. Both fairs were cancelled this year.<sup>13</sup> In Nebraska,

<sup>6</sup> Eric Ortiz, *Native American Health Center Asked for COVID-19 Supplies. It Got Body Bags Instead*, NBCNews.Com (May 5, 2020, 3:56 PM), <https://www.nbcnews.com/news/us-news/native-american-health-center-asked-covid-19-supplies-they-got-n1200246>.

<sup>7</sup> James M. Berkman, *Analysis: PPE Costs Increase Over 1,000% During COVID-19 Crisis*, McKnight's Longterm Care News (April 9, 2020), <https://www.mcknights.com/news/analysis-ppe-costs-increase-over-1000-during-covid-19-crisis/>.

<sup>8</sup> Eric Ortiz, *Native American Health Center Asked for COVID-19 Supplies. It Got Body Bags Instead*, NBCNews.Com (May 5, 2020, 3:56 PM), <https://www.nbcnews.com/news/us-news/native-american-health-center-asked-covid-19-supplies-they-got-n1200246>.

<sup>9</sup> NARF, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters*, available at: [https://vote.narf.org/wp-content/uploads/2020/06/obstacles\\_at\\_every\\_turn.pdf](https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf).

<sup>10</sup> NCSL, *Election Costs: What States Pay*, available at: <http://www.ncsl.org/research/elections-and-campaigns/election-costs.aspx>.

<sup>11</sup> Grand Canyon Blog, *Election Polls Provided Deep Within Grand Canyon* (Nov. 7, 2016), <https://explorethecanyon.com/election-polls-provided-deep-within-grand-canyon/>.

<sup>12</sup> Eric Peterson, *Reviewing Legislative Concerns Impacting Coconino County* (January 6, 2020), Flagstaff Business News, <https://www.flagstaffbusinessnews.com/reviewing-legislative-concerns-impacting-coconino-county/>.

<sup>13</sup> Sid Salter, *Cancelled Neshoba Fair is a microcosm of COVID-19 realities in state, nation* (June 17, 2020), [https://www.djournal.com/opinion/sid-salter-cancelled-neshoba-county-fair-is-a-microcosm-of-covid-19-realities-in-state/article\\_72edc7d7-f2e0-58fe-8400-39eee9e81663.html](https://www.djournal.com/opinion/sid-salter-cancelled-neshoba-county-fair-is-a-microcosm-of-covid-19-realities-in-state/article_72edc7d7-f2e0-58fe-8400-39eee9e81663.html).

meatpacking plants across the state, including in the Native American heavy Thurston County, have been hotspots for coronavirus outbreaks. Many of them have had to shut down, furthering the harm to the state's economy as a result of the virus.<sup>14</sup> These shortfalls – replicated across America – mean that budgets will be unable to accommodate the additional funding needed to safely operate the 2020 general election.

Even states that allege they have sufficient election funding simultaneously assert they do not have funding necessary to meet their Section 203 language assistance requirements. The State of Alaska is claiming, for example, that it has enough money to conduct the election but that it may not have enough to also provide that language assistance materials required under the Voting Rights Act. In other words, it is choosing among rights and allocating the resources to one and not the other. Jurisdictions cannot make these decisions and instead need sufficient resources to do both.

The remote and rural nature of reservations present costly problems, especially in light of safety requirements necessitated by the COVID-19 pandemic. Providing safe and effective voting options to Native Americans can be complicated and expensive. Cash-strapped states should be provided relief in the form of an additional \$3.6 billion of funding for the 2020 election. We urge you to provide funding so that every American, including this Nation's first peoples, have a fair and equitable opportunity to vote.

Sincerely,

/s/ John Echohawk  
Executive Director  
Native American Rights Fund

/s/ Jacqueline De León  
Staff Attorney  
Native American Rights Fund

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<sup>14</sup> John Schreier, *Latinos in Nebraska hit disproportionately hard by COVID-19, DHHS data show*, (July 2, 2020 Updated July 17, 2020), [https://journalstar.com/lifestyles/health-med-fit/latinos-in-nebraska-hit-disproportionately-hard-by-covid-19-dhhs-data-show/article\\_cb98bdb-e9c5-5166-880f-819d96680481.html](https://journalstar.com/lifestyles/health-med-fit/latinos-in-nebraska-hit-disproportionately-hard-by-covid-19-dhhs-data-show/article_cb98bdb-e9c5-5166-880f-819d96680481.html).



**NASS EXECUTIVE  
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April 2, 2020

Hon. Roy Blunt, Chair

Hon. Amy Klobuchar, Ranking Member  
U.S. Senate Committee on Rules and Administration  
Russell Senate Office Building, 301  
Washington, D.C. 20002

Dear Senators Blunt and Klobuchar,

The members of the National Association of Secretaries of State (NASS) would like to express our sincere appreciation for including \$400 million in election funding within the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This money will help address the unique challenges each of our states face conducting elections during the COVID-19 pandemic.

While we are grateful for financial support during this national emergency, states are going to have significant challenges when it comes to accessing these federal funds. In that vein, we are seeking clarification on our questions and concerns outlined below.

First, we have been told these funds will require a 20 percent match from our state, although this is not clearly stated within the legislative language. This match will be extremely difficult because many state legislatures have already adjourned and will not return before the funds expire on Dec. 31, 2020. Legislatures across the country are also dealing with depleted surpluses, lower tax revenues, increased healthcare costs and other financial challenges in response to the pandemic.

Second, the requirement to obligate or spend these funds by Dec. 31, 2020, may be complicated for a number of reasons including: legislative match concerns noted above; state procurement laws; global supply chain issues for high-speed scanners and mail processing equipment; and a scarce supply of necessary cleaning products and personal protective equipment available.

Third, states are being directed to report how the money is spent no later than 20 days after each federal election in 2020. Elections do not end on Election Day. Processes like signature verification, tabulating votes, determining provisional ballot qualifications, canvassing, preparing for the electoral college, certifying and auditing the election can take election officials days, weeks and



sometimes months to complete. With these time consuming tasks, compiling a report to the U.S. Election Assistance Commission (EAC) within the designated timeframe will be problematic. I would also note the deadline to report on the funds spent for the November 2020 election is more than 30 days before the deadline to spend those funds. We instead propose moving the EAC reporting requirement to June 1, 2021, for all 2020 federal elections.

Fourth, many states are already spending substantial sums of money, including funds from previous Help America Vote Act (HAVA) distributions, in response to COVID-19. Election officials have worked in an expedient manner to pay for an extraordinary amount of absentee or all-mail ballot printing, mailing, postage, equipment, voter education, and additional staff to implement policy changes and process these ballots. It is our hope after receiving our respective portions of the \$400 million, we will be able to reimburse our HAVA accounts to continue the work the funds were intended for—non-emergency election administration and cybersecurity improvements.

In this time of crisis, Secretaries of State throughout the nation are working to plan and hold free and fair elections, with our voters' health and safety as the top priority. I hope you understand our concerns and will address them with your colleagues. Resolving these matters immediately will help all Chief Election Officials to receive the money as soon as possible so we can make urgent changes, obtain necessary resources and further prepare for ongoing and upcoming elections.

Again, thank you for work in Congress to aid election officials in our Constitutional duty to administer elections. If you or your staff have any questions please feel free to contact Leslie Reynolds, NASS Executive Director at 202-624-3525, or [reynolds@sso.org](mailto:reynolds@sso.org).

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul D. Pate".

Hon. Paul Pate, CERA  
NASS President and Iowa Secretary of State

cc: U.S. Election Assistance Commission  
White House Office of Intergovernmental Affairs



July 21, 2020

Chairman Roy Blunt  
Committee on Rules and Administration  
United States Senate  
Washington, DC 20510

Ranking Member Amy Klobuchar  
Committee on Rules and Administration  
United States Senate  
Washington, DC 20510

**Re: Senate Committee on Rules and Administration Hearing: "2020 General Election Preparations"**

Dear Chairman Blunt and Ranking Member Klobuchar:

On behalf of the National Disability Rights Network (NDRN) and the Protection & Advocacy (P&A) Systems, we commend the Committee for examining the unique set of challenges the current health crisis brings to America's elections and exploring ways the federal government can assist state and locally-led efforts prior to the 2020 elections. We wish to submit this letter for the Committee hearing record.

NDRN is the non-profit membership organization for the federally mandated P&A and Client Assistance Program (CAP) systems for individuals with disabilities. The P&As and CAPs were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. P&As and CAPs are in all 50 states, the District of Columbia, Puerto Rico, and the US territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands), and there is a P&A and CAP affiliated with the American Indian Consortium which includes the Hopi, Navajo, and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. Collectively, the P&A and CAP Network is the largest provider of legally based advocacy services to people with disabilities in the United States.

Through the Protection and Advocacy for Voter Access (PAVA) program, created by the Help America Vote Act (HAVA), the P&As have a federal mandate to "ensure the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places" and are the leading experts on access to the vote for people with disabilities in the United States.<sup>1</sup>

<sup>1</sup> <https://www.congress.gov/107/plaws/publ252/PLAW-107publ252.pdf>

**Voters with disabilities remain a large voting bloc in America's elections.** The United States Census Bureau has reported up to 56.7 million people with disabilities live in the community, totaling approximately 19 percent of the non-institutionalized US population.<sup>2</sup> The Centers for Disease Control and Prevention (CDC)<sup>3</sup> and Pew Research Center believe that number is closer to 25 percent, or one in four Americans.<sup>4</sup> Further, the School of Management and Labor Relations at Rutgers University projected that there were 35.4 million people with disabilities eligible to vote in the United States, one-sixth of the total American electorate, during the 2016 Election.<sup>5</sup>

The disability community is diverse and people with disabilities are a part of every community. People who identify as LGBTQIA+ are more likely to have a disability.<sup>6</sup> A quarter or more of American Indians/Alaska Natives and Black adults have a disability.<sup>7</sup> People with disabilities are disproportionately low-income, and are unemployed, underemployed, or not participating in the workforce at a rate of approximately three-fourths of adults with disabilities, under the age of 65 and living in the community.<sup>8</sup>

People with disabilities are politically active. Pew reported that people with disabilities pay more attention to presidential elections and that election results matter more to people with disabilities when compared to people without disabilities.<sup>9</sup> Despite the size, diversity, and political commitment of the disability community, America's electoral system remains largely inaccessible and has a long history of excluding people with disabilities - exclusion exacerbated by the COVID-19 pandemic.

**Elections administrators must improve access to absentee, vote by mail, and remote voting during the COVID-19 pandemic.** Physical distancing is our best line of defense from the threat of COVID-19, and naturally, vote by mail is a critical piece of the puzzle for keeping elections safe during the pandemic. As a result, the primary elections have already seen a marked rise in applications for and return of absentee and vote by mail ballots. As COVID-19 positive test rates rise in states and sovereign tribal nations that experiment with re-opening places of public accommodation and the United States braces for a potential second wave in the fall, there is no reason to expect a decline in remote balloting, and elections administrators must be prepared.

Further, it behooves elections administrators to allow for as many voters as possible to choose voting from home, for their own safety, as well as the health of their fellow voters and elections personnel. Voters who opt to vote by mail optimize their own physical distancing, but every

<sup>2</sup> <https://www2.census.gov/library/publications/2012/demo/p70-131.pdf>

<sup>3</sup> <https://www.cdc.gov/media/releases/2018/p0816-disability.html>

<sup>4</sup> <https://www.pewresearch.org/fact-tank/2016/09/22/a-political-profile-of-disabled-americans/>

<sup>5</sup> <https://smlr.rutgers.edu/news/projecting-number-eligible-voters-disabilities-november-2016-elections-research-report>

<sup>6</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3490559/>

<sup>7</sup> <https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>

<sup>8</sup> <https://disabilitycompendium.org/annualreport>

<sup>9</sup> <https://www.pewresearch.org/fact-tank/2016/09/22/a-political-profile-of-disabled-americans/>

voter that chooses a remote ballot also decreases the number of voters that will turn out to polling places and vote centers on Election Day or during early voting periods. Reducing in person turnout in 2020 is necessary to enable in person voters to properly physical distance while voting and allow poll workers to sanitize between voters. There are many simple steps that can be taken to increase the usability and accessibility of vote by mail.

Elections officials should relax deadlines for absentee ballot applications and return of absentee ballots to accommodate voters who are experiencing increased challenges in meeting these deadlines as COVID-19 continues to change the nature of work schedules, schooling and child care, timelines for postal delivery, and availability of public transit. Given these pandemic-related challenges, elections administrators should also eliminate barriers to accessing absentee and vote by mail ballots, including requirements for doctor notes, notaries, and witnessed signatures. These requirements represent barriers for voters with disabilities in any election year who may not have ready access to doctors or notaries based on limited public transition and lack of ADA-compliance in places of public accommodation. In 2020, they pose an additional health risk to voters with disabilities, and particularly those that are immunosuppressed, who are under stay at home orders or in quarantine that must then break their self-isolation to access doctors, notaries, or witnesses just to be able to vote.

Even with these measures in place, it should be noted that traditional vote by mail systems are not, and have never been, accessible to voters with disabilities. People who are blind or low vision, have print disabilities,<sup>10</sup> limited literacy, limited manual dexterity, and other disabilities cannot privately and independently mark, verify, and cast a hand marked paper ballot. Dropping traditional paper ballots into the mail simply will not work for all voters. States that have not already done so must immediately implement some form of electronic ballot delivery or remote accessible ballot marking system that provides an electronic ballot to voters who choose to vote from home. These technologies are widely available and have been in use reliably for years in primarily vote by mail states, like Colorado and Washington. In fact, every state is currently required to have some form of remote ballot marking in place for military and overseas voters, as required by the Military and Overseas Voter Empowerment (MOVE) Act.<sup>11</sup> These are tested systems, already in use, that can be expanded for use by domestic voters to enhance the accessibility of vote by mail systems. Federal law is clear that any option made available to voters must be accessible for people with disabilities, including vote by mail.<sup>12</sup>

At this time, because it would reduce the number of in person voters on Election Day, it is important now more than ever to make our vote by mail systems as accessible as possible. Furthermore, when vote by mail systems are not made accessible for voters with disabilities, we in essence ask people with disabilities who are considered the most vulnerable for COVID-19 to

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<sup>10</sup> Print disabilities is a term that encompasses disabilities that make it difficult or impossible to access standard printed text. These include blindness or visual impairments, physical disabilities that limit manual dexterity (e.g., cerebral palsy, hand tremors, quadriplegia), and certain learning disabilities.

<sup>11</sup> <https://www.fvap.gov/uploads/FVAP/Policies/moveact.pdf>

<sup>12</sup> [https://www.ada.gov/ada\\_voting/ada\\_voting\\_ta.htm](https://www.ada.gov/ada_voting/ada_voting_ta.htm)

be the only voters who take to the polls and assume the personal health risk of in person voting, while their non-disabled peers have the privilege of voting from the safety of their homes.

Voting by mail is an important option that must be made available and accessible to all voters, but it is not and may never be a panacea. Many of the remote accessible vote by mail systems currently market-ready or in use by voting jurisdictions across the nation make vote by mail significantly more accessible. However, any vote by mail system that requires a voter to verify and cast a paper ballot is not fully accessible to voters with disabilities. Additionally, electronic ballot delivery systems rely on voters supplying their own technology, including computers, tablets, smartphones, and whatever assistive technology or software the voter needs, as well as requiring access to internet or cellular data service. Adults with disabilities are 20 percent less likely than their non-disabled peers to subscribe to home broadband and own a traditional computer, a smartphone, or a tablet.<sup>13</sup>

Consequently, solutions that require voters to provide their own technology or secure their own internet access are a useful option that makes the vote accessible for some voters, but they are not a complete solution in themselves. The onus is, and must be, on the government to provide the supplies voters need to cast their ballots. After all, we do not turn voters away from polling places for failing to bring their own pens to mark their ballots. Until the United States is prepared to make vote by mail fully accessible, in-person voting is a necessity.

**In-person, early, and curbside voting remains essential during the 2020 elections.** Until vote by mail and remote voting can be made fully accessible to all eligible voters, in-person voting options must be maintained to the greatest extent possible during the 2020 election cycle. Reducing in-person voting options will inevitably result in fewer polling sites that are fully compliant with the Americans with Disabilities Act (ADA) and create congestion at the polls that hinder effective physical distancing, as we have already witnessed in primary elections held in states like Georgia<sup>14</sup>, Kentucky<sup>15</sup>, and Wisconsin<sup>16</sup>.

Yet, securing voluntary polling locations has been a challenge during a global pandemic, in which many typical polling places have shuttered their doors or restricted visitors to protect staff, customers, or facility residents from exposure to COVID-19. Consequently, early voting has become an even more essential tool to ensure access to the vote for people with disabilities. Early voting periods and polling hours for each day of in-person voting must be extended for several weeks before Election Day to reduce congestion at the polls and allow for physical distancing. Early voting provides the added benefit of allowing voters with disabilities, often considered the most at risk for serious complications with COVID-19, to secure safe transit to

<sup>13</sup> <https://www.pewresearch.org/fact-tank/2017/04/07/disabled-americans-are-less-likely-to-use-technology/>

<sup>14</sup> <https://www.npr.org/2020/06/09/873054620/long-lines-voting-machine-issues-plague-georgia-primary>

<sup>15</sup> <https://www.courier-journal.com/story/news/politics/elections/2020/06/23/kentucky-primary-live-updates-voting-throughout-election-day/3237124001/>

<sup>16</sup> <https://www.reuters.com/article/us-usa-election/long-lines-and-frustration-as-wisconsin-votes-during-coronavirus-pandemic-idUSKBN21P1BG>

and from the polls when it may be available and to avoid “rush hours” at the polls for their own safety.

Polling locations must follow CDC and other federally recommended health guidelines for COVID-19 safety.<sup>17</sup> Polling locations should also be prepared to provide personal protective equipment (PPE), sanitizers, and hand washing stations for personnel and voters. The number of ballot marking devices or other accessible voting stations must also be significantly increased at every polling location. Increasing the number of voting stations available will aid in physical distancing, allow for sanitizing in between uses, and help reduce wait times. With the exception of jurisdictions in which all voters use accessible voting technology to cast their ballots, there are rarely enough accessible voting stations to meet the need and encourage their use by all types of voters that would benefit from the technology. The base standard of one accessible voting station per polling place outlined by HAVA is, and has always been, insufficient to meet the needs of voters.<sup>18</sup>

Critically, voters must also be allowed to vote curbside. Many states already provide curbside voting according to state statutes. Even when not written into state election law, curbside voting may be used as a stop gap measure for voters with disabilities to cast their ballots until an inaccessible polling place can be brought into compliance with the ADA. This practice is allowed by the ADA as a temporary measure and may be included in polling place accessibility settlements and memoranda of agreement between the US Department of Justice and individual voting jurisdictions.<sup>19</sup>

In light of COVID-19, some states have opted to implement curbside voting or extend existing curbside voting to any voter that chooses this option related to COVID-19 concerns. For example, various jurisdictions in Virginia, including Chesapeake,<sup>20</sup> expanded curbside voting for all voters with or without disabilities in response to concerns of COVID-19 exposure at polling places. Alternatively, holdout states, like Alabama, expressly prohibit voting curbside to the point of forcing litigation to provide this lifesaving measure at the polls.<sup>21</sup> Even in states where curbside voting is not currently allowed, its use would ease ADA-compliance issues that will inevitably arise from the limited number of available polling places and unexpected relocation of polling places, as well as to allow voters at greater risk in regard to COVID-19 to limit their exposure.

The ADA is clear that effective curbside voting programs require: “(1) signage informing voters of the possibility of voting curbside, the location of the curbside voting, and how a voter is supposed to notify the official that she is waiting curbside; (2) a location that allows the curbside

<sup>17</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>

<sup>18</sup> <https://www.congress.gov/107/plaws/publ252/PLAW-107publ252.pdf>

<sup>19</sup> [https://www.ada.gov/ada\\_voting/ada\\_voting\\_ta.htm](https://www.ada.gov/ada_voting/ada_voting_ta.htm)

<sup>20</sup> <https://www.13newsnow.com/article/news/politics/elections/curbside-voting-during-the-covid-19-pandemic/291-46443c26-31d3-4476-9957-032f82e06b99>

<sup>21</sup> <https://docs.justia.com/cases/federal/district-courts/alabama/alndce/2:2020cv00619/173742/1>

voter to obtain information from candidates and others campaigning outside the polling place; (3) a method for the voter with a disability to announce her arrival at the curbside (a temporary doorbell or buzzer system would be sufficient, but not a telephone system requiring the use of a cell phone or a call ahead notification); (4) a prompt response from election officials to acknowledge their awareness of the voter; (5) timely delivery of the same information that is provided to voters inside the polling place; and (6) a portable voting system that is accessible and allows the voter to cast her ballot privately and independently.”<sup>22</sup>

Additionally, it is necessary to also discuss the current state of polling place accessibility in the United States. The US Government Accountability Office (GAO) surveys of polling place accessibility span 20 years. In 2000, GAO data indicated that only 16 percent of polling places had an accessible path of travel from the parking area to the voting booth.<sup>23</sup> This percentage has slowly but steadily increased to 27 percent in 2008<sup>24</sup> and to 40 percent in 2016<sup>25</sup>. To be clear, 40 percent is an all-time high in architectural access, meaning that less than half of polling places were compliant with federal law during the 2016 presidential election.

Worse, GAO began to investigate the accessibility of voting stations within polling places starting with the 2008 study, during which only 54 percent of voting booths were determined to be accessible.<sup>26</sup> In 2016, the prevalence of accessible voting stations actually fell to a dismal 35 percent – a drop of 19 percentage points in just 2 presidential election cycles.<sup>27</sup> GAO found that voting booths were less likely to be set up to ensure voter privacy, set up for wheelchair access, have headphones readily apparent for audio balloting, or even be turned on for voters to use.<sup>28</sup> In their 2016 findings, GAO combined architectural access data with voting booth data for the first time and reported an astonishing 17 percent of polling places are compliant with federal law and fully accessible for voters with disabilities – fewer than 1 in 5.<sup>29</sup> In this complicated and frightening time, America’s polling places must be made safe for all voters, but they are also required to be accessible for all voters.

**Elections administrators are making rapid changes to rules and practices around the 2020 elections that will drastically affect how voters interact with the electoral process.** While quick changes to elections administrations during a Presidential election year are less than ideal, it has become a necessity during the pandemic. Elections administrators can and should make many of the changes proposed, even on a short timeline. As such, ample notification must be provided to voters as quickly as decisions are made and must be provided in a broad range of accessible formats to ensure voters are aware of and can interact with essential notifications. Elections administrators must create an extensive and diverse plan for public notification and education.

<sup>22</sup> [https://www.ada.gov/ada\\_voting/ada\\_voting\\_ta.htm](https://www.ada.gov/ada_voting/ada_voting_ta.htm)

<sup>23</sup> <https://www.gao.gov/new.items/d02107.pdf>

<sup>24</sup> <https://www.gao.gov/assets/300/296294.pdf>

<sup>25</sup> <https://www.gao.gov/assets/690/687556.pdf>

<sup>26</sup> <https://www.gao.gov/assets/300/296294.pdf>

<sup>27</sup> <https://www.gao.gov/assets/690/687556.pdf>

<sup>28</sup> <https://www.gao.gov/assets/690/687556.pdf>

<sup>29</sup> <https://www.gao.gov/assets/690/687556.pdf>

These plans should include: continual updates to websites and social media, press releases, coverage using local television, radio, and print news media, inclusion of accessibility options and any other necessary information in ballot packages mailed to voters, and any options for direct contact of registered voters including postal mail, email, and phone or text notifications.

All web and social media resources must be fully compliant with applicable federal access laws and should generally qualify as meeting the AA standard under the current version of the Web Content Accessibility Guidelines.<sup>30</sup> Any print materials should also be provided in large print, Braille, and electronic format. Public events and announcements conducted in person or televised should include an American Sign Language interpreter or Communication Access Realtime Translation (commonly referred to as CART transcription). Plain language should be used in all communications to ensure readability for the greatest number of eligible voters.<sup>31</sup>

**Congressional funding is sorely needed to ensure that elections in 2020 are fair, safe, and protect the rights of voters with disabilities.** NDRN applauds the passage of the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act which provides \$3.6 billion in critical elections funding during our current health crisis. The United States government has an obligation to ensure that tribal nations, states, territories, and local jurisdictions can acquire PPE and other needed supplies for in person voting, as well as remote accessible vote by mail systems that can be implemented immediately. Many Members of Congress have already stepped up to propose legislation to help address these issues by introducing The VoteSafe Act, The Natural Disaster and Emergency Ballot Act, and The DemocracyCorps Act.

NDRN calls on Congress to work together to pass a bill that will provide robust election funding assistance and address the safety issues raised around voting during this unprecedented time as well as ensuring accessibility for people with disabilities. The civil rights, the health of our voters, as well as the health of our democracy, depends on it. If you have any questions please contact Michelle Bishop, Disability Advocacy Specialist for Voting Rights, at [michelle.bishop@ndrn.org](mailto:michelle.bishop@ndrn.org) or (202) 408-9514.

Sincerely,



Curtis L. Decker  
Executive Director

<sup>30</sup> <https://www.w3.org/WAI/standards-guidelines/wcag/>

<sup>31</sup> <https://www.plainlanguage.gov/>



1201 16th Street, NW | Washington, DC 20036 | Phone: (202) 833-4000

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*Secretary-Treasurer*

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*Executive Director*

July 21, 2020

U.S. Senate  
Committee on Rules & Administration  
Washington, DC 20510

Dear Senator:

On behalf of the 3 million members of the NEA, who teach and support students in schools and on college campuses in each of our nation's congressional districts, thank you for holding the July 22 hearing, "2020 General Election Preparations." We applaud this committee for highlighting the importance of creating the conditions for fair elections and for providing the opportunity for the NEA to submit these comments for the record.

NEA members teach that democracy depends on the principle of "one person, one vote," yet our primaries since the onset of COVID-19 have shown that this foundational premise is at risk. During the primaries, we have seen many voters risk their health and safety to exercise their right to vote. They will stand in line for hours and even forfeit a day's pay if they must. But citizens should not be forced to do either of these in the United States of America, which has monitored elections around the world to ensure citizens of other nations fair and free access to the polls.

Voting methods should enhance participation, and this means expanding early in-person voting; vote-by-mail options; online voter registration; and voter education programs to inform communities of new practices, including changes in voting locations. In addition, poll workers must be provided with personal protective equipment (PPE) to keep themselves and others safe. According to the U.S. Election Assistance Commission, more than 50 percent of poll workers in 2016 were 61 or older—the demographic most seriously affected by COVID-19—making the availability of PPE especially important.

NEA members supported provisions in the CARES to protect voting rights during this pandemic. We also support Sen. Amy Klobuchar's Register America to Vote Act, which would authorize a grant program to ensure every state implements a process for automatically registering citizens to vote once they turn 18, and also would direct states to allow voters who have been automatically registered (or were registered previously) to update their address through the day of the election. Another bill introduced by Senator Klobuchar would expand voting by mail and require states to have polls open for 20 days, leading to less crowding and shorter lines at polling places.

The VoteSafe Act, introduced by Sen. Kamala Harris, would expand voting options and improve the safety and accessibility of polling places by authorizing \$5 billion to expand voting by mail and early voting and requiring states to permit no-excuse absentee voting, in addition to maintaining an early voting period of at least 20 days. The bill also implements curbside voting,

improves access to voter registration, and provides for more training and recruitment of poll workers.

We encourage members of this committee to consider these and other excellent ideas for broadening access to voting, including those in the HEROES Act, which takes steps such as: providing \$3.6 billion for states to protect voters' access to the polls; requiring 15 days of early voting, with a minimum of 10 hours each day; allowing voting with a sworn written statement rather than an ID; making absentee vote by mail available to all voters; and allowing absentee ballots to be returned to drop boxes, polling places, tribally designated buildings, or election offices.

Across America, we have seen citizens rise up to protest the deaths in Black and brown communities of citizens at the hands of police. At a time of so much hardship, distress, and frustration, people need *more* access to the vote—not less—to make their voices heard. We must do more to protect the most sacred privilege we have as Americans, regardless of our color, ethnicity, religion or spiritual practices, gender, sexual orientation, or socioeconomic status: the right to express our deepest values and beliefs on Election Day.

As the late Congressman John Lewis said in honor of the 54th anniversary of the Voting Rights Act last year: "We have come a great distance, and each of us must confirm in ourselves that we are not going back. We want to move forward to create a more fair and open society that gives an equal voice to every citizen." We can only accomplish this through protecting the right to vote and expanding the mechanisms through which we vote. Thank you again for holding this hearing on preparing for the 2020 General Election.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Egan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Marc Egan  
Director of Government Relations  
National Education Association

**Congress of the United States**  
**Washington, DC 20515**

July 22, 2020

The Honorable Roy Blunt  
 Chairman  
 Committee on Rules and Administration  
 United States Senate  
 Washington, DC 20510

The Honorable Amy Klobuchar  
 Ranking Member  
 Committee on Rules and Administration  
 United States Senate  
 Washington, DC 20510

Dear Chairman Blunt and Ranking Member Klobuchar,

I am writing to express my concern over Tennessee's reckless voter suppression ahead of the 2020 election. Anti-voter policies—especially policies targeting minority communities—have been a plague in Tennessee, but Secretary of State Tre Hargett's administration of the office has hit a new low during the COVID-19 pandemic.

Requests for absentee ballots in Tennessee for the November election may start on August 5th, two weeks from today. Instead of committing all necessary resources to prepare for a historically difficult election, the state government is fighting against a judge's order that all Tennesseans should have the option to vote by mail. During a public health crisis, voting rights groups have had to sue just to expand absentee ballots and pause in-person requirements for first-time voters. With those cases still pending, the only option first-time voters have is to show up in person to their county's election commission headquarters and show identification. The state does not even publicize this remedy. One judge rebuked Tennessee's election officials for spending weeks disregarding the order to expand absentee voting for every eligible Tennessean, threatening criminal contempt and saying "shame on you."

This obstruction is, unfortunately, par for the course in Tennessee. Under Secretary of State Tre Hargett and Elections Coordinator Mark Goins, voting in the state has plummeted. For years we have been one of the worst states in voter participation. According to one respected study, our voting laws have made us the 3<sup>rd</sup> hardest state to cast a ballot in the country. Tennessee remains one of the few states where voters have to register a full 30 days before an election.

It wasn't always this way. In 1996, Tennessee was the 10<sup>th</sup> easiest state to vote. But years of poor leadership have taken their toll. From criminalizing the activities of voter registration groups to creating bureaucratic labyrinths for college students to overcome, Tennessee spares no expense when it comes to stopping people from voting. These officials also go out of the way to suppress voting information, including by indicating that linking to an absentee ballot request from the Secretary of State's website could subject citizens to felony charges. We are now learning that nursing home residents are prohibited from voting absentee in our August 6 primary election. These are some of the most vulnerable citizens at any time, but are especially so during a pandemic. Meanwhile, the state has sat on over \$27 million in Help America Vote Act funds for years, leaving up to \$55 million in federal election funding that could be used on efforts like absentee voting.

The cost of doing nothing will be borne most by minority communities. Even the conservative Hoover Institution admits, "[t]he hard truth is that there has been a rising tide of voter suppression in recent U.S.

elections. These actions—such as overeager purging of electoral registers and reducing early voting—have the appearance of enforcing abstract principles of electoral integrity but the clear effect (and apparent intent) of disproportionately disenfranchising racial minorities.” Sadly, there is no better example of this trend than Tennessee.

The Committee should ask Secretary Hargett on the record whether he will commit to policies that will save Tennesseans’ lives. For example, how can Secretary Hargett justify not using the funding Congress has appropriated to expand absentee voting this year? How does he plan to mitigate voter confusion as the state continues to litigate against absentee voting weeks before the primary election? How can he justify forcing first-time voters to vote in person during the pandemic? Is Tennessee doing everything it can to ensure Black voters and other marginalized communities can vote during this election? What can Secretary Hargett say to reassure Congress that he is preparing Tennessee’s local election officials to meet the pandemic’s unique challenges and to run a safe and smooth election?

There is still enough time to prepare for this election, but only if Tennessee officials abandon their attempts to stop absentee voting and start taking voter welfare seriously. There should be no more confusion and no more obstruction.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Cooper".

Jim Cooper  
Member of Congress

cc: Members of the U.S. Senate Committee on Rules and Administration




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## Re: 2020 General Election Preparations Hearing

Dear Chairman Blunt and Ranking Member Klobuchar:

To ensure a safe, secure and democratic election across all 50 states this November, it is critical that Congress provide \$3.6 billion in additional funding. This funding will enable states to ensure in-person polling locations are adequately equipped to protect the health and safety of voters, expand early voting to minimize crowding on Election Day, and accommodate the anticipated surge in absentee voters nationwide.

As COVID-19 continues to create unpredictability around the country, voters are changing how they plan to vote, and states are rapidly adjusting their election systems to ensure that Americans *can* vote safely in November. These unforeseen adjustments will require additional budgetary allocations, costs that will continue to accrue later into the summer and fall, all while state and local budgets are under unprecedented strain due to declining tax revenue. Many states will need financial assistance simply to prevent a dramatic reduction of the number of Election Day polling places.

After investigating the cost of running a safe and secure 2020 election in five states (Georgia, Michigan, Missouri, Ohio, and Pennsylvania), [the R Street Institute reported](#) that the \$400 million provided by the CARES Act likely covers only 10-18 percent of what is needed to run a safe and secure election, depending on the state. Many states have already spent the bulk of their CARES Act funding to administer their primary elections during the pandemic. With general election turnout expected to roughly double what we saw throughout the primaries, any remaining CARES Act dollars will be woefully insufficient to meet the anticipated need.

Federal investment is required to ensure safe and accessible in-person voting options are available in every state. Between August and November 3, states will need to invest in additional recruitment, compensation, and training of poll workers; locating and leasing new polling locations; personal protective equipment to make those polling locations safe; and expanded early voting opportunities. Rural voters will be particularly affected if states are forced to consolidate polling places, as they may be required to travel long distances in order to cast a ballot.

- **Recruiting and compensating poll workers.** States have seen [poll workers quit](#) at [alarming rates](#), likely because most poll workers are over the age of 60, a high-risk group for COVID-19 infections. Jurisdictions are investing in recruitment strategies and increased pay to make being a poll worker more appealing for a *new* demographic. States like Ohio, Kentucky, and North Carolina are attempting to hire additional staff to administer the November



election with limited resources, and election officials in Alaska, Kansas, Georgia, and Iowa have all had to increase poll worker pay.

- **Training new poll workers.** As we saw recently in [Georgia](#), [South Carolina](#), and [New York](#), inadequate training of new poll workers can result in voters receiving the wrong ballot or the wrong number of ballots, waiting for hours in line, being incorrectly turned away, and other Election Day problems. Poll workers can spot inconsistencies and increase elections security, but they must receive sufficient training to do so.
- **Leasing new polling places.** Because many locations typically used as polling places (e.g. schools, senior living facilities) will not be available for use, jurisdictions will need to increasingly rely on private facilities that they will need to lease.
- **Personal protective equipment.** In order to make polling places safe, jurisdictions will need resources to purchase personal protective equipment, such as masks and gloves, for poll workers and election officials as well as to clean and disinfect the facilities and equipment.

Federal resources can also help states expand early voting opportunities. In order to make voting safe from a public health perspective, it is critical that states decrease polling place crowding by spreading out in-person voting. To do so, jurisdictions must extend early voting days and hours. Costs associated with this expansion include election judge and poll worker compensation, staff overtime, early vote center rental and maintenance, and other supplies.

Federal investment is also essential to assist states in handling the expected surge in absentee voting. Voters are requesting absentee ballots at unprecedented levels this year, requiring states to invest in expanded absentee ballot infrastructure. Many of these investments need to be made in the early summer, but states will incur additional costs in the late summer and fall in order to print, mail, track, and tabulate absentee ballots.

Election administrators around the country have demonstrated incredible ingenuity in this time of crisis to develop policy solutions that ensure voters have safe and accessible options to cast a ballot. Despite their best efforts, problems have arisen in several primary elections because states simply lacked the resources to fully implement the necessary reforms. It is not yet too late for November. Every state still has time and opportunity to scale up its election infrastructure into the fall, but Congress must act now to provide these critical resources to secure a safe and successful general election.

Sincerely,

July 22, 2020

## **VOTING RIGHTS LAB**

Committee on Rules and Administration  
United States Senate  
Washington, D.C. 20510

Re: 2020 General Election Preparations Hearing

Dear Chairman Blunt and Ranking Member Klobuchar:

In order to ensure a safe, accessible, and democratic election in November, it is critical that Congress require all states to adapt their election systems in light of the COVID-19 pandemic. In order to make the vital changes that will be required to safeguard voters' lives, Congress must provide states with \$3.6 billion in additional funding so that they can make the necessary reforms on an accelerated timetable.

In the coming months, states must expand absentee ballot access and continue to operate sufficient in-person polling places on Election Day and during an extended early voting period. Without these two equally important changes, crowded in-person voting conditions will almost certainly lead to a new wave of COVID-19 infections and deaths. Our research has found that an election-fueled pandemic wave is likely to disproportionately impact voters of color, who are experiencing dramatically higher rates of COVID-19 infection and death.<sup>1</sup> Voters of color tend to vote in person at higher rates than white voters, and they wait in line to vote twice as long as white voters on average,<sup>2</sup> putting them at elevated risk for contracting the virus if in-person voting conditions are crowded and unsafe.

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<sup>1</sup> Maria Godoy, What Do Coronavirus Racial Disparities Look Like State by State? NPR (May 30, 2020), <https://www.npr.org/sections/health-shots/2020/05/30/865413079/what-do-coronavirus-racial-disparities-look-like-state-by-state>. See also, Joshua Cheetham, Navajo Nation: The People BAttling America's Worst Coronavirus Outbreak, BBC (June 16, 2020), <https://www.bbc.com/news/world-us-canada-52941984>.

<sup>2</sup> Pettigrew, Stephen. "The racial gap in wait times: why minority precincts are underserved by local election officials." *Political Science Quarterly* 132, no. 3 (2017): 527-547.

In the absence of federal guidance, some states are failing to make the necessary adjustments to their election systems. Take, for example, the largest barrier to expanded absentee voting: excuse requirements. Though most states allow all voters to request absentee ballots, 17 states<sup>3</sup> require an excuse, or special reason, to vote absentee. All but three<sup>4</sup> of these states have adjusted their election system to allow *all* voters to vote absentee for one or more elections this year. **However, nine of these "excuse-required" states<sup>5</sup> have not yet done so for the November general election.** Although the election is over three months away, states need to take action now to give election officials sufficient time to prepare for new processes and increased absentee ballot usage. Without these changes to absentee ballot systems, the pressure on in-person polling places in these states will be too intense to allow for safe voting conditions.

As record numbers of voters request absentee ballots this year, states and localities need to pay to print, send, and process all those extra ballots. It is critical that Congress provide additional funding so that states can make these necessary, unforeseen adjustments. The costs associated with the changes will continue to accrue if changes are put off until later in the summer and fall. In fact, states will continue to incur additional election costs right up until November 3, and even past that date, as they endeavor to process the influx of absentee ballots.

Making in-person voting safe costs money too. States and localities need to fund enhanced poll worker recruitment, compensation, and training; leases for new polling locations; protective equipment to make those polling locations and poll workers safe; and expanded early voting opportunities that will be critical to reducing polling-place crowds. And in order for these systems to function properly, voters must be aware of them, making voter education a necessity.

To ensure a fair election this November, Congress must require that states give every registered citizen a safe opportunity to vote. This requires money, and it also requires national level-setting. Every eligible voter must have access to a mail ballot, no excuse required. States must eliminate any requirements that ballots be notarized or witnessed and must give voters a meaningful opportunity to correct inadvertent mistakes or omissions on their absentee ballot envelopes (such as forgetting to sign the envelope or putting their date of birth on the wrong line). Finally, voters need to have safe opportunities to vote in person. This means not consolidating polling places as well as expanding early voting days, hours, and locations.

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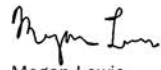
<sup>3</sup> AL, AR, CT, DE, IN, KY, LA, MA, MO, MS, NH, NY, RI, SC, TN, TX, WV

<sup>4</sup> LA, MS, TX

<sup>5</sup> CT, IN, KY, LA, MS, NY, RI, SC, TX

Voting Rights Lab compiled a [50-state survey](#) of the changes that states have made up until this point. We found that while some states are making these essential adjustments, others have fallen short. Congress must act to protect the voters in those states that are failing to meet this urgent public safety challenge. The health and safety of our electorate hangs in the balance.

Sincerely,

A handwritten signature in black ink, appearing to read "Megan Lewis". The signature is fluid and cursive, with the first name "Megan" and last name "Lewis" clearly distinguishable.

Megan Lewis  
Executive Director

## Addendum: 50-State Survey

Category	Item	Value	Unit
General Information	1. Name of the Project	Project Alpha	Text
	2. Project Manager	John Doe	Text
	3. Start Date	2023-01-01	Text
	4. End Date	2023-12-31	Text
	5. Budget	\$1,000,000	Currency
	6. Status	In Progress	Text
	7. Risk Level	Medium	Text
	8. Priority	High	Text
	9. Location	New York	Text
	10. Contact Information	Phone: (123) 456-7890	Text
Financial Data	11. Total Revenue	\$2,500,000	Currency
	12. Total Expenses	\$1,500,000	Currency
	13. Net Profit	\$1,000,000	Currency
	14. Gross Profit	\$1,200,000	Currency
	15. Operating Profit	\$800,000	Currency
	16. Earnings Before Tax	\$700,000	Currency
	17. Earnings After Tax	\$500,000	Currency
	18. Cash Flow	\$300,000	Currency
	19. Debt to Equity Ratio	0.5	Ratio
	20. Return on Investment	15%	Percentage
Operational Data	21. Total Units Produced	10,000	Count
	22. Total Units Sold	8,000	Count
	23. Total Units in Inventory	2,000	Count
	24. Total Units Shipped	7,000	Count
	25. Total Units Returned	500	Count
	26. Total Units Defective	1,000	Count
	27. Total Units Scraped	500	Count
	28. Total Units Recycled	1,500	Count
	29. Total Units Rejected	1,500	Count
	30. Total Units Accepted	6,500	Count
Human Resources	31. Total Employees	50	Count
	32. Total Contractors	10	Count
	33. Total Volunteers	5	Count
	34. Total Interns	3	Count
	35. Total Consultants	2	Count
	36. Total Consultants (Part-time)	1	Count
	37. Total Consultants (Full-time)	1	Count
	38. Total Consultants (Seasonal)	0	Count
	39. Total Consultants (Temporary)	0	Count
	40. Total Consultants (Permanent)	0	Count

- [1] States that mail ballots to all voters are marked "N/A."
- [2] States that automatically mail ballots to all voters are marked "N/A," as no ballot application is required. A few states send applications only to active registered voters with a current address on file, but not to voters who have not responded to recent address confirmation mailings. Those states are noted below.
- [3] States that automatically mail ballots to all voters are marked "N/A," as no ballot application is required.
- [4] States that automatically mail ballots to all voters are marked "N/A."
- [5] Note that many states will need to extend their cure deadlines to accommodate an influx of ballots and to ensure that all voters are given sufficient time to correct problems with their ballots after receiving notification.
- Iowa and Massachusetts were excluded from this list because only voters who return their ballots early have an opportunity to fix certain problems with their ballots.
- [6] In a few states, drop boxes were not mandatory, but they were available in every county. Those states received an "X" notation.
- [7] Although voters do not cast "absentee" ballots in states that automatically mail ballots to all voters (and as a result, there are no barriers to receiving a ballot), we have entered an "X" if the state does not impose any of the requirements listed here in order to cast a mail ballot.
- [8] States marked with an "X" in this column do not require a special reason, or excuse, to vote absentee under the state's existing (non-emergency) absentee voting laws.
- [9] The Alaska Democratic Party mailed ballots to all registered Democrats for its party-run primary.
- [10] The legislature has authorized the Division of Elections to mail ballots to all voters in November. To date, the head of the Division has not decided whether to conduct the election by mail.
- [11] The Alaska Democratic Party mailed ballots to all registered Democrats for its party-run primary.
- [12] The Alaska Democratic Party mailed ballots to all registered Democrats for its party-run primary. Newly registered voters could also download a ballot. No application was required.
- [13] Lieutenant Governor Kevin Meyer (R) and the Division of Elections announced in mid-June that the Division will mail ballot applications to all voters over the age of 65 in advance of the state primary. Alaska's ballot application allows voters to request a ballot for each election for the remainder of the calendar year, including the November election.
- [14] A voter must have either an Alaska driver's license or state ID to use this option.
- [15] The Alaska Democratic Party mailed ballots to all registered Democrats for its party-run primary. Newly registered voters could also download a ballot. No application was required.

- [16] All Alaskans may apply once to receive absentee ballots through the calendar year. Alaska also allows voters who are disabled, or who are permanently living in an Alaska institution serving the aged or persons with disabilities, or who the election supervisor determines reside in a remote area in Alaska where distance, terrain, or other natural conditions deny the voter reasonable access to the polling place, to sign up to automatically receive an absentee ballot application every year.
- [17] The Alaska Democratic Party mailed ballots to all registered Democrats for its party-run primary.
- [18] The party mailed ballots to all registered Democrats based on their existing registration, and the party's rules do not indicate that any identification was necessary to cast the ballot.
- [19] The Alaska Democratic Party's primary procedures indicate that registered Democrats will "receive a ballot in the mail with a postmarked return envelope."
- [20] Party officials originally established a postmark deadline prior to the day of in-person voting, but in-person voting was cancelled, and the deadline to cast a mail ballot was extended and converted to a "received by" deadline.
- [21] Alabama held its primary in early March, but for the runoff scheduled for July 14, Secretary of State John Merrill (R) issued an emergency rule authorizing voters to request an absentee ballot by selecting the "physical illness or infirmity" excuse if they are concerned about contracting or spreading the virus.
- [22] Alabama allows voters to request ballots for multiple elections with one application only if the elections will be held within 42 days of one another.
- [23] The U.S. Supreme Court blocked an Alabama district court order that would have eased the photo ID and notary or witness requirements for certain at-risk voters for the July 14 primary runoff.
- [24] Governor Hutchinson announced that all Arkansas voters may cite fear of contracting COVID-19 as a basis to vote by absentee ballot in the November 3 general election.
- [25] Only voters who live outside their county of registration or voters who reside in long-term care or residential facilities may qualify to receive absentee ballots for a calendar year based on a single application.
- [26] The Maricopa County Recorder attempted to mail ballots to all eligible voters who had not already requested one, but the effort was blocked by an emergency court order.
- [27] Arizona's online voter registration system, maintained by the Secretary of State, allows people to join the state's "Permanent Early Voting List" or request a one-time early ballot. Maricopa County launched a county-specific online portal to request a one-time early ballot or join the county's permanent early voter list on June 1.
- [28] Maricopa County launched a county-specific online portal to request a one-time early ballot or join the county's permanent early voter list on June 1. This capability supplements the online system maintained by the Secretary of State.

- [29] Maricopa County launched a county-specific online portal to request a one-time early ballot or join the county's permanent early voter list on June 1. This capability supplements the online system maintained by the Secretary of State.
- [30] Pending litigation could affect the deadline for curing an unsigned ballot.
- [31] Pending litigation could affect the deadline for curing an unsigned ballot.
- [32] Although drop boxes are not required by statute or regulation, they are used by some counties. <https://www.azcanelections.gov/how-to-vote/early-voting/vote-by-mail>
- [33] A federal appeals court ruling striking down Arizona's restrictions on third party ballot return has been stayed while the Supreme Court decides whether to hear the case.
- [34] Counties can choose to offer weekend voting; for the state primary, Maricopa County currently plans to offer early voting on both Saturday and Sunday of the two weekends immediately before the election.
- [35] Newly enacted legislation, Assembly Bill 860 allows all voters to use a secure, accessible, remote vote-by-mail method normally available only to disabled or UOCAVA voters. This change applies to the November 2020 election only.
- [36] Newly enacted legislation, applicable to the 2020 November general election only, allows ballot verification to begin 29 days before Election Day, rather than the usual 10 days before Election Day.
- [37] Although all counties must provide some level of basic ballot tracking, the Secretary of State has created a comprehensive tracking service and for the 2020 November general election, all counties must use that service.
- [38] Newly enacted legislation, applicable to the November 2020 election only, allows ballots to be counted if they are postmarked by Election Day and received within 17 days of Election Day. Generally, ballots must be received within three days of Election Day.
- [39] Governor Gavin Newsom (D) ordered counties to mail all voters a ballot for the November election. Shortly thereafter, the legislature enacted Assembly Bill 860, which requires all counties to mail all active voters a ballot for the November general election. That legislation also allows all voters to use a secure, accessible, remote vote-by-mail method normally available only to disabled or UOCAVA voters, again for the November 2020 election only.
- [40] Governor Gavin Newsom (D) ordered counties to mail all voters a ballot for the November election. Shortly thereafter, the legislature enacted Assembly Bill 860 which requires all counties to mail all active voters a ballot for the November general election. That legislation also allows all voters to use a secure, accessible, remote vote-by-mail method normally available only to disabled or UOCAVA voters, again for the November 2020 election only.
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voters to use a secure, accessible, remote vote-by-mail method normally available only to disabled or UOCAVA voters, again for the November 2020 election only.

[42] Individual counties offer various ways to apply. Some, like Alameda, offer an online portal. Others, like San Diego, allow voters to apply by phone, fax or email, but faxed and emailed requests must include the voter's signature. Some counties, like Riverside, only accept applications by mail although forms are available for download on the site.

[43] Governor Gavin Newsom (D) ordered counties to mail all voters a ballot for the November election. Shortly thereafter, the legislature enacted Assembly Bill 860 which requires all counties to mail all active voters a ballot for the November general election. That legislation also allows all voters to use a secure, accessible, remote vote-by-mail method normally available only to disabled or UOCAVA voters, again for the November 2020 election only.

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[45] Newly enacted legislation, applicable to the 2020 November general election only, allows ballot verification to begin 29 days before Election Day, rather than the usual 10 days before Election Day.

[46] All counties may use drop boxes, and at least some counties that hold traditional elections do.

[47] On June 3, Governor Gavin Newsom (D) issued an executive order that allowed non-VBM counties to consolidate polling places for the November election, provided that they offered a minimum number of drop boxes and early voting opportunities. This is executive order has been challenged in court. The Legislature is considering Senate Bill 423 which would offer counties similar options. All counties may use drop boxes, and at least some counties that hold traditional elections do.

[48] Although all counties must provide some level of basic ballot tracking, the Secretary of State has created a comprehensive tracking service and for the 2020 November general election, all counties must use that service.

[49] Newly enacted legislation, applicable to the November 2020 election only, allows ballots to be counted if they are postmarked by Election Day and received within 17 days of Election Day. Generally, ballots must be received within three days of Election Day.

[50] On June 3, Governor Gavin Newsom (D) ordered that counties that have not otherwise chosen to become mail ballot counties may, for the November election only, consolidate polling places, provided they offer early voting centers open at least eight hours on each of the Saturday, Sunday and Monday before Election Day.

[51] Governor Ned Lamont (D) issued an executive order allowing all voters to cast an absentee ballot due to COVID-19.

[52] Governor Ned Lamont (D) issued an executive order allowing all voters to cast an absentee ballot due to COVID-19.

- [53] Secretary of State Denise Merrill issued an interpretive opinion that certain at-risk voters are eligible to vote absentee using the existing illness excuse, and Governor Ned Lamont (D) plans to call a legislative session to expand absentee voting eligibility for the November election.
- [54] Secretary of State Denise Merrill (D) announced that her office would send absentee ballot applications to all voters.
- [55] Secretary of State Denise Merrill (D) announced that her office would send absentee ballot applications to all voters.
- [56] Secretary of State Denise Merrill (D) announced that her office would send absentee ballot applications to all voters.
- [57] Connecticut allows permanent absentee voting if the voter is permanently physically disabled and unable to appear in person at the polling site according to a certification from a primary care provider.
- [58] Governor Ned Lamont (D) has authorized the use of drop boxes by executive order, and Secretary of State Denise Merrill (D) has said that her office will purchase drop boxes for every municipality.
- [59] Governor Ned Lamont (D) has authorized the use of drop boxes by executive order, and Secretary of State Denise Merrill (D) has said that her office will purchase drop boxes for every municipality.
- [60] Governor Ned Lamont's (D) current executive order authorizing the use of drop boxes does not extend to the November election. However, Secretary of State Denise Merrill's (D) plan for the November election includes the use of drop boxes.
- [61] Secretary of State Denise Merrill (D) announced a plan to send ballots with prepaid postage to all voters.
- [62] Secretary of State Denise Merrill (D) announced a plan to send ballots with prepaid postage to all voters.
- [63] Secretary of State Denise Merrill (D) announced a plan to send ballots with prepaid postage to all voters.
- [64] While Governor Ned Lamont's (D) executive order established early voting by removing the excuse requirement for in-person absentee voting, the deadline is six days before Election Day. Within six days of Election Day, voters must submit an emergency absentee application that requires they have an "unforeseen" illness or physical disability preventing them from voting in person.
- [65] While Governor Ned Lamont's (D) executive order established early voting by removing the excuse requirement for in-person absentee voting, the deadline is six days before Election Day. Within six days of Election Day, voters must submit an emergency absentee application that requires they have an "unforeseen" illness or physical disability preventing them from voting in person.
- [66] The District of Columbia does not conduct a district primary.
- [67] The D.C. Board of Elections has announced that it will mail ballots to all voters for the November general election.
- [68] The District of Columbia does not conduct a district primary.
- [69] The D.C. Board of Elections has announced that it will mail ballots to all voters for the November general election.

- [70] The D.C. City Council passed legislation directing the Board of Elections to mail ballots to all registered voters.
- [71] The District of Columbia does not conduct a district primary.
- [72] The D.C. Board of Elections has announced that it will mail ballots to all voters for the November general election.
- [73] The D.C. City Council waived the signature requirement for the absentee ballot application, allowing voters to submit applications via a mobile app or by email.
- [74] The District of Columbia does not conduct a district primary.
- [75] The D.C. Board of Elections has announced that it will mail ballots to all voters for the November general election.
- [76] D.C. allows all voters to enroll in the permanent absentee list or to request absentee ballots for all elections held in a given calendar year.
- [77] The District of Columbia does not conduct a district primary.
- [78] The D.C. Board of Elections has announced that it will mail ballots to all voters for the November general election.
- [79] The District of Columbia does not conduct a district primary.
- [80] The District of Columbia does not conduct a district primary.
- [81] The District of Columbia does not conduct a district primary.
- [82] The District of Columbia does not conduct a district primary.
- [83] While D.C. generally requires voters to provide either a license number, SSN, or voter ID number on ballot applications, applications will not be necessary in November, as the Board of Elections plans to send ballots to all voters.
- [84] The District of Columbia does not conduct a district primary.
- [85] The District of Columbia does not conduct a district primary.
- [86] The District of Columbia does not conduct a district primary.
- [87] The District of Columbia does not conduct a district primary.
- [88] Though not required, the D.C. Board of Elections offered weekend early voting for the June primary.
- [89] The District of Columbia does not conduct a district primary.

- [90] The D.C. Board of Elections has wide discretion over the early voting period and chose to continue early voting for the June primary until the day before Election Day.
- [91] The District of Columbia does not conduct a district primary.
- [92] Under Governor John Carney's (D) March 24 executive order, all voters are eligible to vote by absentee ballot using the existing illness excuse so long as his emergency declaration remains in effect.
- [93] A new law (H.B. 346) will allow every registered voter to apply to "vote by mail" (rather than requesting a traditional absentee ballot) for the state primary and November general election.
- [94] A new law (H.B. 346) will allow every registered voter to apply to "vote by mail" (rather than requesting a traditional absentee ballot) for the state primary and November general election.
- [95] Governor John Carney (D) ordered the Department of Elections to mail absentee ballot applications to all registered Democrats and Republicans for the presidential primaries.
- [96] H.B. 346 requires that every registered voter receive an absentee ballot application before both the state primary and the general election.
- [97] H.B. 346 requires that every registered voter receive an absentee ballot application before both the state primary and the general election.
- [98] Voters who are eligible to vote by absentee ballot can choose to receive ballots for any elections that calendar year using one application form. Only certain caretakers and individuals employed in service to the state or nation are eligible for the permanent absentee list.
- [99] Governor John Carney (D) issued an emergency order allowing all voters to cite COVID-19 as a reason to vote absentee in the presidential primary. Although this order applied only to the presidential primary, the absentee ballot applications that Gov. Carney ordered sent to all voters allow voters to request ballots for any election in the calendar year.
- [100] The mail ballot applications sent to all voters (as required by H.B. 346) will allow voters to receive mail ballots for all remaining 2020 elections, unless the voter requests otherwise.
- [101] The mail ballot applications sent to all voters (as required by H.B. 346) will allow voters to receive mail ballots for all remaining 2020 elections, unless the voter requests otherwise.
- [102] Regulations applicable to New Castle County (which includes more than half of the state's population) require the team handling returned ballots to attempt to notify the voter by phone or email of any ballot envelope discrepancies and of the action that the voter can take to correct the problem.
- [103] Under Governor Carney's May 7 executive order, ballot processing may begin 30 days prior to Election Day.
- [104] H.B. 346 allows mail ballot verification to begin 30 days before Election Day.

- [105] H.B. 346 establishes drop boxes inside each Department of Elections Office.
- [106] H.B. 346 establishes drop boxes inside each Department of Elections Office.
- [107] H.B. 346 requires the state election commissioner to establish an online ballot tracking tool for mail ballots. (A similar system already exists for absentee ballots.)
- [108] H.B. 346 requires the state election commissioner to establish an online ballot tracking tool for mail ballots. (A similar system already exists for absentee ballots.)
- [109] Governor Carney's March 24 executive order allows all voters to cast an absentee ballot. Under existing law, voters may request and cast an absentee ballot in person until noon on the day before Election Day.
- [110] A substantial number of counties are mailing absentee ballot applications to all voters who are not already signed up to receive mail ballots. Florida voters can sign up to receive mail ballots two years at a time. As a result, voters who respond to the mailing for the August election can receive a ballot for November as well.
- [111] When a voter applies to vote by mail, they will continue to receive ballots for all elections through the end of the calendar year of the second regularly scheduled general election unless they request a ballot for a specific election only. A voter can cancel their mail ballot status at any time.
- [112] Under Florida law, voters must be sure there is sufficient postage if they return the ballot by mail. Some counties have announced they will pay the return postage for mail ballots for both the state primary and the November general election.
- [113] Under Florida law, voters must be sure there is sufficient postage if they return the ballot by mail. Some counties have announced they will pay the return postage for mail ballots for both the state primary and the November general election.
- [114] Florida law prohibits paying people to collect more than two ballots from third parties.
- [115] Secretary of State Brad Raffensperger (R) made the decision to send absentee ballot applications to all active voters. Inactive voters who had not voted in five years and failed to respond to an address confirmation notice did not receive an application.
- [116] Secretary of State Brad Raffensperger (R) made the decision to send absentee ballot applications to all active voters. Inactive voters who had not voted in five years and failed to respond to an address confirmation notice did not receive an application.
- [117] Secretary of State Brad Raffensperger (R) has expressed his intent to have an online portal for absentee ballot applications developed in time for the November general election.
- [118] Certain categories of voters (elderly, disabled, etc.) may request absentee ballots for all elections in a cycle (primary, primary runoff, general, general runoff) with one application.
- [119] Generally, issues with ballots must be cured within three days of an election. In response to litigation, State Elections Director Chris Harvey issued an instruction allowing voters to cure within three business days after receiving notification of any deficiencies with their absentee ballots.

- [120] Generally, issues with ballots must be cured within three days of an election. In response to litigation, State Elections Director Chris Harvey issued an instruction allowing voters to cure within three business days after receiving notification of any deficiencies with their absentee ballots.
- [121] The State Election Board issued a rule allowing counties to set up drop boxes for the primary elections. While they were not mandatory, available evidence suggests adoption was widespread.
- [122] The State Election Board issued a rule allowing counties to set up drop boxes for the primary elections. While they were not mandatory, available evidence suggests adoption was widespread.
- [123] The State Board of Elections issued a regulation extending the use of drop boxes. While it will remain at the discretion of counties to request SBOE-funded boxes, evidence suggests that there was widespread adoption for the primary election.
- [124] Georgia requires early voting on the second Saturday before Election Day. There is no required Sunday voting.
- [125] Early voting in Georgia ends the Friday before Election Day.
- [126] The Hawaii Democratic Party planned a mail ballot election with in-person voting on April 4. As a result of COVID-19, the party converted the election to an all mail-ballot election without in-person voting. Only voters who enrolled with the state Democratic Party by the original April 4 Election Day could participate, but another round of mail ballots were sent, and voters had until May 22 to return them. Ballots were counted on May 23.
- [127] Checking
- [128] Neither statute nor regulation requires counties to use "places of deposit", but counties may do so. For the August primary, the first election being conducted under the new vote by mail law, every county has chosen to offer places of deposit.
- [129] Neither statute nor regulation requires counties to use "places of deposit", but counties may do so. For the August primary, the first election being conducted under the new vote by mail law, every county has chosen to offer places of deposit.
- [130] The Hawaii Democratic Party conducted the presidential primary. In person voting was originally scheduled for April 4, but was cancelled because of COVID-19. Instead, a new round of ballots were mailed, and the deadline for ballots to be received was made May 22. Only people who were members of the party by April 4 could participate, thus retaining some element of April 4 as Election Day.
- [131] The Hawaii Democratic Party conducted the presidential primary. Ballots could only be cast by mail; no other delivery options were offered. As a result, third party return in this context meant someone mailing the ballot for the voter, which was not prohibited by the primary's rules.
- [132] In-person early voting was not offered for the party-run primary.
- [133] In-person early voting was not offered for the party-run primary.

- [134] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [135] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [136] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [137] Secretary of State Paul Pate (R) elected to send absentee ballot applications with prepaid return postage to all voters.
- [138] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [139] Voters do not receive notification of a missing or defective signature and an opportunity to cure unless their completed ballot is received by 5 p.m. on the Saturday before the election for general elections, or by 5:00 p.m. on the Friday before the election for all other elections.
- [140] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [141] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [142] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [143] Effective July 1, 2020, voters will be required to provide an ID number on their ballot application, and election officials will no longer be able to fill in missing application information on voters' absentee ballot applications using information in the voter database. Instead, they will have to contact the voters. If voters do not know their ID number, they will have to provide other information to election officials in order to complete their application.
- In addition, early voters (who vote early by casting an absentee ballot in person) will now need to show ID to vote.
- [144] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [145] Effective July 1, 2020, voters will be required to provide an ID number on their ballot application, and election officials will no longer be able to fill in missing application information on voters' absentee ballot applications using information in the voter database. Instead, they will have to contact the voters. If voters do not know their ID number, they will have to provide other information to election officials in order to complete their application.
- In addition, early voters (who vote early by casting an absentee ballot in person) will now need to show ID to vote.
- [146] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [147] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [148] Iowa uses a postmark deadline of the day before Election Day. Ballots must be received by the following Monday.
- [149] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.

- [150] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [151] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [152] The Iowa Republican and Democratic Parties held presidential caucuses rather than primary elections.
- [153] Idaho's state primary originally was scheduled for May 19. The governor ordered the primary to be run entirely by absentee ballot. May 19 became the last day to register to vote or request a ballot. Ballots were to be returned by June 2. The ballot request deadline was later changed to May 26 due to litigation concerning issues with Idaho's online ballot request system.
- [154] The Secretary of State sent absentee ballot applications to all registered voters who had not requested ballots prior to the primary being converted to an all-absentee ballot format.
- [155] Idaho created its online absentee ballot request portal in 2020 in response to concerns regarding COVID-19.
- [156] The Secretary of State sent absentee ballot applications to all registered voters who had not requested ballots prior to the primary being converted to an all-absentee ballot format.
- [157] No statewide requirement existed for the primary, but Ada County (Idaho's most populous with about 25% of the state's registered voters) provided return postage.
- [158] Governor Little's executive order suspended laws requiring counties to offer in-person early voting for the primary.
- [159] Governor Little's executive order suspended laws requiring counties to offer in-person early voting for the primary.
- [160] A new law will require that ballot applications be mailed to all voters who voted in the 2018 or 2019 general elections or the March 2020 primary.
- [161] A new law requires the creation of an online application portal for the November general election.
- [162] If election officials reject an absentee ballot, voters must be sent notification within two days of the rejection and before the 14th day after Election Day, including the reason for rejection and instructions to appeal before a three-judge panel on or before the 14th day after Election Day. The statute does not require the panel to allow a voter to cure a missing or mismatched signature during the appeal process. Panel decisions are final and cannot be appealed further.
- [163] The Illinois legislature established a cure process for the 2020 general election.
- [164] Illinois legislation authorized the use of drop boxes for the 2020 general election.
- [165] On March 25, the Indiana Election Commission issued an emergency order declaring that all voters could vote absentee in the June 2 state and presidential primary without an excuse.

- [166] On March 25, the Indiana Election Commission issued an emergency order declaring that all voters could vote absentee in the June 2 state and presidential primary without an excuse.
- [167] Pending litigation seeks to require Indiana to allow all voters to vote absentee without excuse in the November election because of the COVID-19 crisis.
- [168] Some counties chose to send absentee ballot applications to all voters as a response to the COVID-19 crisis.
- [169] Some counties chose to send absentee ballot applications to all voters as a response to the COVID-19 crisis.
- [170] Some counties are planning to send absentee ballot applications to all voters as a response to the COVID-19 crisis.
- [171] In an emergency order, the Indiana Election Commission directed the Division of Elections to create a system for online ballot applications before the June 2 primary. The system went live on April 28 and is now a permanent part of the state's online voter portal.
- [172] In an emergency order, the Indiana Election Commission directed the Division of Elections to create a system for online ballot applications before the June 2 primary. The system went live on April 28 and is now a permanent part of the state's online voter portal.
- [173] In an emergency order, the Indiana Election Commission directed the Division of Elections to create a system for online ballot applications before the June 2 primary. The system went live on April 28 and is now a permanent part of the state's online voter portal.
- [174] Under existing law, a voter may give their ballot to a member of their household or their designated attorney in fact for delivery to the county election board. The Indiana Election Commission issued an emergency order, which applies only to the June 2 election, allowing voters to give their ballots to family members and caregivers as well. A person who returns a ballot for another voter must sign an affidavit when returning it.
- [175] Under existing law, a voter may give their ballot to a member of their household or their designated attorney in fact for delivery to the county election board. The Indiana Election Commission issued an emergency order, which applies only to the June 2 election, allowing voters to give their ballots to family members and caregivers as well. A person who returns a ballot for another voter must sign an affidavit when returning it.
- [176] The Indiana Elections Commission sharply curtailed the early voting period for the June 2 primary, mandating it begin the Tuesday before Election Day, rather than 28 days before the election.
- [177] The Indiana Elections Commission sharply curtailed the early voting period for the June 2 primary, mandating it begin the Tuesday before Election Day, rather than 28 days before the election.
- [178] The Kansas Democratic Party mailed ballots to all registered voters for the party-run primary.
- [179] The Kansas Democratic Party mailed ballots to all registered Democratic voters for the party-run primary.
- [180] The Kansas Democratic Party mailed ballots to all registered Democratic voters for the party-run primary.
- [181] Some counties are sending ballot applications to all voters as a response to the COVID-19 crisis.

- [182] The Kansas Democratic Party mailed ballots to all registered Democratic voters for the party-run primary. On April 10, the party made an online ballot request form available for voters who did not receive a ballot in the March 30 or April 7 rounds of ballot mailing.
- [183] In Kansas, people with a permanent disability or a permanent illness may sign up for the permanent absentee ballot list.
- [184] The Kansas Democratic Party mailed ballots to all registered Democratic voters for the party-run primary.
- [185] The state's cure process does not apply to the party-run primary.
- [186] The state's ballot verification procedures do not apply to the party-run primary.
- [187] According to its press releases, the Kansas Democratic Party considered establishing drop boxes for the party-run primary but ultimately decided not to do so. Mail was the only means of ballot return.
- [188] The Kansas Democratic Party conducted the presidential primary as a mail ballot election, mailing ballots to all registered Democrats.
- [189] Counties may choose to offer postage, and some do.
- [190] The Kansas Democratic Party conducted the presidential primary as a mail ballot election, mailing ballots with prepaid return postage to all registered Democrats.
- [191] The state's ballot tracking feature does not apply to the party-run primary.
- [192] The Kansas Democratic Party originally scheduled its presidential primary as a mail ballot election with ballots due on the election date of May 2. In-person voting was cancelled due to the pandemic, but the ballot return deadline remained unchanged.
- [193] Voters in the party-run Democratic primary could return their ballots by mail only. The party's rules did not prohibit third parties from mailing ballots on behalf of other voters.
- [194] Early voting was not offered for the party-run primary.
- [195] Early voting was not offered for the party-run primary.
- [196] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), allowed all voters to cast an absentee ballot using a modified version of the state's procedure for absentee voting during a medical emergency.
- [197] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), allowed all voters to cast an absentee ballot using a modified version of the state's procedure for absentee voting during a medical emergency.
- [198] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), required the creation of an online portal for absentee ballot requests for the June 23 primary.

- [199] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), required the creation of an online portal for absentee ballot requests for the June 23 primary.
- [200] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), established a cure process for the June 23 primary election.
- [201] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), established a cure process for the June 23 primary election.
- [202] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), allowed absentee ballot processing to begin 22 days before the June 23 primary election.
- [203] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), allowed absentee ballot processing to begin 22 days before the June 23 primary election.
- [204] An emergency regulation empowered the State Board of Elections to purchase drop boxes for counties upon county request. Available evidence suggests that adoption was widespread.
- [205] An emergency regulation empowered the State Board of Elections to purchase drop boxes for counties upon county request. Available evidence suggests that adoption was widespread.
- [206] Beginning with this November's general election, voters applying for absentee ballots will be required to submit a copy of a photo ID or an affidavit attesting that they qualify for one of the limited exceptions to the requirement.
- [207] Beginning with this November's general election, voters applying for absentee ballots will be required to submit a copy of a photo ID or an affidavit attesting that they qualify for one of the limited exceptions to the requirement.
- [208] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), required prepaid return postage for the June 23 primary election.
- [209] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), required prepaid return postage for the June 23 primary election.
- [210] Regulations issued by the Kentucky State Board of Elections and approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R) allowed Election Day postmarks for the June 23 primary election. Generally, ballots would have to be received by Election Day.
- [211] Regulations issued by the Kentucky State Board of Elections and approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R) allowed Election Day postmarks for the June 23 primary election. Generally, ballots would have to be received by Election Day.
- [212] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), established early voting by removing the excuse requirement from in-person absentee voting. In-person absentee voting goes through the day

before Election Day.

[213] Kentucky State Board of Elections regulations, approved by Governor Andy Beshear (D) and Secretary of State Michael Adams (R), established early voting by removing the excuse requirement from in-person absentee voting. In-person absentee voting goes through the day before Election Day.

[214] An emergency election plan presented by Secretary of State Kyle Ardoin (R) and approved by the legislature expanded eligibility to include those who are at heightened risk from COVID-19, are experiencing symptoms, or have been advised to self-quarantine.

[215] An emergency election plan presented by Secretary of State Kyle Ardoin (R) and approved by the legislature expanded eligibility to include those who are at heightened risk from COVID-19, are experiencing symptoms, or have been advised to self-quarantine.

[216] Voters with disabilities, voters over 65, and participants in the state's address confidentiality program may sign up to receive an absentee ballot in the mail for each election. All voters eligible to vote by absentee ballot may request ballots for a primary and general election with one application.

[217] An emergency election plan presented by Secretary of State Kyle Ardoin (R) and approved by the legislature will allow verification to begin two days before Election Day, rather than on Election Day, in parishes that receive 2000 or more absentee ballots.

[218] An emergency election plan presented by Secretary of State Kyle Ardoin (R) and approved by the legislature will allow verification to begin two days before Election Day, rather than on Election Day, in parishes that receive 2000 or more absentee ballots.

[219] Louisiana requires early voting be available on Saturday but not Sunday.

[220] An emergency election plan presented by Secretary of State Kyle Ardoin (R) and approved by the legislature expanded the early voting period, but it still excludes Sundays.

[221] An emergency election plan presented by Secretary of State Kyle Ardoin (R) and approved by the legislature expanded the early voting period, but it still excludes Sundays.

[222] An emergency election plan presented by Secretary of State Kyle Ardoin (R) and approved by the legislature expanded the early voting period, but it still ends one week before the election.

[223] An emergency election plan presented by Secretary of State Kyle Ardoin (R) and approved by the legislature expanded the early voting period, but it still ends one week before the election.

[224] Massachusetts offers early voting by mail in its biennial general elections but not in other elections.

[225] Massachusetts has enacted legislation allowing all voters to cast their ballots early by mail for the 2020 state primary.

[226] Massachusetts offers early voting by mail in its biennial general elections.

- [227] Massachusetts has enacted legislation directing the Secretary of State to send applications to vote early by mail to all registered voters for the state primary and general election in 2020.
- [228] Massachusetts has enacted legislation directing the Secretary of State to send applications to vote early by mail to all registered voters for the state primary and general election in 2020.
- [229] Massachusetts enacted legislation requiring the creation of an online system for requesting early and absentee ballots in time for the November election. This legislation specifies that the system should be made available in advance of the state primary if feasible.
- [230] Massachusetts enacted legislation requiring the creation of an online system for requesting early and absentee ballots in time for the November election.
- [231] Voters who are eligible to vote by absentee ballot may request to receive ballots for all elections in a given calendar year via a single application. Massachusetts also allows voters with permanent physical disabilities to apply to be sent an application for an absentee ballot for each election. Clerks are instructed to complete the applications for the voter as fully as possible. To apply, a voter must file a certificate signed by a physician stating that it is reasonably certain due to permanent physical disability that the voter will be unable to vote in person on Election Day.
- [232] The legislation enacted in response to COVID-19 requires the Secretary of State to send voters separate applications for the state primary and the general election.
- [233] The legislation enacted in response to COVID-19 requires the Secretary of State to send voters separate applications for the state primary and the general election.
- [234] Voters are notified of a defect in their ballot and are sent a new ballot as if they had requested a replacement, but only if there is still sufficient time for the voter to receive and return the completed ballot by the close of polls on Election Day.
- [235] Massachusetts enacted legislation allowing municipalities to set up drop boxes.
- [236] Massachusetts enacted legislation allowing municipalities to set up drop boxes.
- [237] Massachusetts enacted legislation requiring that prepaid postage be included with early by mail ballots sent to voters.
- [238] Massachusetts enacted legislation requiring that prepaid postage be included with early by mail ballots sent to voters.
- [239] Early voting ballots postmarked by November 3, 2020, and received by 5 p.m. on November 6 will be counted.
- [240] Massachusetts enacted legislation mandating early voting be available on the second Saturday and Sunday before the state primary.
- [241] Massachusetts enacted legislation mandating early voting be available both Saturday and Sunday for the two weekends before the general elections.

- [242] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [243] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [244] On July 7, Governor Larry Hogan (R) announced that the November election would be a traditional election, not a mail ballot election.
- [245] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [246] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [247] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [248] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [249] On July 8, Governor Larry Hogan (R) sent a letter to the State Board of Elections (SBOE) telling the SBOE that the November general would be a traditional election. The letter states that the SBOE should send all voters absentee ballot applications and promote mail and early voting.
- [250] A voter must have a Maryland driver's license or state ID to use this option.
- [251] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [252] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [253] A Maryland voter can apply once to receive an absentee ballot for all elections in a calendar year.
- [254] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [255] The State Board of Elections mailed ballots to all voters as part of an emergency election plan approved by Governor Larry Hogan (R).
- [256] The State Board of Elections established ballot drop-off locations as part of an emergency election plan approved by Governor Larry Hogan (R).
- [257] The State Board of Elections established ballot drop-off locations as part of an emergency election plan approved by Governor Larry Hogan (R).
- [258] The State Board of Election's recommendations for the Nov. 3 election stated it would use more drop boxes in November than in June.
- [259] Maryland's statutes and regulations do not address returning a voter's cast ballot for them. To pick up a blank ballot and return it for a voter, the third person must be properly designated as an agent using a special form.
- [260] State law normally requires one full weekend of early voting. The State Board of Elections eliminated early voting as part of an emergency

election plan approved by Governor Larry Hogan (R).

[261] State law normally requires one full weekend of early voting. The State Board of Elections eliminated early voting as part of an emergency election plan approved by Governor Larry Hogan (R).

[262] On July 8, Governor Larry Hogan (R) announced the November election would be a traditional election.

[263] Maine requires voters to have an excuse in order to apply for an absentee ballot, in person or by mail within three business days of Election Day.

[264] Maine's standard requirement that voters have an excuse to receive an absentee ballot within three business days of Election Day has been waived for the July state primary via an executive order from Governor Janet Mills (D).

[265] Secretary of State Jocelyn Benson (D) will mail an absentee voter ballot application to all registered voters for the August 4 primary and November 3 general elections.

[266] Secretary of State Jocelyn Benson (D) will mail an absentee voter ballot application to all registered voters for the August 4 primary and November 3 general elections.

[267] Michigan launched its online absentee voter ballot application platform in June 2020. Voters applying for an absentee voter ballot online must provide a valid MI driver's license or state ID number.

[268] Michigan launched its online absentee voter ballot application platform in June 2020. Voters applying for an absentee voter ballot online must provide a valid MI driver's license or state ID number. Additionally, Secretary of State Jocelyn Benson (D) announced that her office would mail ballot applications to all voters, and voters may email a photo of the signed application to their local clerk.

[269] Michigan launched its online absentee voter ballot application platform in June 2020. Voters applying for an absentee voter ballot online must provide a valid MI driver's license or state ID number. Additionally, Secretary of State Jocelyn Benson (D) announced that her office would mail ballot applications to all voters, and voters may email a photo of the signed application to their local clerk.

[270] Voters may apply to be placed on the permanent absentee voter ballot application list to receive an application prior to each election.

[271] The Secretary of State mailed absentee voter ballot applications to all voters prior to the August primary and November general elections. Voters may apply for absentee voter ballots for either or both elections with a single application.

[272] The Secretary of State mailed absentee voter ballot applications to all voters prior to the August primary and November general elections. Voters may apply for absentee voter ballots for either or both elections with a single application.

[273] Some cities and towns are making arrangements to provide prepaid return postage. Sterling Heights (Michigan's fourth most populous city) is the largest to announce such a move to date. According to city officials, Detroit has done so for years.

[274] Minnesota law allows localities with smaller populations to conduct elections entirely by mail. Most eligible localities are choosing to conduct

their elections by mail for the 2020 elections.

[275] Minnesota law allows localities with smaller populations to conduct elections entirely by mail. Most eligible localities are choosing to conduct their elections by mail for the 2020 elections.

[276] Minnesota law allows localities with smaller populations to conduct elections entirely by mail. Most eligible localities are choosing to conduct their elections by mail for the 2020 elections.

[277] Voters must provide an email address and ID number (MN driver's license, MN ID card, or last 4 digits of SSN) to complete the application online.

[278] Any registered voter may apply to the county auditor or town clerk to automatically receive an absentee ballot application before each election.

[279] The Secretary of State has signed a consent decree related to ongoing litigation to waive the witness requirement for the August primary. Voters applying for absentee ballots will still need to provide an identification number when applying.

[280] The Secretary of State has signed a consent decree related to ongoing litigation that will require election officials to accept ballots postmarked by Election Day for the August primary.

[281] Due to the passage of Senate Bill 631, any registered voter may apply for a "mail-in" ballot that does not require an excuse for the August 4 primary and November 3 general elections.

[282] Due to the passage of Senate Bill 631, any registered voter may apply for a "mail-in" ballot that does not require an excuse for the August 4 primary and November 3 general elections.

[283] Voters with permanent disabilities may sign up to automatically receive an application for an absentee ballot for each election.

[284] Secretary of State Jay Ashcroft (R) states that his office has purchased drop boxes for all counties, but they will not be distributed to avoid confusion regarding the "mail-in" ballots that will be available to all voters in the August primary and November general election. Those ballots may only be returned through the U.S. Postal Service.

[285] Secretary of State Jay Ashcroft (R) states that his office has purchased drop boxes for all counties, but they will not be distributed to avoid confusion regarding the "mail-in" ballots that will be available to all voters in the August primary and November general election. Those ballots may only be returned through the U.S. Postal Service.

[286] Due to the passage of S.B. 631, certain voters in "high-risk" categories due to age or existing health conditions will not need to have their absentee ballots notarized for the August 4 primary or November 3 general elections. Governor Parson's June 11 executive order authorized remote notarization in Missouri through August 28.

[287] Due to the passage of S.B. 631, certain voters in "high-risk" categories due to age or existing health conditions will not need to have their absentee ballots notarized for the August 4 primary or November 3 general elections. H.B. 1655, signed by Governor Parson on July 6, enacted

remote notarization in Missouri permanently, effective August 28.

- [288] Sec. of State Michael Watson (R) stated that it should be up to local circuit clerks in each county to determine whether an individual may use the "temporary disability" excuse to vote early by mail or in person in light of the pandemic.
- [289] Mississippi allows voters who are permanently physically disabled to receive absentee ballots on an ongoing basis. Voters must submit a statement signed by a physician or nurse practitioner stating that the voter is permanently physically disabled in a way that would make it difficult for them to vote in person.
- [290] Governor Steve Bullock (D) issued an executive order allowing counties to mail ballots to all voters for the June 2 presidential and state primary, while still requiring early and Election Day voting at county offices. All counties opted in.
- [291] Governor Steve Bullock (D) issued an executive order allowing counties to mail ballots to all voters for the June 2 presidential and state primary, while still requiring early and Election Day voting at county offices. All counties opted in.
- [292] Governor Steve Bullock (D) issued an executive order allowing counties to mail ballots to all voters for the June 2 presidential and state primary. All counties opted in. In-person absentee voting was still available at county offices, and all voters were eligible.
- [293] Governor Steve Bullock (D) issued an executive order allowing counties to mail ballots to all voters for the June 2 presidential and state primary. All counties opted in. In-person absentee voting was still available at county offices, and all voters were eligible.
- [294] Governor Steve Bullock (D) issued an executive order allowing counties to mail ballots to all voters for the June 2 presidential and state primary, while still requiring early and Election Day voting at county offices. All counties opted in.
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- [297] Governor Steve Bullock (D) issued an executive order allowing counties to mail ballots to all voters for the June 2 presidential and state primary, while still requiring early and Election Day voting at county offices. All counties opted in.
- [298] Montana allows all voters to sign up to receive absentee ballots permanently.
- [299] Governor Steve Bullock (D) issued an executive order allowing counties to mail ballots to all voters for the June 2 presidential and state primary, while still requiring early and Election Day voting at county offices. All counties opted in.
- [300] Governor Steve Bullock (D) issued an executive order allowing counties to mail ballots to all voters for the June 2 presidential and state primary, while still requiring early and Election Day voting at county offices. All counties opted in.
- [301] Montana allows but does not require drop boxes.

- [302] In his order authorizing counties to conduct the June 2 election primarily by mail, Governor Steve Bullock (D) encouraged but did not require the use of drop boxes.
- [303] In his order authorizing counties to conduct the June 2 election primarily by mail, Governor Steve Bullock (D) encouraged but did not require the use of drop boxes.
- [304] Governor Steve Bullock (D) issued an executive order allowing counties to conduct the June 2 presidential and state primary as a mail ballot election, with all voters receiving a ballot with return postage paid by the county. All counties opted in.
- [305] Governor Steve Bullock (D) issued an executive order allowing counties to conduct the June 2 presidential and state primary as a mail ballot election, with all voters receiving a ballot with return postage paid by the county. All counties opted in.
- [306] Montana law restricts the return of ballots by third parties. However, this provision has been enjoined while litigation is pending.
- [307] Montana law restricts the return of ballots by third parties. However, this provision has been enjoined while litigation is pending. The presidential and state primary was conducted while the restrictions were enjoined.
- [308] Montana law restricts the return of ballots by third parties. However, this provision has been enjoined while litigation is pending. The presidential and state primary was conducted while the restrictions were enjoined.
- [309] Montana law restricts the return of ballots by third parties. However, this provision has been enjoined while litigation is pending.
- [310] Election officials are prohibited from sending an absentee ballot to any person who has not first requested one due to the passage of HB 1169.
- [311] Newly enacted House Bill 1169 requires the State Board of Elections to create a secure website to allow voters to submit an online request for absentee ballots by September 1, 2020.
- [312] North Carolina does not maintain a permanent absentee voter list. Voters with a sickness or disability that is expected to last through the calendar year may request an absentee ballot for all elections for the remainder of the year.
- [313] Voters will only need one witness (rather than the usual two) to sign an absentee ballot for elections held in 2020 following the passage of H.B. 1169 in June.
- [314] House Bill 1169 provided for the creation of bipartisan teams to collect and return ballots for voters in the November 2020 general election.
- [315] The North Dakota Democratic Party conducted a "firehouse caucus" to allot its delegates for the national nominating convention. Mail voting was available from January 20 to March 5. Fourteen in-person caucus locations (where voters simply cast a vote rather than remaining to caucus) were available on March 10. The Republican Party conducted in-person caucuses. As President Trump was the only candidate on the Republican ballot, all of the state's delegates were allotted to him. Accordingly, the answers in this survey track the procedures for the Democratic

caucus.

- [316] Any eligible voter could obtain a mail ballot to vote in the Democratic caucus.
- [317] North Dakota law allows all counties to conduct elections by mail ballot. For counties that opt in, all voters in the central voter file will be mailed an absentee ballot application.
- [318] All 53 counties opted to conduct the June 9 primary by mail ballot as provided in the Century Code. All voters in the central voter file were sent an absentee ballot application. The Governor suspended the requirements for in-person polling locations to be provided in mail ballot elections for the June 9 primary.
- [319] Voters applying for absentee ballots online must provide the identification number from a valid form of identification.
- [320] The Democratic Party offered voters the ability to request mail ballots for the caucus online.
- [321] Voters may fill out a single application to receive ballots for all elections in a single calendar year.
- [322] An application to receive absentee ballots for the remainder of the calendar year does not apply to party-run caucuses.
- [323] Due to litigation, North Dakota provided a notice and cure procedure for signature mismatch problems with absentee ballots in the June primary.
- [324] Due to litigation, North Dakota provided a notice and cure procedure for signature mismatch problems with absentee ballots in the June primary. The case remains pending for relief in the November general election.
- [325] Mail-in ballots for the caucus were processed by a third-party vendor.
- [326] Governor Burgum's executive order encouraged counties to provide drop boxes for ballot return for the June 9 primary. All 53 counties provided at least one drop box location for the primary.
- [327] Voters in the Democratic caucus were required to sign an affidavit of support for the Democratic party and return the affidavit with their mail-in ballot.
- [328] North Dakota law generally requires ballots to be postmarked by the day before Election Day.
- [329] The Democratic Party required mail ballots to be postmarked by March 5 to be counted for the March 10 caucus.
- [330] Voters in the party-run caucus could return their ballots by mail only, unless they exchanged it for a ballot to vote in person on March 10. The party did not prohibit third parties from mailing ballots on behalf of other voters.
- [331] The Democratic Party did not offer in-person early voting for the March 10 caucus.

- [332] Governor Burgum's executive order suspended the requirement for in-person polling locations for the June 9 primary. No in-person early voting occurred for the all-mail ballot election.
- [333] Nebraska law allows counties with fewer than 10,000 inhabitants to conduct elections by mail ballot if they choose. For the 2020 primary, 11 Nebraska counties conducted elections by mail ballot.
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- [335] Nebraska law allows counties with fewer than 10,000 inhabitants to conduct elections by mail ballot if they choose. For the 2020 primary, 11 Nebraska counties conducted elections by mail ballot. Every other registered voter in the state was mailed an application for an early voting (mail) ballot for the primary.
- [336] Nebraska law allows counties with fewer than 10,000 inhabitants to conduct elections by mail ballot if they choose. For the 2020 primary, 11 Nebraska counties conducted elections by mail ballot. Every other registered voter in the state was mailed an application for an early voting (mail) ballot for the primary.
- [337] Douglas, Lancaster, and Sarpy counties (Nebraska's three most populous counties) have announced they will send all registered voters early voting applications for the general election. Secretary of State Eymen has not announced whether all voters statewide will receive applications.
- [338] Every registered voter in Nebraska was mailed an application for an early voting (mail) ballot for the primary.
- [339] Every registered voter in Nebraska was mailed an application for an early voting (mail) ballot for the primary.
- [340] State law does not require counties to offer drop boxes, but the Secretary of State provided a drop box to every county that did not already have one for the primary.
- [341] State law does not require counties to offer drop boxes, but the Secretary of State provided a drop box to every county that did not already have one for the primary.
- [342] Due to public health concerns, Governor Ricketts suspended requirements for the May 12 primary for county clerks to be open to the public for in-person early voting except by appointment for voters who required the use of an ADA accessible ballot marking device or who required physical assistance to complete their ballot.
- [343] Due to public health concerns, Governor Ricketts suspended requirements for the May 12 primary for county clerks to be open to the public for in-person early voting except by appointment for voters who required the use of an ADA accessible ballot marking device or who required physical assistance to complete their ballot.
- [344] Secretary of State Bill Gardner (D) and Attorney General Gordon MacDonald (R) issued a memorandum to New Hampshire election officials stating that all voters may utilize the existing disability excuse to vote by absentee ballot in all elections remaining in 2020.

- [345] Secretary of State Bill Gardner (D) and Attorney General Gordon MacDonald (R) issued a memorandum to New Hampshire election officials stating that all voters may utilize the existing disability excuse to vote by absentee ballot in all elections remaining in 2020.
- [346] All voters will be eligible to vote an absentee ballot in person using the disability excuse through the day before Election Day.
- [347] All voters will be eligible to vote an absentee ballot in person using the disability excuse through the day before Election Day.
- [348] Governor Phil Murphy (D) issued an executive order that the July 7 primary will be conducted by mail ballot. Every active registered Democratic and Republican voter automatically received a vote-by-mail ballot with prepaid return postage. Unaffiliated and inactive voters received a return postage prepaid vote-by-mail ballot application.
- [349] Governor Phil Murphy (D) issued an executive order that the July 7 primary will be conducted by mail ballot. Every active registered Democratic and Republican voter automatically received a vote-by-mail ballot with prepaid return postage. Unaffiliated and inactive voters received a return postage prepaid vote-by-mail ballot application.
- [350] Governor Murphy issued an executive order that the July 7 primary will be conducted by mail ballot. Every active registered Democratic and Republican voter will automatically receive a vote-by-mail ballot with prepaid return postage. Unaffiliated and inactive voters will receive a return postage prepaid vote-by-mail ballot application.
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- [352] Governor Murphy issued an executive order that the July 7 primary will be conducted by mail ballot. Every active registered Democratic and Republican voter will automatically receive a vote-by-mail ballot with prepaid return postage. Unaffiliated and inactive voters will receive a return postage prepaid vote-by-mail ballot application.
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- [355] Governor Murphy issued an executive order that the July 7 primary will be conducted by mail ballot. Every active registered Democratic and Republican voter will automatically receive a vote-by-mail ballot with prepaid return postage. Unaffiliated and inactive voters will receive a return postage prepaid vote-by-mail ballot application.
- [356] New Jersey automatically mailed ballots to active, affiliated voters, but all other voters were eligible to take advantage of the state's permanent absentee voting list.

- [357] New Jersey automatically mailed ballots to active, affiliated voters, but all other voters were eligible to take advantage of the state's permanent absentee voting list.
- [358] Election officials have reached an agreement in pending litigation to provide written notice to voters in the July 7 primary of ballot rejection with instructions for how to cure the deficiency by July 23.
- [359] Election officials have reached an agreement in pending litigation to provide written notice to voters in the July 7 primary of ballot rejection with instructions for how to cure the deficiency by July 23.
- [360] Governor Murphy's order pertaining to the July 7 primary requires each county, to the extent possible, to obtain at least 5 drop boxes and place them in accessible locations.
- [361] Governor Murphy's order pertaining to the July 7 primary requires each county, to the extent possible, to obtain at least 5 drop boxes and place them in accessible locations.
- [362] Governor Murphy's order concerning the July 7 primary requires all ballots mailed to voters to include prepaid return postage.
- [363] Governor Murphy's order concerning the July 7 primary requires all ballots mailed to voters to include prepaid return postage.
- [364] Governor Murphy's order concerning the July 7 primary requires county boards to accept all ballots postmarked by July 7 and received by July 14.
- [365] Governor Murphy's order concerning the July 7 primary requires county boards to accept all ballots postmarked by July 7 and received by July 14.<sup>type here</sup>
- [366] With the support of Secretary of State Maggie Toulouse Oliver (D), county clerks petitioned the Supreme Court for authorization to mail ballots to all New Mexico voters. The court rejected their request but ordered the Secretary of State to send absentee ballot applications to all voters.
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- [370] New Mexico enacted Senate Bill 4a in a special session to provide rules for the November election. The law allows counties to choose to send absentee ballot applications to voters with a current mailing address on file.
- [371] The online application process is not opens several weeks before Election Day.
- [372] Secretary of State Maggie Toulouse Oliver (D) opened the online application portal approximately one month early for the June primary.
- [373] Secretary of State Maggie Toulouse Oliver (D) opened the online application portal approximately one month early for the June primary.
- [374] New Mexico enacted Senate Bill 4a in a special session to provide rules for the November election. The law requires counties to notify voters if their ballot was rejected due to a missing signature or Social Security number within one day and allow voters to correct the problem through the day before the election. As a result of the early cure deadline, only voters who return their ballots early will benefit from this process.
- [375] State law enacted in 2019 appears to require that drop boxes meeting certain standards be placed in every county. Based on communications with the Secretary of State's office, boxes should be in place in every county by the November election.
- [376] State law enacted in 2019 appears to require that drop boxes meeting certain standards be placed in every county. Based on communications with the Secretary of State's office, boxes should be in place in every county by the November election.
- [377] New Mexico enacted Senate Bill 4a in a special session to provide rules for the November election. That law requires voters to place the last four digits of their Social Security number on the return envelope.
- [378] The Nevada Democratic Party held a caucus rather than a presidential primary.
- [379] Secretary of State Barbara Cegavske reached an agreement with each of Nevada's 17 counties to conduct the state primary by mail. Although the statewide plan was to mail ballots only to active voters, Clark County (home to Las Vegas and a majority of the state's population) mailed ballots to all registered voters.
- [380] The Nevada Democratic Party held a caucus rather than a presidential primary.
- [381] Secretary of State Barbara Cegavske reached an agreement with each of Nevada's 17 counties to conduct the state primary by mail. Although the statewide plan was to mail ballots only to active voters, Clark County (home to Las Vegas and a majority of the state's population) mailed ballots to all registered voters. All other inactive voters were eligible to request an absentee ballot.
- [382] The Nevada Democratic Party held a caucus rather than a presidential primary.
- [383] Nevada mailed ballots to all active voters, with Clark County (Las Vegas) mailing ballots to all registered voters.
- [384] Online applications are not available statewide but are available in Clark County, which contains Las Vegas and a large majority of the state's population.
- [385] The Nevada Democratic Party held a caucus rather than a presidential primary.

- [386] Nevada mailed ballots to all active voters, with Clark County (Las Vegas) mailing ballots to all registered voters.
- [387] Nevada voters may apply once for all elections in the calendar year, or for the permanent list.
- [388] The Nevada Democratic Party held a caucus rather than a presidential primary.
- [389] Nevada mailed ballots to all active voters, with Clark County (Las Vegas) mailing ballots to all registered voters.
- [390] The Nevada Democratic Party held a caucus rather than a presidential primary.
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- [397] The Nevada Democratic Party held a caucus rather than a presidential primary.
- [398] Early voting is required to be available on Saturdays but not on Sundays.
- [399] The Nevada Democratic Party held a caucus rather than a presidential primary.
- [400] The Nevada Democratic Party held a caucus rather than a presidential primary.
- [401] Governor Andrew Cuomo (D) issued an executive order enabling all New Yorkers to use the illness excuse because of COVID-19.
- [402] Governor Andrew Cuomo (D) issued an executive order enabling all New Yorkers to use the illness excuse because of COVID-19.
- [403] Governor Cuomo ordered absentee ballot applications with prepaid return postage be mailed to all voters.
- [404] Governor Cuomo ordered absentee ballot applications with prepaid return postage be mailed to all voters.
- [405] For the June 23 election, Governor Andrew Cuomo (D) issued an executive order that allowed voters to apply by email without a signature, and to apply by internet portal without a signature if the county chose to make that service available.
- [406] For the June 23 election, Governor Andrew Cuomo (D) issued an executive order that allowed voters to apply by email without a signature,

- and to apply by internet portal without a signature if the county chose to make that service available.
- [407] New York enacted Senate Bill 8130 which allows voters to apply for absentee ballots by email without a signature, and through an internet portal without a signature, if the portal is offered, for elections between June 24 and December 31, 2020.
- [408] New York allows voters who claim permanent illness or physical disability to sign up to receive an absentee ballot for every election. Voters who are requesting an absentee ballot because they will be absent for a significant period of time can designate a start and stop date for their application and receive ballots for all elections in that window.
- [409] By executive order, Governor Cuomo required ballots to include prepaid return postage for the June election.
- [410] By executive order, Governor Cuomo required ballots to include prepaid return postage for the June election.
- [411] New York's normal ballot return deadline is postmarked by the day before Election Day.
- [412] In May, New York enacted Senate Bill 8130, which changes the postmark deadline for the return of absentee ballots to Election Day, rather than the day before. This change is effective in 2020 only and applies to the presidential primary, state primary, and November general election.
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- [414] In May, New York enacted Senate Bill 8130, which changes the postmark deadline for the return of absentee ballots to Election Day, rather than the day before. This change is effective in 2020 only and applies to the presidential primary, state primary, and November general election.
- [415] Ohio conducted in-person early voting and absentee voting leading into the originally scheduled election date of March 17. In-person polling locations were closed by order of the state Director of Health on March 16. The state legislature eventually passed a law to extend absentee voting until April 28 while in-person voting remained generally unavailable.
- [416] Since 2012, Ohio has sent absentee ballot applications to all registered voters ahead of presidential and gubernatorial general elections. Secretary of State Frank LaRose has announced that funding has been approved to do so for the 2020 general election.
- [417] Since 2012, Ohio has sent absentee ballot applications to all registered voters ahead of presidential and gubernatorial general elections. Secretary of State Frank LaRose has announced that funding has been approved to do so for the 2020 general election.
- [418] House Bill 197 required local boards of elections to provide secure drop boxes for absentee ballot return for the primary.
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- [420] House Bill 197 required local boards of elections to provide prepaid return postage for absentee ballots in the 2020 primary.
- [421] House Bill 197 required local boards of elections to provide prepaid return postage for absentee ballots in the 2020 primary.

- [422] Ohio law generally requires ballots to be postmarked by the day before Election Day.
- [423] Voters were able to vote in person on the Saturday and Sunday prior to the originally scheduled election date of March 17. Polling locations were eventually closed by the state Director of Health on the afternoon of March 16. In-person voting was generally unavailable between March 17 and April 28.
- [424] Voters were able to vote in person on the Saturday and Sunday prior to the originally scheduled election date of March 17. Polling locations were eventually closed by the state Director of Health on the afternoon of March 16. In-person voting was generally unavailable between March 17 and April 28.
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- [426] Voters were able to vote in person on the day prior to the originally scheduled election date of March 17. Polling locations were eventually closed by the state Director of Health on the afternoon of March 16. In-person voting was generally unavailable between March 17 and April 28.
- [427] Oklahoma allows people to apply once and receive ballots for all elections in the calendar year.
- [428] For the June and November elections only, Senate Bill 210 allows voters to include a copy of their ID with their ballot rather than having it notarized. It also allows certain at-risk voters to have their ballot witnessed rather than notarized.
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- [430] Secretary Clarno announced that that some indoor ballot drop locations might not be available due to public health concerns related to COVID-19.
- [431] Secretary Clarno announced that that some indoor ballot drop locations might not be available due to public health concerns related to COVID-19.
- [432] A recent update to the state's Vote By Mail Procedures Manual directs counties to provide return postage for mail ballots, and Secretary of State Bev Clarno (R) announced that starting this year, ballots mailed to voters will not require postage.
- [433] Oregonians can vote early in person by requesting a replacement ballot at the office of the county clerk. Generally, this is available to the voter during normal business hours.
- [434] Voters applying for absentee or mail-in ballots online must provide a valid PA driver's license or state ID card number.
- [435] A registered voter may request to be placed on a permanent mail-in ballot list file to receive a mail-in ballot application by the first Monday in February of each year, or within 48 hours of approval of the request to be placed on the list, whichever is later. If the voter completes and timely

returns the mail-in ballot application, the voter will receive a mail-in ballot for every election during that year. A new mail-in ballot application must be completed annually.

[436] Some counties provided secure drop locations for absentee/mail-in ballot return for the June 2 primary, but drop boxes were not available statewide.

[437] Some counties provided secure drop locations for absentee/mail-in ballot return for the June 2 primary, but drop boxes were not available statewide.

[438] Governor Wolf issued an executive order allowing six counties to accept ballots postmarked by June 2 due to issues with post office delays, and two other counties received similar extensions through court orders. All other counties could only accept ballots received by the close of polls on June 2.

[439] Governor Wolf issued an executive order allowing six counties to accept ballots postmarked by June 2 due to issues with post office delays, and two other counties received similar extensions through court orders. All other counties could only accept ballots received by the close of polls on June 2.

[440] Rhode Island limits absentee ballot eligibility to voters with a qualifying excuse. However, one such excuse is if the voter "may not be able to vote at his or her polling place in his or her city or town on the day of the election." The Board of Elections' website makes it clear that "no specific reason [is] necessary" to use this excuse.

[441] Rhode Island law provides a list of reasons for which a voter may vote by mail ballot, including if the voter "may not be able to vote at his or her polling place in his or her city or town on the day of the election." State officials strongly encouraged the use of mail ballots for the June 2 primary and did not require voters to cite a special reason.

[442] Legislation that would temporarily eliminate the excuse requirement has stalled in the Rhode Island Senate. However, the state conducted a "predominantly mail ballot election" for the June 2 presidential primary using the existing list of excuses, which includes if the voter "may not be able to vote at his or her polling place . . . on the day of the election." Presumably, voters will be able to use this excuse in September state primary as well.

[443] Legislation that would temporarily eliminate the excuse requirement has stalled in the Rhode Island Senate. However, the state conducted a "predominantly mail ballot election" for the June 2 presidential primary using the existing list of excuses, which includes if the voter "may not be able to vote at his or her polling place . . . on the day of the election." Presumably, voters will be able to use this excuse in November as well.

[444] The Secretary of State's office sent a mail ballot application to all registered voters for the June 2 presidential primary in response to Governor Raimondo's executive order to conduct the election as a "predominantly mail ballot election."

[445] A voter who is indefinitely confined because of physical illness or infirmity or is disabled for an indefinite period may, by signing an affidavit to that effect, request that a mail ballot application be sent to them automatically for every election.

[446] Rhode Island sent mail ballot applications to all voters for the June 2 presidential primary.

- [447] By executive order, Governor Gina Raimondo (D) allowed local boards of canvassers to begin opening and verifying mail ballots 20 days before Election Day, rather than the usual 14 days before Election Day.
- [448] Rhode Island provided ballot drop boxes at every office of boards of local canvassers and every in-person polling location for the June 2 presidential primary.
- [449] Governor Raimondo's executive order suspended witness and notary requirements for mail ballot certification for the June 2 presidential primary.
- [450] The South Carolina legislature passed a law allowing all voters to vote absentee for the June 9 primary.
- [451] Senate Bill 635 allowed ballot verification to begin the day before Election Day, rather than the morning of Election Day.
- [452] A court order waived the witness-signature requirement for the June 9 state primary.
- [453] Because the South Carolina legislature passed a law allowing all voters to vote absentee for the June 9 primary, voters could vote early by casting an absentee ballot in person through the day before Election Day.
- [454] Secretary of State Steve Barnett (R) mailed absentee ballot applications to all voters who had not already requested a ballot or received an application from their county. The application gave voters the option to request a ballot for each election for the remainder of the calendar year.
- [455] Secretary of State Steve Barnett (R) mailed absentee ballot applications to all voters who had not already requested a ballot or received an application from their county. The application gave voters the option to request a ballot for each election for the remainder of the calendar year.
- [456] The application mailed to voters before the June primary included the option to request a ballot for each election for the remainder of the calendar year, including the November election.
- [457] South Dakota voters can apply once to receive ballots for all elections in the calendar year.
- [458] South Dakota law requires voters to have their applications notarized or to include a copy of their photo ID. The Secretary of State announced voters could take a photo of their ID using their phone or camera and email it to their county auditor.
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- [460] South Dakota law requires voters to have their applications notarized or to include a copy of their photo ID. The Secretary of State announced voters could take a photo of their ID using their phone or camera and email it to their county auditor.
- [461] The state is appealing a state court order requiring waiver of the excuse requirement.
- [462] The state is appealing a state court order requiring waiver of the excuse requirement.

- [463] Voters who are unable to appear at their polling place due to sickness, hospitalization, or physical disability, or are full-time residents of any licensed nursing home, home for the aged, or similar licensed institution providing relatively permanent domiciliary care, may request an absentee ballot application for all elections. The request must include a sworn statement from a physician asserting the voter's incapacity.
- [464] Elections Coordinator Mark Goins has said that the state will make its tracking system for UOCAVA voters available for all voters; however, he has warned that this functionality may not be ready for the August primary election.
- [465] Elections Coordinator Mark Goins has said that the state will make its tracking system for UOCAVA voters available for all voters for the November election.
- [466] Early voting must be offered on Saturdays during the early voting period, but not Sundays.
- [467] The use of Texas' existing "disability" excuse to allow all voters who fear contracting or transmitting COVID-19 to vote by early voting (mail) ballot is the subject of several ongoing lawsuits. A ruling that would have allowed all voters to use the disability excuse has been stayed pending appeal.
- [468] A voter who requests an absentee ballot on the basis of age or disability may sign up to receive absentee ballots for all elections until the end of the calendar year.
- [469] Governor Greg Abbott (R) announced that he will extend the early voting period for a yet unspecified amount of time for the November general election.
- [470] Governor Greg Abbott (R) announced that he will extend the early voting period for a yet unspecified amount of time for the November general election.
- [471] General law authorizes, but does not require, counties to provide drop boxes.
- [472] House Bill 3006 required all counties to provide secure drop boxes for mail ballots cast in the June 30 state primary.
- [473] State law makes the voter responsible for providing return postage for a mail ballot. But 11 of Utah's 29 counties generally provide return postage for mail ballots.
- [474] Utah law generally requires ballots to be postmarked by the day before Election Day.
- [475] House Bill 3006 required counties to accept mail ballots that are postmarked by June 30 for the state primary.
- [476] Virginia recently enacted legislation that went into effect on July 1, 2020, to remove the requirement for a voter to have an excuse to vote by absentee ballot. Voters needed one of a statutory list of excuses prior to that date, which included the 2020 presidential and state primaries.
- [477] The Department of Elections advised voters that any voter could use the "disability or illness" excuse to vote by absentee ballot for the June 23 state primary due to concerns over COVID-19.

- [478] Voters applying for absentee ballots online must provide a VA driver's license or state ID number, a social security number, and their date of birth for identity verification.
- [479] Virginia will offer a permanent absentee voter list to send a ballot automatically to voters prior to each election beginning on July 1, 2021. With Virginia's transition to no-excuse absentee voting on July 1, 2020, voters may apply to receive ballots for every election in a calendar year with a single application. Since this transition occurred after the presidential and state primaries, voters will not have an opportunity to request ballots for multiple elections in 2020.
- [480] On July 1, 2020, Virginia law changed to allow a voter to apply for an absentee ballot for all elections in a calendar year. Since this change took effect after the presidential and state primaries, voters will not have an opportunity to apply for ballots in multiple elections in 2020.
- [481] Virginia waived the witness requirement for absentee ballots for the June 23 primary. The requirement to provide the last four digits on an absentee ballot application remained in place.
- [482] The Virginia General Assembly has passed legislation requiring registrars to provide return postage for absentee ballots, but the bill must be reenacted by the 2021 session of the General Assembly to take effect.
- [483] The General Assembly enacted legislation that went into effect on July 1, 2020, that requires registrars to accept absentee ballots that are postmarked by Election Day. Ballots had to be returned by the close of polls on Election Day prior to that time, which included the 2020 presidential and state primaries.
- [484] Virginia law requires early voting (in-person absentee) to be available on the two Saturdays prior to Election Day.
- [485] Secretary of State Jim Condos (D) will mail all voters information about absentee voting that includes a postcard that can be detached and mailed back as an application.
- [486] Vermont voters are able to request ballots for any elections they choose within a given calendar year via one application form.
- [487] Some communities sent all voters absentee ballot applications for the April 7 election.
- [488] Some communities are sending applications to all voters for the August election.
- [489] The Wisconsin Election Commission voted to send applications to all voters for the November election.
- [490] Voters may apply once and receive ballots for all elections in the calendar year. Voters who are indefinitely confined due to age, illness, infirmity, or disability may request that a ballot be automatically sent to them for each election, indefinitely.
- [491] Litigation that only briefly changed the witness signature requirements resulted in voters casting valid absentee ballots that were later invalidated.
- [492] Because of litigation, the statutory deadline was changed to a "postmarked by Election Day" deadline for this election only.

- [493] Secretary of State Mac Warner (R) issued emergency regulations authorizing all voters to apply for an absentee ballot by selecting the illness excuse on the application. The regulations remain in effect for the duration of the declared state of emergency.
- [494] Secretary of State Mac Warner (R) issued emergency regulations authorizing all voters to apply for an absentee ballot by selecting the illness excuse on the application. The regulations remain in effect for the duration of the declared state of emergency.
- [495] Secretary of State Mac Warner (R) issued emergency regulations authorizing all voters to apply for an absentee ballot by selecting the illness excuse on the application. The regulations remain in effect for the duration of the declared state of emergency.
- [496] Secretary of State Mac Warner (R) directed county clerks to mail absentee ballot applications to all voters for the June primary.
- [497] Secretary of State Mac Warner (R) directed county clerks to mail absentee ballot applications to all voters for the June primary.
- [498] The Wyoming Democratic Party conducted its presidential caucus, previously scheduled for April 4, entirely by mail ballot. All registered Democratic voters were mailed a ballot and were required to return the ballot to the party by April 17.
- [499] The Wyoming Democratic Party conducted its presidential caucus, previously scheduled for April 4, entirely by mail ballot. All registered Democratic voters were mailed a ballot and were required to return the ballot to the party by April 17.
- [500] The Wyoming Democratic Party conducted its presidential caucus entirely by mail as a result of the pandemic.
- [501] The Wyoming Democratic Party conducted its presidential caucus entirely by mail as a result of the pandemic.
- [502] Secretary of State Edward Buchanan (R) mailed an absentee ballot application to every registered voter for the August 18 state primary.
- [503] The Wyoming Democratic Party conducted its presidential caucus entirely by mail as a result of the pandemic.
- [504] Voters may apply for absentee ballots for all state-run elections within a calendar year with a single application.
- [505] The Wyoming Democratic Party conducted its presidential caucus, previously scheduled for April 4, entirely by mail ballot. All registered Democratic voters were mailed a ballot and were required to return the ballot to the party by April 17.
- [506] The Wyoming Democratic Party conducted its presidential caucus entirely by mail as a result of the pandemic.
- [507] The Wyoming Democratic Party provided prepaid postage for caucus ballots.
- [508] Ballots had to be received by the Wyoming Democratic Party by April 17 to be counted.
- [509] The Wyoming Democratic Party conducted the presidential caucus entirely by mail ballot. No in-person voting took place.
- [510] New Jersey are Montana are counted twice. New Jersey mailed ballots to active, affiliated voters, but all other voters were eligible to request an absentee ballot. In Montana, all voters received a ballot automatically, but all voters remained eligible to vote in person by casting an

absentee ballot at a designated location.

[511] New Jersey are Montana are counted twice. New Jersey mailed ballots to active, affiliated voters, but all other voters were eligible to request an absentee ballot. In Montana, all voters received a ballot automatically, but all voters remained eligible to vote in person by casting an absentee ballot at a designated location.

[512] New Jersey is counted twice. The state automatically mailed ballots to active, affiliated voters, but all other voters were eligible to take advantage of the state's permanent absentee voting list.

[513] New Jersey is counted twice. The state automatically mailed ballots to active, affiliated voters, but all other voters were eligible to take advantage of the state's permanent absentee voting list.



COMMONWEALTH OF KENTUCKY  
**OFFICE OF THE SECRETARY OF STATE**  
 MICHAEL G. ADAMS

July 21, 2020

The Honorable Mitch McConnell  
 Majority Leader, U.S. Senate  
 Member, U.S. Senate Committee on Rules and Administration  
 317 Russell Senate Office Building  
 Washington, DC 20510

The Honorable Roy Blunt  
 Chairman, U.S. Senate Committee on Rules and Administration  
 260 Russell Senate Office Building  
 Washington, DC 20510

Dear Leader McConnell and Chairman Blunt:

I write to you in my capacity as Kentucky's chief elections official. As you may have seen in national media coverage, Kentucky's June 23 primary election was a phenomenal success. Despite the challenges, we kept our voters safe and enjoyed near-record turnout, with our Governor and election officials working ably together to protect and accommodate voting. As the *Washington Post* put it, "Voting during a pandemic doesn't have to be a disaster. Look at Kentucky";<sup>1</sup> and, "all election officials should pay attention to Kentucky's primary," which the *Post* characterized as "a rare bright spot" in election administration during the pandemic.<sup>2</sup>

As you also may have seen in national media coverage, various persons outside our state made uninformed or misinformed remarks about our election – about our motives, in fact, in how we chose to conduct our election – in the days before election day, tweeting out such attacks as:

- "Kentucky has used Covid-19 as an excuse to slash polling places"<sup>3</sup>
- "This is voter suppression – it's insidious"<sup>4</sup>

<sup>1</sup> [https://www.washingtonpost.com/opinions/voting-during-a-pandemic-doesnt-have-to-be-a-disaster-look-at-kentucky/2020/06/24/de95fe3a-b583-11ea-a8da-693d7674a\\_story.html](https://www.washingtonpost.com/opinions/voting-during-a-pandemic-doesnt-have-to-be-a-disaster-look-at-kentucky/2020/06/24/de95fe3a-b583-11ea-a8da-693d7674a_story.html)

<sup>2</sup> <https://www.washingtonpost.com/news/powerpost/paloma/the-cybersecurity-202/2020/06/24/the-cybersecurity-202-here-s-why-all-election-officials-should-pay-attention-to-kentucky-s-primary/5ef2a90f602ff12947e93652/?fbclid=IwAR348mYvb5sVMca6g62qFJwEC35s89spdJRAz2tOIvg5ImRtP-pUBmzwaKg>

<sup>3</sup> <https://twitter.com/ava/status/1274397444747309057>

<sup>4</sup> <https://twitter.com/amyklobuchar/status/1274856741784748033>

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- “If you don’t think Voting is a Revolutionary Action, why do you think They keep trying to Prevent You Doing IT??!!”<sup>5</sup>

These remarks were not only completely baseless and very offensive, they were also actively harmful to Kentucky’s voters, as the hate fanned up by these and similar figures manifested itself in angry, and in many cases profane, phone calls to my Office and our State Board of Elections – calls that likely impeded other calls coming from Kentuckians intending to ask how or where to vote.

Kentucky is grateful for the \$6,067,275 in extra election funds Congress made available to us through the C.A.R.E.S. Act. Clearly, we put those funds to good use, via nimble adjustments to our election system. While this funding was critical, the primary reason Kentucky is a nationally recognized success story in how it administered an election during a pandemic is that Kentucky officials, rather than self-styled experts in Hollywood or Washington, made the decisions of how to administer the election. Had these federal funds come with strings attached – particularly strings of the sort contemplated by some members of Congress – Kentucky would have been worse off than had it received no funds at all.

If there is any point of agreement among my chief election official colleagues across the country, Democrats and Republicans alike, it is that we need flexibility to run our elections ourselves, our way. Not only is this a directive in the U.S. Constitution, it is good policy that leads to good management and accountability where it belongs.

Every state has its own capabilities, its own procedures and its own election officials, elected by, and accountable to, its own citizens. As Kentucky has shown, any changes to the manner of any state’s election should be made by that state.

Sincerely,



Michael G. Adams

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<sup>5</sup> <https://twitter.com/SamuelLJackson/status/1275154812129234946>



2020 JUN 24 PM 4:12

KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

June 1, 2020

The Honorable Mitch McConnell  
Majority Leader  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Charles Schumer  
Minority Leader  
322 Hart Senate Office Building  
Washington, DC 20510

Re: Federal Intrusion into State Elections through the HEROES Act

Dear Leader McConnell and Minority Leader Schumer:

As State Attorneys General responsible for prosecuting and enforcing our states' election laws, we write to alert you to provisions in the Health and Economic Recovery Omnibus Emergency Solutions Act (HEROES Act)<sup>1</sup> that interfere in state elections and will foster rampant election fraud. Our concerns expressed in this letter focus on the Act's mail-in ballot mandates. These mandates will transform elections in a way that benefits vote harvesters and leads to massive disenfranchisement of qualified voters. We urge you to reject the Act because it would invade the prerogative of states to set their own election laws and would dramatically undermine election integrity.

Within the omnibus HEROES Act is the American Coronavirus/COVID-19 Election Safety and Security Act (ACCESS Act).<sup>2</sup> The ACCESS Act supplants state laws and rules governing elections. It requires states to provide mail-in ballots for all registered voters,<sup>3</sup> to allow individuals to apply for a ballot online, and to allow voters to register to vote as late as election day itself.<sup>4</sup> The Act also prohibits states from requiring identification, notarization, or witness signatures as conditions of providing an absentee ballot to a voter, and creates an elaborate process detailing the limited circumstances when a State may reject a mail-in ballot.<sup>5</sup>

The ACCESS Act also spells out when states must distribute mail-in ballots to all voters. If a public emergency is declared between 120 to 30 days before an election, the Act requires affected states to *automatically* mail absentee ballots to all registered voters.<sup>6</sup> In the case of states that do not register voters or keep central

<sup>1</sup> Health and Economic Recovery Omnibus Emergency Solutions Act, H.R. 6800, 116th Cong. (as passed by the House, May 15, 2020), <https://www.congress.gov/116/bills/hr6800/BILLS-116hr6800ih.pdf>.

<sup>2</sup> HEROES Act, Div. P, § 160002, pp. 1452–1526.

<sup>3</sup> *Id.* at 1458–71.

<sup>4</sup> *Id.* at 1465, 1488, 1502.

<sup>5</sup> *Id.* at 1459, 1461–64.

<sup>6</sup> *Id.* at 1466–67.

voter files, the Act requires states to send out ballots to all eligible voters.<sup>7</sup> The Act also requires states to prepay the return postage for any voter registration application, mail-in ballot application, and mail-in ballot.<sup>8</sup>

The Act also changes state laws governing the submission deadlines for mail-in ballots. It prohibits states from refusing to accept a ballot postmarked on or before the date of the election and makes states ensure there are alternative methods of returning ballots.<sup>9</sup> This includes permitting voters to designate individuals other than themselves to return ballots. Provided they do not receive compensation based on the number of returned ballots, these individuals do not have a limit on the quantity of ballots they may return.<sup>10</sup>

Although the ACCESS Act makes the foregoing changes mandatory, it also earmarks \$3.6 billion to be distributed by the Election Assistance Commission,<sup>11</sup> and is in addition to the \$400 million already provided by the previously enacted CARES Act.<sup>12</sup>

The HEROES Act and the ACCESS Act run roughshod over state election laws designed to maintain election integrity and root out voter fraud. These state regulations exist to curb fraud and abuse.<sup>13</sup>

Since the outbreak of the COVID-19 pandemic, mail balloting systems in several states have come under legal assault by various partisan groups and individuals. The Texas Democratic Party, for example, is demanding that judges re-write Texas election law and allow *all* voters to *claim* a disability to vote by mail, regardless of their health or physical condition.

Congress should not interfere with state laws that protect election integrity, even during the COVID-19 pandemic. As states begin reopening, election officials have many options available to safely and securely hold elections. They can provide masks, hand sanitizer, and gloves. They can enforce physical distancing recommendations, sanitize voting stations, and implement other practical solutions so voting machines can be operated touch-free. To shorten waiting times and lines at polls, they could also expand the number of early voting days.<sup>14</sup> With precautions like these, states

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 1479–82.

<sup>9</sup> *Id.* 1469.

<sup>10</sup> *Id.* at 1469–70.

<sup>11</sup> *Id.* at 1512–18.

<sup>12</sup> Coronavirus Aid, Relief, and Economic Stability Act, H.R. 748, 116th Cong. tit. V, at p. 250, <https://www.congress.gov/116/bills/hr/748/BILLS-116hr748enr.pdf>.

<sup>13</sup> See, e.g., *McGee v. Grissom*, 360 S.W.2d 893, 894 (Tex. App.—Fort Worth 1962, no writ) (per curiam).

<sup>14</sup> See, e.g., Proclamation by the Governor of the State of Texas (May 11, 2020), available at <https://gov.texas.gov/news/post/governor-abbott-issues-proclamation-regarding-july-4th-early-voting-for-special-runoff-elections>.

Leader McConnell and Minority Leader Schumer  
Page 3 of 4

can enable voters to access polling places safely and to exercise their vote without compromising election integrity.

The same cannot be said for mail-in ballots. Many states require voters to show an ID when they vote to prevent fraud. But there is no effective way for election officials to ensure that mail-in ballots are not requested fraudulently. Just as credit card skimmers can steal your financial information, vote harvesters can easily collect "authentic" signatures under false pretenses and steal your vote.

Once mail ballots go out, harvesters show up at a voter's door and engage the voter to provide "voting assistance." Sometimes a harvester will give a voter the impression that he is an election official and hand the voter an official ballot. Sometimes the offer of a free stamp does the trick. Whatever the case, successful vote harvesters leave with a voter's signature, and a ballot that is either blank, "correctly" voted, or can be modified (or disposed of, if the voter chose the "wrong" candidate) later. Skilled vote harvesters often appear friendly and helpful. They may engage the voter in reassuring political discourse while assisting the voter in filling out the ballot. Done effectively, the process is largely invisible to voters, who are led to believe their ballot was cast according to their wishes.

Victims of mail ballot fraud commonly say that they were pressured and harassed by campaign workers to sign up to vote by mail, vote a certain way, or hand over their ballots. The common denominator in mail ballot fraud is that the voices and votes of the victims are cancelled and replaced by those of paid campaign workers. Every fraudulent vote disenfranchises a lawful voter by canceling out a lawful vote.

Rewriting states' election laws through the HEROES and ACCESS Acts will allow absentee balloting that lacks the carefully considered state measures aimed at detecting, preventing, punishing, and ultimately eliminating voter fraud. We urge you to reject these bills and allow states to maintain the integrity of elections.

Very truly yours,



Ken Paxton  
Texas Attorney General

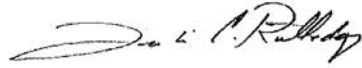


Steve Marshall  
Alabama Attorney General



Kevin Clarkson  
Alaska Attorney General

Leader McConnell and Minority Leader Schumer  
Page 4 of 4



Leslie Rutledge  
Arkansas Attorney General



Chris Carr  
Georgia Attorney General



Lawrence G. Wasden  
Idaho Attorney General



Aaron Negangard  
Indiana Chief Deputy Attorney  
General



Derek Schmidt  
Kansas Attorney General



Daniel Cameron  
Kentucky Attorney General



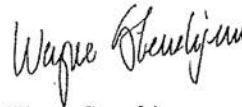
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Louisiana Attorney General



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**JOHN H. MERRILL**  
SECRETARY OF STATE

July 10, 2020

Senator Mitch McConnell  
317 Russell S.O.B.  
Washington, D.C. 20510

Dear Majority Leader McConnell:

The State of Alabama is grateful for the work and support of President Donald J. Trump and Congress in setting aside the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding to enable states to better prepare for and respond to election activities during the 2020 Election Cycle. In total, including the federal award and the required state match, Alabama has \$7,798,408 in available funding to pay for expenses for both the July 14 Primary Runoff Election and the November 3 General Election.

In Alabama, we created an application process to handle the distribution of CARES Act funds to the state's 67 counties. We felt that our county governments should be able to make requests to the Alabama Secretary of State for these funds directly as they are the most knowledgeable of the needs of their respective communities. Guidelines were created and distributed to all county commissions and local election officials across the state. These guidelines outlined the three categories for which counties could request reimbursement; supplemental poll worker pay, absentee election manager compensation, and reimbursement for personal protective equipment, masks, gloves, disinfectant spray, cleaning supplies, hand sanitizer, alcohol wipes, professional cleaning services, and other items to be considered. Collectively, sheriffs, absentee election managers, and probate judges all submitted their requests to their respective county commissions. The county commissions were then charged with compiling requests into one application to be submitted to our office by June 12, 2020.

Once applications were received, they were reviewed to ensure all application requirements were met and the requested reimbursement was appropriate, reasonable, and necessary. Once the applications were reviewed by our team and it was confirmed that all quotes aligned with the items requested, the final review was conducted by myself at which time each item requested was either denied or approved. Checks were then printed and mailed to each county along with a letter explaining how the applications were reviewed and specifically pointing out if any items were denied.

Transparency is of the utmost importance to the citizens of Alabama. To demonstrate this transparency in the allocation of CARES Act funds to counties, a web page was created on the Secretary of State's website at [sos.alabama.gov](http://sos.alabama.gov). There, each county is listed along with the funds requested, the funds approved, the applications submitted, and the letters sent to each county informing them of the amount to be awarded. Another round of funding will soon be available to assist in the preparation of the November 3 General Election and will be due to our office October 2, 2020.

We wanted to share this information with you to explain how Alabama handled the CARES Act funds and to thank you for all tireless work in supporting the states as we prepare to administer elections during these unprecedented times.

If you have any questions, please do not hesitate to contact me directly on my cell phone at (334) 328-2787.

Sincerely,

John H. Merrill  
Alabama Secretary of State



**Mac Warner**  
Secretary of State  
State of West Virginia

July 20, 2020

Senator Mitch McConnell  
317 Russell S.O.B.  
Washington D.C.

Dear Majority Leader McConnell:

On behalf of the State of West Virginia, I would like to express our sincere gratitude for the efforts and funding that President Donald J. Trump and the U.S. Senate made available through the Coronavirus Aid, Relief, and Economic Security Act. CARES Act funding has allowed West Virginia to better prepare for and respond to events coinciding with the 2020 Federal Election Cycle. The federal award provided \$3,797,620 in available funding to secure our elections during the COVID-19 pandemic. West Virginia has two Federal elections in 2020, our June 9<sup>th</sup> Primary Election and the November 3<sup>rd</sup> General Election.

The Secretary of State's Office's program to distribute CARES Act funds allows the counties flexibility to serve the varying needs of their unique election. The reimbursement process for CARES Act funds begins after the county has obligated approvable primary election expenses. Once each county calculates its primary expenses, they submit a standardized application for recommendation of reimbursement of our HAVA Grant Board and subsequent approval of the State Election Commission. Layers of review ensure that reimbursement requests are appropriate, reasonable, necessary, and within financial forecasts of the program.

To date, West Virginia has approved nearly \$1.5 million of the \$3.8 million in expenses which completes almost all reimbursements to officials for COVID-19 related expenses to hold our June 9 election. Absentee ballots and postage increases accounted for nearly 70% of the reimbursed costs. These funds allowed election officials to ensure our voters were protected and that every eligible voter had multiple options to vote, including robust in-person voting locations to reduce lines on Election Day. West Virginia has no reported cases of COVID-19 from voting at any in-person voting location.

Our counties greatly appreciate the CARES Act funding provided by this body. In West Virginia we have a strong plan in place to support the counties the remainder of CARES Act funds and, in turn, avoid counties bearing increased costs related to COVID-19 during the 2020 election cycle. We must acknowledge that our counterparts in other states have different hurdles to overcome when prioritizing CARES Act appropriations for them to cover all additional COVID-19 related costs.

West Virginia values transparency, and we have made the CARES funding processes fully available to the public. All deliberative processes are conducted during open meetings. All current applications for approved reimbursed materials purchased by counties to hold the Primary Election can be found publicly at [GoVoteWV.com](https://www.govotewv.com). West Virginia election officials administered our CARES Act funding plan and held a safe and accurate primary election and will do so again in the General Election with the remainder of the appropriated CARES Act funding.

Sincerely,



MAC WARNER

Cc: West Virginia Delegation

July 22, 2020

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
1236 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
317 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Kevin McCarthy  
Republican Leader  
United States House of Representatives  
2468 Rayburn House Office Building  
Washington D.C. 20515

The Honorable Charles E. Schumer  
Democratic Leader  
United States Senate  
322 Hart Senate Office Building  
Washington, D.C. 20510

Dear Speaker Pelosi, Leader McConnell, Leader McCarthy, and Leader Schumer,

We, the undersigned organizations from the Black reproductive health, rights and justice community, are writing to request that the next COVID-19 relief package include robust and flexible funding for state and local assistance to address COVID-19 as well as significant funding to support fair and accessible elections across the country. As our country faces an unprecedented pandemic, economic recession, and reckons with its incredibly hostile history of racism and white supremacy, it is ever more important that we fortify our communities by investing both in its infrastructure and its democracy. **Accordingly, we request that, at a minimum, Congress provides \$915 billion in relief funding to states and localities for COVID-19 and separately \$3.6 billion for elections – as provided for in H.R. 6800, The HEROES Act.**

One of the core components of reproductive justice is the right to raise our families in safe environments with dignity and respect. Unfortunately, the COVID-19 pandemic highlights the impossible choices that Black women regularly face in many aspects of life that affect their ability to provide for and keep our chosen families safe. Black women are both more likely to be laid off and overrepresented in the frontline professions deemed essential during the COVID-19 pandemic. [Studies](#) have shown that Black women are nearly twice as likely as white men to say that they have either been laid off, furloughed, or had their hours and/or pay reduced because of the pandemic. The current crises are only worsening existing disparities. According to [data](#) from the National Women's Law Center, Black women's share of the low-paid workforce is 1.5 times larger than their share of the overall workforce. The persistent wage gap is also evident: Black women are more than twice as likely as white men to say that they would not be able to afford necessities for more than a month if they lost their personal income. Choosing to work can be a death sentence, while choosing not to work can make living impossible. These difficult decisions

are exacerbated by the persistence of medical racism; Black women who contract the virus risk discrimination by medical practitioners if they seek testing or treatment and ultimately may not seek care at all to avoid negative experiences in health care settings.

**Congress Must Provide Robust Funding to States and Localities and Must Not Restrict Use of the Funds**

Congress must provide states and localities with funding to support their budgets and provide flexibility in the use of those funds to ensure that each state can provide for its residents, including preserving essential health care services for women and communities of color, particularly Black women who have been [disproportionately affected](#) by COVID-19 and who make up [9 percent](#) of state and local government workers. Without this funding, states and local governments will be forced to scale back and even eliminate vital programs, or lay off or furlough employees. The impact of such cuts would have devastating effects at a time when [more than 40 million people](#) have lost their jobs and [5.4 million Americans](#) have lost health insurance during the pandemic. Frontline workers themselves have [stressed the need](#) to maintain public services to support the economy, and the majority of Americans [agree](#) that failure to do so would jeopardize economic stability in their state. States received \$150 billion in the CARES Act, but the funds were not apportioned according to impact by the COVID-19 crisis.

States like California - a state that is usually a donor state by over \$13 billion per year - are depending on federal funds to close a budget shortfall due to the crisis. Between January and May of 2020, California's budget went from over a \$6 billion surplus to a [\\$54 billion deficit](#), prompting major cuts and a dip into the state's reserves. Without state funding, vital programs such as support for health care, courts, hospitals, environmental protections, housing assistance, child care and other services will have to be further cut this fall. For states in the South and Midwest, their future is much darker. For example, Ohio's economic tax revenue is down 9 percent with estimates of a \$2.4 billion deficit for the next fiscal year. The state has already frozen pay for many government employees and is requiring furlough days. According to the Center on Budget and Policy Priorities, most states have about a [10 percent shortfall](#) for this fiscal year and will reach a 25 percent shortfall in 2021, which does not include projections of another reverse course or economic shutdown. A quarter lost in revenue can lead to deep cuts to health and human services programs, layoffs, and cuts in public services and in government contracts.

As such, the \$915 billion provided in the HEROES Act is the absolute minimum amount needed to help states and localities offset their shortfalls and is vital to both the health and livelihoods of many Americans as well as the economic wellness of states both large and small.

**Congress Must Provide Robust Additional Funding to Support Fair and Safe Elections**

Being able to participate in free and fair elections is a cornerstone to a Democratic Republic - as well as the ability to assert autonomy over oneself. The COVID-19 pandemic has created additional barriers for many communities to access the polls and will continue to do so without robust federal assistance. According to a [study](#) conducted by the Center for Election Innovation and Research, new voter registrations in 12 states and D.C. declined an alarming 70 percent in April, compared to January. Without additional funding, we run the risk of disenfranchising millions of voters across the country.

While the CARES Act provided \$400 million in election assistance, these funds will [not cover](#) the resources needed for the election in November. Congress must provide at least \$3.6 billion in election funding to prevent widespread voter suppression. For example, earlier this month, the Executive Director of the Kentucky State Board of Elections [testified](#) that 60 percent of CARES Act funds have already been spent on the primary election in Kentucky and that funds were running out, a concern that was echoed by other states. It has also been [reported](#) that states have had to turn to their election security funds in order to cover a range of unanticipated costs that stem from COVID-19. Some of these costs include finding bigger indoor polling spaces, moving polling places from schools and senior centers to safe locations, complying with CDC recommendations, public education to inform voters about the changes in procedures for voting, as well as preparing for a more robust mail-in ballot programs. And the majority of Americans support making our elections safer. A recent [poll](#) by the Brennan Center for Justice showed that four out of five Americans believe that all Americans should get a vote by mail ballot and two-thirds want to extend the number of election days.

As the country prepares for another presidential election, it is critical that we make sure that Black women have continued access and education needed to safely participate in local and national elections. Black women are consistently dependable voters: in 2018, 57 percent of eligible Black women [voted](#) in the election, the highest of any group. Ensuring their access to the ballot is particularly important given the disproportionate ways in which COVID-19 has impacted the Black community, which, without added safety protections, increases the risk of COVID-19 in vulnerable populations.

Black women and those who are most exposed to the harms of the COVID-19 public health and economic crises due to systemic racism and inequities cannot afford to lose access to critical services or to their right to vote. We ask that you consider the obligation of both the federal government, states, and localities to protect all of their constituents from the devastating impact of COVID-19 and the economic fallout that has resulted from the pandemic. Specifically, to reiterate, we request that the next COVID-19 relief package include robust and flexible funding

for state and local assistance to address COVID-19 as well as significant funding to support fair and accessible elections across the country.

Sincerely,

Angela D. Aina  
Interim Executive Director  
**Black Mamas Matter Alliance**

La'Tasha D. Mayes, MSPPM  
President & CEO  
**New Voices for Reproductive Justice**

Linda Blount, MHA  
President & CEO  
**Black Women's Health Imperative**

Marsha Jones  
Executive Director  
**The Afiya Center**

Nourbese Flint, M.A.  
Executive Director  
**Black Women for Wellness Action Project**

Dazon Dixon Diallo  
Founder & President  
**SisterLove, Inc.**

Kwajelyn Jackson  
Executive Director  
**Feminist Women's Health Center**

Cherisse Scott  
CEO & Founder  
**SisterReach**

Marcela Howell  
President & CEO  
**In Our Own Voice National Black Women's  
Reproductive Justice Agenda**

Monica Simpson  
Executive Director  
**SisterSong Women of Color Reproductive  
Justice Collective**

Charity Woods Barnes  
Managing Director  
**Interfaith Voices for Reproductive Justice**

Krystal Redman, DrPH  
Executive Director  
**SPARK Reproductive Justice NOW!, Inc.**

Jasmine Burnett  
**Writer & Activist**

Toni M. Bond, PhD  
**One of the founders of the Reproductive  
Justice Framework**

# Public Wise

Voting Rights for the US

270 Lafayette Street  
Suite 1402  
New York, NY 10012

**Testimony of  
Eric Laufer  
President  
Public Wise**

**Christina Baal-Owens  
Executive Director  
Public Wise**

**Hearing on 2020 General Election Preparations  
Committee on Rules and Administration  
United States Senate**

**July 22, 2020**

Chairman Blunt, Ranking Member Klobuchar and members of the Committee:

Public Wise is a 501(c)(4) organization dedicated to advancing and protecting voting rights in the US. On behalf of our organization, we, Eric Laufer, Board President, and Christina Baal-Owens Executive Director, are submitting our testimony.

We commend you for holding this hearing to examine issues related to the general election 104 days from today, in the midst of a crisis of historic proportions. While we wish this hearing were held much sooner, it is not too late for Congress to take steps necessary to avoid a potential disaster in terms of the way elections are conducted on November 3, the integrity of the process, validity of the results and the perception of our democracy around the world.

The COVID-19 pandemic has the potential to severely disrupt the ability of states and localities to conduct free and fair elections in November. The consequences of such disruption could be devastating, calling into question the validity of results of races at every level, including the contest for President of the United States. While elections in this country are largely administered at the local and state levels, the federal government has the responsibility to provide a reliable framework within which those elections will be executed as well as adequate resources to ensure the American people are satisfied with the way those elections are conducted and the results they produce.



# Public Wise

Voting Rights for the US

 270 Lafayette Street  
 Suite 1402  
 New York, NY 10012

As we all know, COVID-19 has ravaged our country leaving millions of Americans unemployed, without healthcare, and at tremendous risk of food and housing instability. Data has also shown that communities of color were hardest hit by this pandemic. We at Public Wise are not blind to the fact that state and local governments are being faced with impossible funding decisions. Limited resources are being stretched between schools, hospitals, and other integral community services. However, we firmly believe that allowing Americans to safely cast their votes in elections and to have every vote counted is not only an issue of social justice, but an important tool to stabilize the American economy.

Recent primary elections in Wisconsin and Georgia clearly demonstrated how chaotic it can be to conduct an election in a traditional manner in a very nontraditional environment. Those primaries and others have borne out what many of us feared for several months: that without adequate preparation, procedures and supplies, the general election in November could be disastrous, worsening an ongoing health crisis while perhaps spawning a constitutional crisis.

Since no one can predict what life will be like in America come November, states, cities, counties and towns across the country are right now making contingency plans that will allow for safe, orderly elections. Such plans may ultimately include investment in equipment and technology; dramatically increased voting by mail; closing or relocating polling places (particularly those typically located in senior facilities); hiring of sufficient workers to keep order at polling places and ensure that proper measures are utilized for constant sanitization of equipment and open spaces; expanded early voting; secure drop box facilities; procurement of personal protective equipment (PPE) for poll workers; and provision of sanitation supplies that will reduce the risk of illness and perhaps death of poll workers as well as those citizens who choose to vote in person where that option may be available.

Numerous governmental organizations and associations have appealed to Congress to include substantial additional election security funding in another COVID-19 relief bill. Their requests are entirely reasonable and justified given the direct causal relationship between the challenges and exorbitant costs for holding elections in November and the pandemic.

While we applaud Congress for providing election grant funding of \$425 million for the Help America Vote Act in FY20 appropriations bills and another \$400 million in the CARES Act, it is blatantly obvious that much, much more needs to be done, and soon. In fact, in recent testimony before the House Administration Committee, some state officials reported having already spent their full allocation from those appropriations despite being nowhere near done investing in their planning and preparations.

In March, the Brennan Center for Justice produced, and members of this Committee have undoubtedly seen, a thoughtful analysis of the potential cost of such preparations and arrived at what we believe is a reasonable estimate of \$3.6 billion for comprehensive preparations to address COVID-related challenges for the national election. Those costs were broken into 5 categories: (1) polling place



# Public Wise

Voting Rights for the US

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modification and preparation; (2) expanded early voting; (3) a universal vote-by-mail option; (4) voter registration modification and preparation, including expanded online registration; and (5) voter education and manipulation prevention.

The HEROES Act passed by the House several weeks ago included that \$3.6 billion funding level. We respectfully urge the Senate to include that \$3.6 billion in election grant funding in the COVID stimulus bill now being considered, so that states and localities can be as well prepared as possible for November elections.

While there are numerous critically important non-election priorities being considered for a possible stimulus bill, the protection of our democracy through election integrity is of primary importance and must be given at minimum equal weight in your deliberations. Americans whose health, financial security, and well-being are directly impacted by their elected officials deserve the opportunity to cast their votes without risking their lives and the lives of their families.

In providing election funding, Congress must recognize the flexibility states have in deciding the methods by which their respective elections will be held, and should be afforded maximum flexibility for how they may use those funds, including waiving any matching requirements for election grants.

And while individual states will decide how they conduct their elections, there is an important role for Congress to play in encouraging, to the greatest extent possible, the expansion of voting by mail, and the protection of safe in person voting options such as early voting. Impediments must be removed to any effort to have fair, efficient, transparent, verifiable elections with maximum participation by voters while not putting their lives at risk. And you can help do that.

We hope this hearing will bring to the fore what Congress can do to make the voting process better for the "COVID elections." We also hope you and your colleagues in the Senate and House will seize the opportunity to take what is examined and revealed in this hearing and, in bipartisan fashion, act on recommendations of this Committee as you deliberate over and pass a COVID relief bill in the coming days and weeks.

Thank you, again, for conducting this hearing and for allowing us to provide this statement for the record.



**Statement for the Record | Senator Kamala D. Harris**  
**Senate Committee on Rules and Administration | July 22, 2020**

Earlier this year, I had the honor of joining Congressman John Lewis in Selma, Alabama, for what would be Congressman Lewis' final walk across the Edmund Pettus Bridge to commemorate the anniversary of Bloody Sunday, when Black blood was shed as people marched for our right to vote. On that bridge, Congressman Lewis put his life on the line and witnessed others as they were brutalized. But he was undeterred because he believed in the possibility of what could be, unburdened by what has been. We must honor Congressman John Lewis' courage and sacrifice and carry on his legacy by continuing our pursuit of equal justice in America.

We have a long way to go. Voter suppression is still happening all over the country in the form of long wait times, voter roll purges, voter ID laws, and limited voting hours. This year, in Milwaukee, Wisconsin, the number of polling places was reduced from 180 to five. Milwaukee has the largest minority population of any city in Wisconsin, which means that the burden of reduced polling places fell disproportionately on minority voters. One day before the Wisconsin primary, the U.S. Supreme Court blocked a court order that would have extended the period of time for voters to return absentee ballots—forcing voters who had applied for but did not receive their ballots to vote at the limited number of polling locations. It has been reported that 71 people contracted COVID-19 after voting in person or working at the polls during Wisconsin's primary election.

Minority communities have been targeted for these types of voter suppression tactics—and sadly, these are the very same communities that have been hit hardest by the coronavirus pandemic. Black and Latinx people are three times as likely to be infected by COVID-19, and are two times more likely to die from the virus. Over the last few months, neighboring countries have seen a decline in the number of new COVID-19 cases, while cases in the United States continue to grow exponentially. We know what it takes to slow the spread and stop the numbers from rising: social distancing, masks, handwashing, and testing. Public health officials have warned that large crowds could be disastrous in further spreading the

virus. And because of that, we know this upcoming election is different because Americans will face unprecedented barriers to the ballot box due to COVID-19.

The American people should never have to choose between their health and their right to vote. That's exactly why I've introduced the VoteSafe Act, which would make our election process safer and more accessible during the pandemic. My bill would require states to provide no-excuse absentee vote by mail and at least 20 days of early voting. It would give states the flexibility to expand curbside voting and adopt maximum wait time standards. It would also make voting more accessible to populations that have long struggled with ballot access, including voters with disabilities, language minority voters, and Native American voters. That is why the bill is endorsed by multiple civil rights groups, including The Leadership Conference on Civil and Human Rights, National Association for the Advancement of Colored People, American Civil Liberties Union, National Disability Rights Network, Native American Rights Fund, and Asian Americans Advancing Justice.

The late Congressman Lewis often talked about the importance of getting into "good trouble" to ensure that America lives up to its founding ideals. We must continue his fight and honor his legacy by doing just that. We must prioritize practical solutions to protect one of the most sacred parts of our democracy. The United States Senate must take election safety seriously and pass the VoteSafe Act without delay.

July 20, 2020

The Honorable Speaker Pelosi  
Speaker of the House  
U.S. House of Representatives  
Washington, D.C. 20510

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Chuck Schumer  
Minority Leader  
U.S. Senate  
Washington, DC 20510

Dear Leader McConnell, Speaker Pelosi, Leader McCarthy, and Leader Schumer,

American elections, the bedrock of our democracy, face two extraordinary challenges this year: Covid-19 and combatting foreign interference. While these twin challenges are first and foremost a test of our democracy, they are also a threat to our national security. We urge you to provide election officials with the resources they need to protect our elections this year.

As a result of the Covid-19 pandemic, state and local governments face significant and unexpected costs as they prepare to provide safe in-person voting options, meet the increased demand for mail voting, and bolster online systems that have become essential resources for voters at home. Bolstering and securing this infrastructure will require more staff, supplies, and technology. And this increased need for resources is coming at a time when many government budgets are facing a revenue crisis.

We know that hostile foreign actors like China, Iran and Russia seek to cast doubt on the integrity of our electoral system.<sup>1</sup> These actors influence Americans by exploiting fear and confusion around the voting process. Failing to make sure that all citizens can vote safely and securely will only give them material to further erode faith in our democratic system.

Congress has provided some money for states to run elections during the Covid-19 pandemic, but it has not been enough.<sup>2</sup> To cover some of the shortfall, state election officials have redirected federal funds that were intended for election security improvements.<sup>3</sup> Local election officials from both parties have expressed the need for more resources to ensure that voters can

<sup>1</sup> U.S. Senate Select Committee on Intelligence, *Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, Volume 1: Russian Efforts Against Election Infrastructure Russian Efforts Against Election Infrastructure*, [https://www.intelligence.senate.gov/sites/default/files/documents/Report\\_Volume1.pdf](https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume1.pdf).

<sup>2</sup> Chris R. Deluzio et al., *Ensuring Safe Elections*, Alliance for Securing Democracy, Pitt Cyber, R Street & Brennan Center for Justice, 2020, <https://www.rstreet.org/wp-content/uploads/2020/04/2020-State-Cost-Analysis.pdf>.

<sup>3</sup> Matthew Vann, "Some cash-strapped states turn to election security funds to fight COVID-19," ABC News, Apr. 6, 2020, <https://abcnews.go.com/Politics/cash-strapped-states-turn-election-security-funds-fight/story?id=69940136>.

participate safely in elections this year, and urged Congress to provide more funding in the next coronavirus stimulus package.<sup>4</sup>

Americans should feel confident that their election officials have the resources needed to provide healthy options for all voters and ensure integrity in electoral outcomes. We urge you to provide funding to make sure our elections are safe and secure.

Sincerely,

Madeleine Albright, former Secretary of State

Spencer Boyer, former National Intelligence Officer for Europe

Ambassador William Burns, former Deputy Secretary of State

Michael Carpenter, former Deputy Assistant Secretary of Defense

Michael Chertoff, former Secretary of Homeland Security

James Clapper, former Director of National Intelligence

Rudy de Leon, former Deputy Secretary of Defense

Raymond DuBois, former Acting Under Secretary of the Army

Ambassador Eric Edelman, former Under Secretary of Defense for Policy

Aaron Friedberg, Professor of Politics and International Affairs, Princeton University, former Deputy Assistant for National Security Affairs, Office of the Vice President

Colleen Graffy, former Deputy Assistant Secretary of State for Europe and Eurasian Affairs

Chuck Hagel, former Secretary of Defense and U.S. Senator

John J. Hamre, former Deputy Secretary of Defense

Michael Hayden, former Director of the Central Intelligence Agency and the National Security Agency

Juliette Kayyem, former Assistant Secretary of Homeland Security

John Kerry, former Secretary of State

<sup>4</sup> "Election Officials Call for More Election Funding in Next Stimulus Bill," last updated May 13, 2020, [https://docs.google.com/document/d/1pRLWoFqj5NXz05PqJbXSnn3rmPPWPvtHqdW1KZ3\\_ck/mobilebasic?urp=gmail\\_link](https://docs.google.com/document/d/1pRLWoFqj5NXz05PqJbXSnn3rmPPWPvtHqdW1KZ3_ck/mobilebasic?urp=gmail_link).

David Kramer, former Assistant Secretary of State for Democracy, Human Rights and Labor

Douglas Lute, LTG, US Army, Retired; former US Ambassador to NATO

Bryan McGrath, Managing Director, The FerryBridge Group

Michael Morell, former Acting and Deputy Director, Central Intelligence Agency

Janet Napolitano, former Secretary of Homeland Security

Michael E. O'Hanlon, Senior Fellow, Brookings Institution

Sean O'Keefe, former Secretary of the Navy

Leon Panetta, former Secretary of Defense, CIA Director, White House Chief of Staff and Congressman

Amy Pope, former Deputy Homeland Security Advisor to the President

Ambassador Susan E. Rice, former National Security Advisor and U.S. Ambassador to the United Nations

Governor Tom Ridge, former Secretary of Homeland Security

Kori Schake, Director of Foreign and Defense Policy Studies, American Enterprise Institute, former Deputy Director of Policy Planning, U.S. State Department

Ambassador Wendy Sherman, former Under Secretary of State

Suzanne Spaulding, former Under Secretary of Homeland Security

Strobe Talbott, former Deputy Secretary of State

Matthew Waxman, former Deputy Assistant Secretary of Defense

Dov S. Zakheim, former Under Secretary of Defense (Comptroller)

Philip Zelikow, former Counselor of the Department of State

## West Virginia 2020 Primary after Action Report

July 20, 2020

In the middle of March 2020, with West Virginia's May 12 Primary Election less than two months away, COVID-19 advanced in America, and the Governor declared a state of emergency<sup>1</sup> in March pursuant to his authority under § 15-5-6 (a).

Candidate filing was closed, and absentee ballots were already on their way to voters. Poll worker training and early voting were just around the corner. However, COVID-19's emergence in West Virginia during the early stages of the election cycle allowed for a myriad of electoral considerations to ensure a safe, accessible and secure primary election during "stay at home" executive orders<sup>2</sup> from the Governor, and also at the recommendation of the President of the United States of America.

## Preparations for holding the 2020 Primary during the COVID-19 Emergency Declaration

Upon request by the Secretary of State, Attorney General Morrisey (AG) issued an Opinion Letter<sup>3</sup> on March 18, 2020, under his authority set forth in W. Va. Code § 5-3-1 to "give written opinions and advise upon questions of law[.]" The AG Opinion Letter interpreted the breadth of the Secretary of State's emergency powers set forth in W. Va. Code § 3-1A-6(e), finding:

[T]he Secretary may take emergency measures . . . that help ensure voter access and election integrity in the primary election, as long as those measures do not conflict with the clear, unambiguous text of Chapter 3. . . . The Secretary has full authority to invoke those powers now and while the state of emergency persists.

With regard to the Governor's emergency authority as it pertains to the election, the AG Opinion Letter continues:

[T]he Governor has separate and more extensive authority under a state of emergency. West Virginia Code § 15-5-6(c)(7), for instance, gives the Governor power "[t]o suspend the provision of any regulatory statute prescribing the procedures for conduct of state business . . . if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency." . . . Arguably, these provisions could support an order from the Governor regarding safe election procedures—potentially including personnel at polling places or the date of the primary election—if necessary to address the emergency that the coronavirus epidemic poses for the State.

On March 20, 2020, the Secretary promulgated an Emergency Rule at CSR § 153-53<sup>4</sup> under his authority set forth in W. Va. Code § 3-1A-6(e)(1) as interpreted by the AG Opinion Letter. Emergency Rule CSR § 153-53 does not create new law or modify existing law. Rather, it clarifies various existing provisions of Chapter 3 election laws, including unclear or ambiguous existing definitions and procedures to ensure that all eligible voters have the opportunity to cast a valid ballot and to uphold the integrity of an election while the State of Emergency is in effect.

On March 24, 2020, the Governor issued Executive Order 9-20 for all of West Virginia. Executive Order 9-20, directing a "Stay at Home" order, was subsequently followed with Executive Order 10-20<sup>5</sup> that had impacts on the 30-day timeframe for poll worker training, 30-day requirement to establish satellite

<sup>1</sup> Attachment A – Governor's Declaration of Emergency on March 16, 2020

<sup>2</sup> Attachment B – Governor's Executive Orders to Stay at Home

<sup>3</sup> Attachment D – Opinion Letter from Attorney General Morrisey

<sup>4</sup> Attachment E – Emergency Rule CSR § 153-53

<sup>5</sup> Attachment F – Governor's Executive Order 10-20

precincts, methods of obtaining absentee ballot requests, timing of absentee ballot mailings upon request, shared polling location space and clarity on the amount of poll workers in a polling location.

On March 29, 2020, President Trump extended the “social distancing” guidelines<sup>6</sup> through, at least, April 30, 2020. And subsequently on April 1, 2020, the Governor issued Executive Order 18-20<sup>7</sup>, changing the date of the election from May 12, 2020, to June 9, 2020.

The West Virginia Secretary of State published the new election calendar with updated dates and deadlines in the State Register<sup>8</sup> on April 3, 2020.

#### **The 2020 Primary in Motion:**

Existing West Virginia election laws allowed for the 2020 Primary Election to be held with many options available to voters depending on their unique situation, their confidence in the method of casting their ballot and with the safety of themselves and their community in mind. West Virginia provided voting in person with very limited precinct consolidations on Election Day, early voting at the courthouses or annex’s location, satellite early voting, absentee by mail for those who cannot vote in-person and electronic ballot return for UOCAVA and persons with physical disabilities who cannot vote a secret ballot without assistance. These robust options are the most available in any voting location in the nation.

#### **Voter Registration:**

Near the close of registration for the primary election, West Virginia had 1,226,307 registered voters eligible to cast a ballot<sup>9</sup>. Of them, 450,909 voted in the primary election. 36.7% of all eligible voters participated in the primary election.

Near the close of registration for the primary election, West Virginia had 991,558 active voters (eligible and have not been flagged as moved or not voting in 4 or more years). 443,807 active voters voted in the primary election. 44.8% of all active voters participated in the primary election.

Near the close of registration for the Primary Election, West Virginia had 234,749 inactive voters (eligible and flagged as moved or not voting in 4 or more years). 6,408 eligible voters flagged as inactive voted in the primary election. 3% of all inactive voters participated in the primary election. A registration flagged as inactive will revert to active status once the voter updates the registration or votes in the election.

#### **Methods of Voting in the 2020 Primary Election**

The aforementioned Executive Orders 9-20 and 10-20, combined with the interpretation of code verified by the West Virginia’s Attorney General, allowed for an unprecedented situation where all West Virginia voters were eligible to request an absentee vote by mail due to medical reasons during the stay at home orders and the existence of COVID-19. In addition, voters still had the choice instead to vote in person during early voting or election day. West Virginia transitioned quickly to prepare for a steep increase in absentee ballots, to prepare voting locations for smaller in-person turnout and to keep voters and poll workers safe under current guidance of the

Centers for Disease Control and Prevention (CDC) and West Virginia Department of Health and Human Resources (DHHR).

<sup>6</sup> <https://www.nytimes.com/2020/03/29/us/politics/trump-coronavirus-guidelines.html>

<sup>7</sup> Attachment G – Governor’s Executive Order 18-20

<sup>8</sup> <http://apps.sos.wv.gov/adlaw/register/readpdf.aspx?did=39893>

<sup>9</sup> <https://sos.wv.gov/elections/Documents/VoterRegistrationTotals/2020/May2020.pdf>

Voting methods were split evenly at half of all voters choosing in-person and half choosing absentee vote by mail. Of those who voted, in-person early voting consisted of 9.4%. On Election Day, 40.7% voted in-person. The remaining votes cast, 49.9%, were by absentee ballots.

Breakdown of voting method used for the 2020 Primary Election:

	Registered	Turnout	Turnout	Absentee	Early Voting	Election Day	Total in person
<b>STATEWIDE</b>	<b>1229239</b>	<b>450909</b>	<b>36.7%</b>	<b>49.9%</b>	<b>9.4%</b>	<b>40.7%</b>	<b>50.1%</b>
BARBOUR	9690	4212	43.5%	52.6%	7.9%	39.5%	47.4%
BERKELEY	78714	23005	29.2%	44.7%	8.5%	46.9%	55.3%
BOONE	15141	6025	39.8%	38.2%	8.3%	53.5%	61.8%
BRAXTON	8306	3776	45.5%	52.3%	11.0%	36.7%	47.7%
BROOKE	18717	6304	33.7%	56.0%	4.4%	39.5%	44.0%
CABELL	57125	20514	35.9%	54.6%	6.5%	38.8%	45.4%
CALHOUN	4667	2031	43.5%	58.2%	10.3%	31.5%	41.8%
CLAY	5550	2063	37.2%	48.3%	16.8%	34.9%	51.7%
DODDRIDGE	4478	2158	48.2%	51.3%	7.9%	40.8%	48.7%
FAYETTE	28369	9905	34.9%	49.8%	9.6%	40.6%	50.2%
GILMER	4607	1808	39.2%	46.5%	9.6%	44.0%	53.5%
GRANT	7413	3579	48.3%	40.3%	14.9%	44.8%	59.7%
GREENBRIER	22904	9581	41.8%	47.2%	10.0%	42.8%	52.8%
HAMPSHIRE	13332	5194	39.0%	46.6%	7.0%	46.4%	53.4%
HANCOCK	23828	7828	32.9%	52.6%	4.8%	42.6%	47.4%
HARDY	8617	3455	40.1%	54.4%	4.4%	41.2%	45.6%
HARRISON	44880	17230	38.4%	60.5%	8.9%	30.6%	39.5%
JACKSON	19586	8682	44.3%	50.4%	11.6%	38.0%	49.6%
JEFFERSON	41211	12472	30.3%	59.1%	7.3%	33.5%	40.9%
KANAWHA	123085	48663	39.5%	51.8%	7.7%	40.4%	48.2%
LEWIS	10263	5214	50.8%	47.0%	10.0%	42.9%	53.0%
LINCOLN	12472	4318	34.6%	39.9%	13.7%	46.4%	60.1%
LOGAN	25316	7062	27.9%	26.5%	10.0%	63.4%	73.5%
MARION	40159	14714	36.6%	48.7%	10.5%	40.8%	51.3%
MARSHALL	20798	8119	39.0%	54.6%	6.1%	39.3%	45.4%
MASON	18300	7303	39.9%	55.8%	8.6%	35.7%	44.2%
MCDOWELL	15447	3694	23.9%	24.4%	5.9%	69.7%	75.6%
MERCER	41541	12458	30.0%	40.9%	15.5%	43.5%	59.1%
MINERAL	17773	6114	34.4%	48.6%	8.0%	43.4%	51.4%
MINGO	19922	5632	28.3%	16.5%	10.0%	73.4%	83.5%
MONONGALIA	71458	22641	31.7%	56.5%	11.1%	32.4%	43.5%
MONROE	9073	3880	42.8%	43.9%	13.1%	43.0%	56.1%
MORGAN	13881	5148	37.1%	54.5%	9.3%	36.2%	45.5%
NICHOLAS	16107	6523	40.5%	47.3%	7.4%	45.4%	52.7%
OHIO	29962	12244	40.9%	55.7%	5.6%	38.7%	44.3%
PENDLETON	5118	2235	43.7%	55.6%	6.7%	37.7%	44.4%
PLEASANTS	5323	2304	43.3%	49.0%	11.9%	39.0%	51.0%
POCAHONTAS	5511	2665	48.4%	50.8%	8.3%	40.9%	49.2%
PRESTON	19457	9311	47.9%	50.0%	10.1%	39.8%	50.0%
PUTNAM	38537	16400	42.6%	51.2%	8.8%	39.9%	48.8%

RALEIGH	53099	19140	36.1%	48.9%	6.0%	45.0%	51.1%
RANDOLPH	18875	7762	41.1%	44.1%	18.8%	37.1%	55.9%
RITCHIE	6130	3026	49.4%	46.2%	14.2%	39.5%	53.8%
ROANE	8809	3796	43.1%	56.0%	10.7%	33.4%	44.0%
SUMMERS	9201	3754	40.8%	54.7%	11.8%	33.6%	45.3%
TAYLOR	10766	4464	41.5%	56.3%	8.1%	35.6%	43.7%
TUCKER	5701	2748	48.2%	59.2%	6.4%	34.3%	40.8%
TYLER	6548	2711	41.4%	47.4%	10.0%	42.6%	52.6%
UPSHUR	13922	6467	46.5%	58.0%	12.1%	29.9%	42.0%
WAYNE	27198	9005	33.1%	44.9%	6.2%	49.0%	55.1%
WEBSTER	5298	2318	43.8%	43.4%	13.8%	42.8%	56.6%
WETZEL	9926	4509	45.4%	51.8%	8.4%	39.8%	48.2%
WIRT	4347	1577	36.3%	44.5%	12.9%	42.6%	55.5%
WOOD	55115	18241	33.1%	51.2%	17.0%	31.8%	48.8%
WYOMING	17666	4927	27.9%	38.1%	15.0%	46.9%	61.9%

## Voting Methods by Party Ballot Participation:

	In-person GOP	Absentee GOP		In-person DEM	Absentee DEM
Statewide	59.8%	40.2%		42.8%	57.2%
Barbour	55.9%	44.1%		35.1%	64.9%
Berkeley	63.8%	36.2%		46.3%	53.7%
Boone	76.3%	23.7%		60.2%	39.8%
Braxton	56.9%	43.1%		43.2%	56.8%
Brooke	54.3%	45.7%		37.3%	62.7%
Cabell	55.7%	44.3%		38.4%	61.6%
Calhoun	45.2%	54.8%		38.9%	61.1%
Clay	56.9%	43.1%		48.8%	51.2%
Doddridge	52.3%	47.7%		33.7%	66.3%
Fayette	62.9%	37.1%		42.4%	57.6%
Gilmer	67.8%	32.2%		54.1%	45.9%
Grant	62.3%	37.7%		38.2%	61.8%
Greenbrier	66.8%	33.2%		42.3%	57.7%
Hampshire	63.8%	36.2%		37.2%	62.8%
Hancock	59.1%	40.9%		35.2%	64.8%
Hardy	58.8%	41.2%		36.0%	64.0%
Harrison	58.7%	41.3%		35.5%	64.5%
Jackson	57.3%	42.7%		37.9%	62.1%
Jefferson	56.4%	43.6%		30.9%	69.1%
Kanawha	57.9%	42.1%		42.5%	57.5%
Lewis	59.3%	40.7%		46.7%	53.3%
Lincoln	72.4%	27.6%		51.9%	48.1%
Logan	85.2%	14.8%		69.2%	30.8%
Marion	63.2%	36.8%		44.4%	55.6%
Marshall	53.7%	46.3%		40.8%	59.2%
Mason	50.2%	49.8%		37.7%	62.3%
McDowell	78.5%	21.5%		74.0%	26.0%
Mercer	66.4%	33.6%		48.4%	51.6%

<b>Mineral</b>	59.6%	40.4%		31.4%	68.6%
<b>Mingo</b>	88.1%	11.9%		81.7%	18.3%
<b>Monongalia</b>	55.0%	45.0%		38.6%	61.4%
<b>Monroe</b>	65.8%	34.2%		41.8%	58.2%
<b>Morgan</b>	52.7%	47.3%		25.3%	74.7%
<b>Nicholas</b>	61.1%	38.9%		43.4%	56.6%
<b>Ohio</b>	58.7%	41.3%		42.5%	57.5%
<b>Pendleton</b>	57.2%	42.8%		35.4%	64.6%
<b>Pleasants</b>	59.0%	41.0%		40.1%	59.9%
<b>Pocahontas</b>	56.8%	43.2%		39.5%	60.5%
<b>Preston</b>	58.3%	41.7%		37.1%	62.9%
<b>Putnam</b>	57.5%	42.5%		36.7%	63.3%
<b>Raleigh</b>	58.7%	41.3%		40.8%	59.2%
<b>Randolph</b>	68.3%	31.7%		48.6%	51.4%
<b>Ritchie</b>	58.6%	41.4%		38.5%	61.5%
<b>Roane</b>	51.0%	49.0%		35.8%	64.2%
<b>Summers</b>	57.1%	42.9%		37.8%	62.2%
<b>Taylor</b>	53.5%	46.5%		33.3%	66.7%
<b>Tucker</b>	47.7%	52.3%		34.0%	66.0%
<b>Tyler</b>	64.9%	35.1%		44.3%	55.7%
<b>Upshur</b>	48.6%	51.4%		27.7%	72.3%
<b>Wayne</b>	66.4%	33.6%		49.3%	50.7%
<b>Webster</b>	70.6%	29.4%		53.3%	46.7%
<b>Wetzel</b>	56.4%	43.6%		41.5%	58.5%
<b>Wirt</b>	66.0%	34.0%		43.5%	56.5%
<b>Wood</b>	56.6%	43.4%		39.0%	61.0%
<b>Wyoming</b>	75.0%	25.0%		52.2%	47.8%

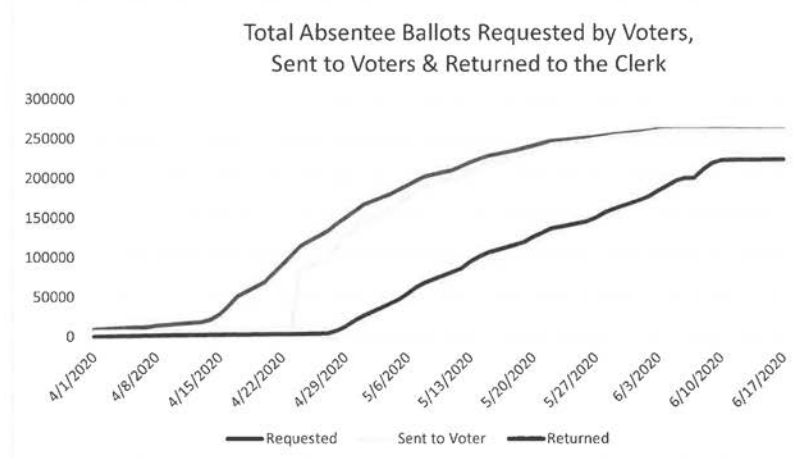
#### The Absentee Process in the 2020 Primary

All 55 West Virginia counties uniformly applied an absentee vote by mail process that a voter could apply to use if confined to their home and had access to mail. The medical excuse currently in law was interpreted by the March 18, 2020, Attorney General Opinion to include all voters during the stay at home orders heading into the primary election. West Virginia's excuse-based absentee vote by mail system traditionally sees a 2% use of all ballots cast. Of all votes cast in the 2020 Primary Election, nearly 50% were absentee vote by mail ballots.

Absentee vote by mail ballots are tracked in the Statewide Voter Registration System (SVRS) by the data that is entered by the county clerk upon each interaction that the clerk has in the process. Information is logged when a voter submits a request to receive an absentee ballot, when the clerk sends the ballot to the voter and the when the voter returns the ballot back to the courthouse. County clerks were allowed to begin accepting absentee ballot applications for the primary election on January 1, 2020, and ballots were sent 46 days before the June 9 election date, which was April 24, 2020.

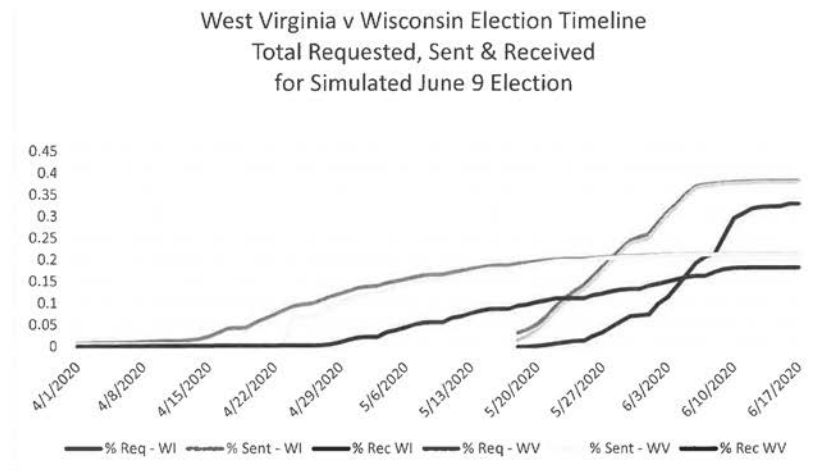
The relaxation of the requirements to initiate an absentee vote by mail ballot request in Executive Order 10-20 allowed the counties to preemptively mail an absentee request form that included and informational sheet to all voters, due to the stay at home orders cast upon all citizens. County clerks mailed these absentee request forms the week of April 13. The impacts on workflow by the county clerks can be found in the following chart.

Number of Cumulative Ballots Requested by Voters, Sent by Clerks and Returned back to the Clerks:



By engaging absentee voters early in the election cycle, the clerks were able to get a bulk of the absentee ballot requests processed and ballots sent to voters early in the process. This allowed the clerks to focus on the simultaneous duties necessary to hold in-person voting. The closures of courthouses and other county functions allowed them to borrow resources of space and manpower while doing less person-to-person transactions from other functions of county government.

Comparison to Wisconsin's election will show the difference in an elongated election process, allowing the time necessary for clerks to process applications, check for the legitimacy of the requests and give the voter time to evaluate their ballot to make informed choices. There is a possibility that one of the processes may stall, so either allowing additional time or removing timely processes to receive and return the ballot is helpful for a successful ballot cast. Due to the elevation of the pandemic in a short amount of time near the Wisconsin election and their inability to postpone Election Day, you will see a stark difference in the timing of the absentee ballot returns.



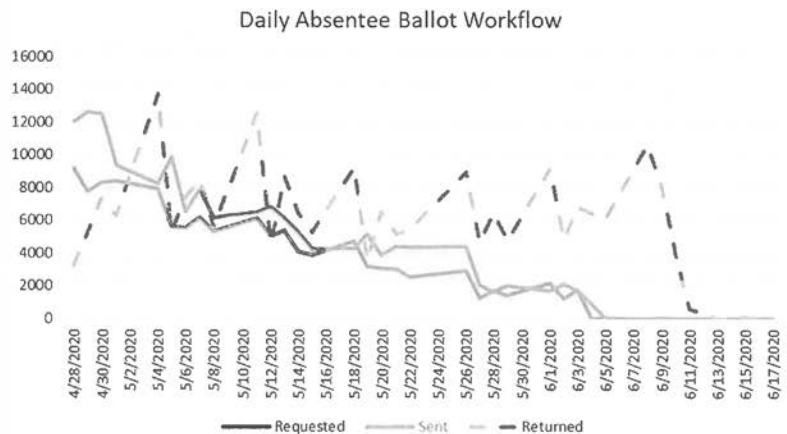
A look at the last few weeks of ballots requested and sent to voters indicates the successful nature of anticipating to build in time for absentee ballots to complete the process. Proactive voters who anticipate that they will need to request an absentee ballot and allow time for processes to take place will have a higher success rate of having their ballot count and will lower the volume at the end of an election cycle. The lower volume nearing an election will allow a clerk to expeditiously resolve the last minute voter who may not know the procedures to vote by absentee or had not made plans to vote yet.

**Key Clerk Feedback on Workflow:**

- *Early education of all voting options is vital for success –*  
Voter confusion of the option to vote on Election Day at polling locations was sparked by the postcards and produced increased calls to clerks for clarification.
- *Unresolved items from the absentee request form are complicated for the clerks to handle –*  
Voter registration changes, incomplete information or inaccurate information from the voter on the absentee request demanded the registrar to correct errors prior to mailing a ballot.
- *Human transcription of written information to data creates inevitable errors –*  
The bulk of paper applications was very time consuming and meticulous attention must be kept for accurate data on the incoming side of the volume of applications. The additional volume included labor of some less experienced employees working in the process.
- *Secrecy of the information on the postcard is important for voter confidence –*  
Voters relayed hesitancy via increased phone calls to clerks on providing some publicly available information of date of birth and optional phone number on the postcard that could be seen by a non-trusted source while in transit to the clerk's office. Timing and costs of a statewide mailing to all 1.2 million registered voters with delivery and return envelopes created enough doubt of achievability for the clerks to produce prior to the original May 12, 2020 election that postcard style was the best option available with

*limited time and resources. Additional considerations for secrecy should be made for future mailings, especially if the mailing is to a lower volume of voters that request the absentee request form that have a higher likelihood of response in a the return envelope that is provided to the voter.*

#### Processes by Transaction Amounts Statewide on a Daily Basis Nearing the Election



#### Workflow increases, ballot style preventable with time

The administration of a significant increase of absentee mail-in ballots with the change happening mid-election created some unique difficulties that had not been experienced before. Ballots sent by some counties that do not have paper scanning and tabulation processes demanded a team of ballot commissioners to recreate that ballot into an electronic voting machine to be counted on election night. This volume of intense human labor is timely and also allows for a possibility of human errors to occur in transcribing the ballot. Anticipating the volume increase will allow the ballot style to be adjusted before printing to allow scanning and tabulation to occur. This was not possible in the primary election due to time and resources.

#### Efficiency of absentee ballots by mail in the 2020 Primary

The absentee ballot request process required an individual person to touch the request or ballot at least 10 times to complete the process. This process of using a magnitude of paper above anything the state has ever seen before created a mountain of work as well as many opportunities for inevitable human errors. The path of the request to the ballot counting is, at a minimum, as follows:

##### **Lifecycle of an absentee request form:**

Printing vendor to USPS  
USPS to voter  
Voter to USPS  
USPS to County Clerk

##### **Lifecycle of an absentee ballot:**

County Clerk to USPS  
USPS to voter  
Voter to USPS  
USPS to County Clerk  
County Clerk to tabulation

Two suggestions to remove opportunity for errors with absentee ballot processes:

Improvements in timeliness and efficiency of a ballot request can be met when any mail processes are able to be replaced with online processes, allowing for the immediate transfer of documents and data to the election officials. The elimination of the necessity of the USPS office from absentee vote by mail requests will prevent inevitable human errors while also transferring data to clerks for an expeditious and accurate turnaround of a ballot to a voter.

West Virginia's Direct Recording Equipment (DRE), which are ES&S' iVotronic machines, do not require additional tabulation equipment for counted ballots on Election Day. DRE counties must transpose paper absentee ballots into the DRE voting equipment to tally with other votes cast on Election Day. This process takes time and creates a possibility for human error to occur, especially at higher volume. Having additional tabulation equipment in DRE counties specifically for absentee ballots would be a solution to higher absentee vote by mail volume and the additional human component of tabulation of these paper ballots received. The long term goal of upgrading all voting equipment beyond outdated DRE devices would alleviate these accuracy concerns and improve performance in other areas of the voting experience as well. West Virginia has upgraded equipment for nearly 50% of all registered voters from the last Presidential Election to the Primary of 2020. Additional upgrades will take place in the summer of 2020.

#### USPS Performance in the 2020 Primary

Items that arose for election officials when dealing with USPS in high volume situations:

- Bulk rate permits for returning mail should be monitored for sufficient funds, even though USPS regulations are that election mail should not be held for postage
- Hand-sorted mail can create delays and increase errors in delivery, so machinable envelopes should be used.
- Hand-sorted mail is more likely to miss postmarks, jeopardizing the ability to accept the ballot, so machinable envelopes should be used.
- Absentee ballot requests in postcard format can be disruptive in sorting machines

#### Election Day:

In person voting required additional preparations than typically necessary heading into the 2020 primary election. The two major portions of additional efforts necessary for the primary election were additional protective measures to secure a safe polling location for voters and poll workers as well as poll worker recruitment.

#### CARES Act funding

At the onset of shutdown orders, on March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES). CARES Act funding has allowed West Virginia to better prepare for and respond to events coinciding with COVID-19 and the 2020 Election Cycle by making appropriate expenditures that provide for the security of our election and our voters in addition to planning that had already been made. The federal award provided \$3,797,620 in available funding to secure our June 9 Primary Election, and the November 3 General Election.

The administering of the HAVA CARES Act funds, and other funds available by the West Virginia Secretary of State, supports the counties efforts to ensure safe and fair elections while also allowing the flexibility

for each county to serve the varying needs of their individual communities. The distribution process for CARES Act funds begins after the county has obligated approvable primary election expenses. Once each county calculates its primary expenses, they submit a standardized application for review by the State HAVA Board and, if approved, the State Election Commission. Each layer of review ensures that reimbursement requests are appropriate, reasonable, necessary, and aligned with financial forecasts.

West Virginia anticipates distributing less than half of the CARES Act funds for reimbursement of the primary election. Absentee ballots and postage accounted for nearly 70% of the additional costs incurred in the 2020 Primary that are being reimbursed from CARES Act funds. By making absentee voting available to all citizens, and by protecting our precincts for in-person voting, West Virginia ensured that every eligible voter had multiple options to vote. West Virginia has no reported cases of COVID-19 from any in-person voting locations. All approved CARES Act reimbursements can be found at <https://sos.wv.gov/elections/Pages/CaresAct.aspx>.

Any additional PPE that had not been secured by the County Clerks on a reimbursement basis was obtained by the West Virginia Secretary of State's Office and delivered directly to the counties weeks ahead of early voting. Items delivered included face shields and gloves for poll workers and hand sanitizer and face masks for voters. The West Virginia National Guard was also able to supply hand sanitizer to cover all of Putnam and Kanawha counties polling location needs.

#### **Polling locations**

Executive Order 10-20 allowed counties to consolidate or open without the full staff of 5 poll workers on Election Day. There was significant consolidation of precincts in some locations, however, overall, Election Day polling locations remained in-tact. There were 258 polling location changes, with 80% of these changes happening in just 3 counties.

There were no reported polling locations that did not open on time. There were locations that opened without being fully staffed with 5 poll workers, as temporarily allowed by EO 10-20. Counties indicated their appreciation of having the flexibility to have less poll workers with lighter turnout but acknowledge the difficulty of opening with fewer poll workers with higher turnout in General Election without shut down orders. Clerks also appreciated the ability to train poll workers beyond 30 days prior to an election, but did indicate that additional specified training is necessary during COVID-19 and with an increase in new poll workers.

#### **Election Night Reporting**

Election night reporting was again a very successful endeavor that is a cumulative effort of the county clerk's offices partnering with the Secretary of State's Office to provide timely and accurate election results on election night. The success has skyrocketed since securing the data transfer to a more protected system hosted by SCYTL with increased protections from DDoS attacks and penetration efforts. Once again, the clerks all did a terrific job of providing the information to the state in a timely manner to keep the public informed on the unofficial and official results of the election.

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

At Charleston

**A PROCLAMATION**

By the Governor

**WHEREAS**, beginning on the Twenty-first day of January, Two Thousand Twenty, the Center for Disease Control and Prevention activated their Emergency Response Center and began responding to an outbreak of respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in numerous countries, including in the United States; and

**WHEREAS**, a State of Preparedness was issued on the Fourth Day of March, Two Thousand Twenty for all counties in West Virginia, to allow agencies to coordinate and create necessary measures to prepare for the COVID-19 virus; and

**WHEREAS**, it is of the utmost importance that our Cabinet Secretaries, Commissioners, and Directors throughout the state have the ability to take measures necessary to ensure the safety of our citizens; and

**WHEREAS**, the COVID-19 epidemic constitutes a disaster under section two, article five, chapter fifteen of the Code of West Virginia; and

**WHEREAS**, COVID-19 has been deemed a pandemic by the World Health Organization and the President of the United States has declared a national emergency; and

**WHEREAS**, it is in the best interest of the citizens of West Virginia that we are able to stand up emergency operation centers and allow boards and agencies to suspend certain rules that inhibit them from responding effectively; and

**NOW, THEREFORE, I, JIM JUSTICE**, by virtue of the authority vested in me as Governor of the State of West Virginia, and in view of the foregoing, do hereby **FIND AND DECLARE** that a State of Emergency does exist in Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming Counties of West Virginia, said State of Emergency to remain in effect unless terminated by subsequent Proclamation. I therefore **INVOKE** the emergency powers set forth in section six, article five, chapter fifteen of the Code of West Virginia; **UTILIZE** the Emergency Operations Plan, as necessary; **ORDER** the West Virginia Department of Health and Human Resources, the West Virginia Division of Homeland Security and Emergency Management, and the West Virginia National Guard to mobilize appropriate personnel and resources to respond to the emergency; order all other state agencies to assist as may be requested and to do everything reasonably possible to assist affected areas and people in this state; and **DELEGATE** certain administrative powers to the West Virginia Department of Health and Human Resources, the Director of the West Virginia Division of Homeland Security and Emergency Management, and the West Virginia National Guard, as necessary, to facilitate the provision of essential emergency services to alleviate the potential impacts to the people, property, and infrastructure of West Virginia that may be caused by this outbreak. Further, I hereby **ORDER** that it is unlawful for any person, business, or other entity to sell any food items, essential consumer items, and emergency supplies in a manner that violates the provisions of section three, article six J, chapter forty-six A of the Code of West Virginia.

Finally, I hereby **DELEGATE** to all state agencies the ability to suspend rules, if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of  
the State of West Virginia to be affixed.



DONE at the Capitol in the City of  
Charleston, State of West Virginia, this  
Sixteenth day of March, in the year of our  
Lord, Two Thousand Twenty in the One  
Hundred Fifty-eighth year of the State.

  
GOVERNOR

By the State

  
SECRETARY OF STATE

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

**At Charleston**

**EXECUTIVE ORDER NO. 9-20**

**By the Governor**

**WHEREAS**, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the “State of Emergency Declaration”), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS**, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein; and

**WHEREAS**, Executive Order 2-20, Executive Order 3-20, Executive Order 6-20, and Executive Order 8-20 have ordered closed or otherwise limited occupancy of businesses and establishments such as casinos, restaurants, bars, fitness centers, gymnasiums, recreation centers, barber shops, nail salons, hair salons, state park lodges, and the Hatfield McCoy Trail, all to protect public health, safety, and welfare; and

**WHEREAS**, further measures are necessary to protect the health, safety, and welfare of the public, to disrupt the spread of the virus, and to mitigate the impact of COVID-19, including the closure of additional businesses and facilities throughout the state; and

**WHEREAS**, the Centers for Disease Control and Prevention ("CDC") and the West Virginia Department of Health and Human Resources have recommend the public practice of social distancing, meaning staying home whenever possible and otherwise maintaining a six feet distance from other individuals, to minimize the transmission of COVID-19; and

**WHEREAS**, locations where people congregate unnecessarily and/or fail to follow adequate social distancing practices are therefore areas of large-scale threat and emergency; and

**WHEREAS**, businesses that are to remain open will need to reduce their operations to continue with minimum contact with members of the public and only essential employees, and must require proper social distancing at all times; and

**WHEREAS**, these measures relating to the closure of certain businesses and to limit the operation of non-essential businesses are necessary because of the propensity of the COVID-19 virus to spread via personal interactions and because of physical contamination of property due to its ability to remain on surfaces for prolonged periods of time; and

**WHEREAS**, it is the duty of every West Virginian to practice proper social distancing and to comply with these measures in order to protect our people, our families, and each other, against this terrible epidemic.

**NOW, THEREFORE, I, JIM JUSTICE**, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 8:00 PM, Eastern Standard Time, on the Twenty-fourth day of March, Two Thousand Twenty, as follows:

1. **Stay at home or your place of residence.** To preserve public health and safety, and to ensure the healthcare system in West Virginia is capable of serving all citizens in need, especially those at high risk and vulnerable to COVID-19, all individuals within the State of West Virginia are under a general stay-at-home order and are directed to stay at home or their place of residence unless performing an essential activity. An activity is essential if the purpose of the activity is one of the following:

- a. Obtaining food, medicine, and other similar goods necessary for the individual or a family member of the individual.
  - b. Obtaining non-elective medical care and treatment and other similar vital services for an individual or a family member of the individual.
  - c. Going to and from an individual's workplace if such workplace and/or work is included in the definition of Essential Businesses and Operations as outlined in Section 3, below.
  - d. Going to and from the home of a family member.
  - e. Going to and from the home of another individual who, under the terms of a parenting plan or similar agreement, is entitled to visitation with or the care of a child.
  - f. Going to and from an individual's place of worship.
  - g. Engaging in outdoor activity, provided that individuals at all times and as much as reasonably possible maintain social distancing of six feet from one another and abide by a 10-person limitation on gathering size.
2. **Non-essential businesses and operations must temporarily cease operations.** In addition to those businesses directed to close or limit occupancy pursuant to previous executive orders, all businesses and operations in West Virginia, except Essential Businesses and Operations as defined below, are required to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences. Businesses such as home-based businesses may continue to operate, so long as any employees or contractors of such businesses perform activities from their own residences. Further, small businesses that do not invite in the general public and which have five or less employees in the office may continue to operate, but must ensure that proper social distancing and hygiene practices are maintained.
3. **Essential businesses and operations shall continue to operate.** Essential Businesses and Operations, as described below, shall remain open, and individuals may leave their

residence to provide any services or to perform any work necessary to offer, provision, supply, operate, maintain, and/or repair Essential Businesses and Operations. The term “Essential Businesses and Operations” includes those industries and workers described in the U.S. Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency’s March 19, 2020, *Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response* and its “Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response” attached thereto (the “CISA Guidance”). In addition to those industries and workers identified in the CISA Guidance, the following industries, businesses, and/or workers employed in such industries and businesses are specifically included as Essential Businesses and Operations under this Order:

**a. Healthcare, public health operations, and health insurance companies.**

Healthcare, public health operations, and healthcare insurance companies include without limitation hospitals, clinics, dental offices, pharmacies, public health entities, including those that compile, model, analyze, and communicate public health information, pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies (including operations, research and development, manufacture, and supply chain), managed care organizations and related entities and attendant or related services, Medicaid providers, healthcare insurers, organizations collecting blood, platelets, plasma, and other necessary materials (including organizations hosting blood drives, provided that appropriate precautions are taken, including proper social distancing and hygiene measures during any such drive), obstetricians and gynecologists, eye care centers, including those that sell or provide glasses and contact lenses, home healthcare providers, mental health and substance use providers, other healthcare facilities and suppliers and providers of any related and/or ancillary healthcare services, and entities that transport and dispose of medical materials and remains. This includes manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment, medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting, or sterilization supplies, and tissue and

paper towel products. This category of industry shall be construed very broadly to avoid any impacts to the delivery of healthcare, broadly defined. Healthcare and public health operations does not include fitness and exercise gyms, spas, salons, barber shops, tattoo parlors, and similar facilities limited or closed under previous executive order.

- b. **Grocery stores and pharmacies.** Grocery stores, pharmacies, farmers' markets, farm and produce stands, supermarkets, convenience stores, and other establishments engaged in the retail sale of groceries, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, prepared food, alcoholic and non-alcoholic beverages, any other household consumer products (such as cleaning and personal care products), specifically including their supply chain and administrative support operations. This includes stores that sell groceries, medicine, including over-the-counter medication not requiring a medical prescription, and also those that sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences and Essential Businesses and Operations.
- c. **Food, beverage, and agriculture.** Food and beverage manufacturing, production, processing, and cultivation, including farming, livestock, seed and feed stores, fishing, baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption, and businesses that provide food, shelter, and other necessities of life for animals, including animal shelters, rescues, shelters, kennels, and adoption facilities. Restaurants and other facilities that prepare and serve food and/or drinks, but only for consumption off-premises, through such means as take-away, delivery, or drive-through/drive in. Schools and other entities that typically provide food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up or take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site due to the virus's propensity to physically impact surfaces and personal property.

- d. Essential governmental functions.** For purposes of this Order, all first responders, emergency management personnel, emergency dispatchers, legislators, judges, court personnel, jurors and grand jurors, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support Essential Businesses and Operations, and all state governmental employees deemed essential employees by their respective agency head, are categorically exempt from this Order. Essential government functions means all services provided by the State or any municipality, township, county, political subdivision, board, commission, or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety, and welfare of the public, and including contractors performing such essential government functions. Each government body shall determine its essential government functions and identify employees and/or contractors necessary to the performance of those functions. This Order does not apply to the United States government. Nothing in this Order shall prohibit any individual from performing or accessing essential government functions.
- e. Human services organizations and childcare facilities and providers.** Human services operations includes without limitation long-term care facilities, day care centers, day care homes, group day care homes, residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, transitional facilities, home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children, field offices that provide and help determine eligibility for basic needs including food, cash assistance, medical coverage, child care, vocational services, rehabilitation services, development centers, adoption agencies, businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals, and child care centers, day care centers, and those engaged in caretaking for children.

- f. Essential infrastructure.** Businesses, entities, or workers engaged in food production, distribution, fulfillment centers, storage facilities, preparation, and sale, construction (including without limitation construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction, school construction, essential business construction, and housing construction), business management and maintenance, airport operations, operation, maintenance, and supply of utilities, including water, sewer, and gas, electrical (including power generation, distribution, and production of raw materials including without limitation coal and oil and natural gas), distribution centers, oil and biofuel refining, roads, highways, railroads, and public transportation, cyber and other security operations and services, flood control, solid waste and recycling collection and removal, and internet, video, and telecommunications systems (including the provision of global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services) and telecommunications workers. Essential infrastructure shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.
- g. Coal mining and coal-fired electric generation facilities.** Coal mining and coal-fired electric generation facilities, as well as all ancillary and support functions ranging from transportation, maintenance, equipment, and supply vendors.
- h. Manufacture, distribution, and supply chain for critical products and industries.** Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, iron ore, steel and steel products, aluminum and aluminum products, petroleum, propane, and fuel, mining, construction, national defense, communications, as well as products used by other Essential Businesses and Operations including without limitation filters and filtration products and services.
- i. Transportation and travel related businesses and gas stations.** Travel related businesses facilitating access to or provision of essential activities or any Essential

Businesses and Operations, including without limitation airlines, taxis, transportation network providers (such as Uber and Lyft), vehicle rental services, paratransit, and other private, public, and commercial transportation and logistics providers, travel or transport of agricultural products, foodstuffs, or related items, or other governmental travel needs, and gas stations and automobile dealers and other suppliers, auto repair, farm equipment, construction equipment, and related facilities and related facilities.

- j. **Financial and insurance institutions.** Banks and banking services including without limitation ATM services, currency exchanges, consumer lenders, credit unions, appraisers, title companies, financial markets, trading and futures exchanges, payday lenders, affiliates of financial institutions, professional debt collectors and related creditor service workers, workers engaged in payment clearing and settlement, wholesale funding, and capital markets activities, entities that issue bonds, related financial institutions, institutions selling financial products, insurance companies, underwriters, agents, brokers, and related insurance claims and agency services.
- k. **Hardware and supply stores.** Hardware and supply stores and businesses that sell construction, electrical, plumbing, and heating materials.
- l. **Critical trades.** Building and construction tradesmen and tradeswomen, and other trades including without limitation plumbers, electricians, exterminators, filtration technicians, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC engineers, painting, moving, and relocation services, and other service providers who provide services that are necessary to maintain the safety, sanitation, and essential operation of residences, essential activities, and Essential Businesses and Operations.
- m. **Mail, post, shipping, logistics, delivery, and pick-up services.** Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, alcoholic and non-alcoholic beverages, goods, vehicles, or services to end users or through commercial channels.
- n. **Religious entities.** Religious facilities, entities, and groups and religious gatherings, including weddings and funerals; provided that such gatherings should

still practice proper social distancing of six feet between persons to the greatest extent possible.

- o. **Educational institutions.** Educational institutions including public and private pre-K-12 schools, colleges, and universities for purposes of facilitating distance learning, performing critical research, or performing essential functions including providing for the delivery or pick-up of food for school age children; provided that proper social distancing of six feet between persons is maintained to the greatest extent possible.
- p. **Laundry services.** Laundromats, dry cleaners, industrial laundry services, and laundry service providers.
- q. **Supplies to work from home.** Businesses that sell, manufacture, or supply products needed for people to work from home, including IT and telecommunications services and product companies.
- r. **Supplies for Essential Businesses and Operations.** Businesses that sell, manufacture, or supply other Essential Businesses and Operations with the support of materials necessary to operate, including computers, audio and video electronics, household appliances, IT and telecommunications equipment, cybersecurity software or services, hardware, paint, flat glass, electrical, plumbing, and heating material, sanitary equipment, personal hygiene products, food, food additives, ingredients, and components, medical and orthopedic equipment, optics and photography equipment, diagnostics, food and beverages, chemicals, soaps and detergents, tent and other temporary structure suppliers, and firearm and ammunition suppliers and retailers.
- s. **Home-based care and services.** Home-based care for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, including caregivers such as nannies who may travel to the child's home to provide care, and other in-home services including meal delivery.
- t. **Residential facilities and shelters.** Residential facilities and shelters for adults, seniors, children, pets, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness.

- u. **Professional services.** Professional services, such as legal services, accounting services, insurance services, real estate services (including appraisal and title services).
  - v. **Media and first amendment protected speech.** Newspapers, television, radio, and other media services.
  - w. **Hotels and motels.** Hotels and motels, to the extent used for lodging and delivery or carry-out food delivery.
  - x. **Funeral services.** Funeral, mortuary, cremation, burial, cemetery, and related services; provided that proper social distancing of six feet between persons is maintained to the greatest extent possible.
4. **Prohibited activities.** All places of public amusement, whether indoors or outdoors, including but not limited to locations with amusement rides, carnivals, zoos, museums, arcades, fairs, pool halls, bingo halls, malls (except where stores in a mall that have a direct outdoor entrance and exit that provide essential services and products under the terms of this Order), children's play centers, playgrounds, bowling alleys, movie and other theaters, concert and music halls, adult entertainment venues, racetracks, social clubs, and other similar businesses shall be closed.
5. **Avoid social gatherings.** All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by this Order. Any gathering of more than 10 people is prohibited unless exempted by this Order. Nothing in this Order prohibits the gathering of members of a household or residence.
6. **Intent of this Order.** The intent of this Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the greatest extent possible. When people need to leave their places of residence, whether to perform essential activities, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times and as much as reasonably possible properly socially distance themselves from others. All provisions of this Order should be interpreted and implemented to effectuate this intent.

7. **Enforcement.** This Order may be enforced by State and local law enforcement and by state and local regulatory and/or licensing bodies to the extent possible under West Virginia law.
8. **Duration.** The provisions of this Order, and all previous executive orders relating to COVID-19, are effective until terminated by subsequent executive order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

**DONE** at the Capitol in the City of Charleston, State of West Virginia, this Twenty-third day of March, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

*James I. Gooden*  
**GOVERNOR**

*Mrs. Warner*  
**SECRETARY OF STATE**

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

**At Charleston**

**EXECUTIVE ORDER NO. 10-20**

**By the Governor**

**WHEREAS**, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS**, Chapter 15, Article Five, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

**WHEREAS**, on the nineteenth day of March, Two Thousand Twenty, Executive Order 7-20 suspended certain provisions and sections of statute that if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency;

**WHEREAS**, there have been additional statutory regulations identified by our agencies that are preventing the state from best assisting the citizens of West Virginia; and

**WHEREAS**, the Board of Medicine and the Board of Osteopathic Medicine have identified a number of provisions in Executive Order 7-20 that would benefit from additional clarification and amendment.

**NOW, THEREFORE, I, JIM JUSTICE**, pursuant to the authority vested in me pursuant to the provision of Chapter 15, Article Five, Section 6 of the Code of West Virginia, hereby **DECLARE** and **ORDER** that, the following statutory regulations are to be suspended for the duration of the State of Emergency:

1. Requirement that poll worker training may only begin within 30 days of the election (W. Va. Code § 3-1-46(c));
2. Requirement that there be at least 30 days prior to Election Day to establish a satellite precinct (W. Va. Code § 3-3-2a(b)(1));
3. Requirement that voters who wish to vote an absentee-by-mail ballot must request an absentee ballot application by “oral or written request” (W. Va. Code § 3-3-5(a));
4. Requirements that the official designated to supervise and conduct absentee voting must provide to the voter an absentee ballot within just one day of receiving the absentee ballot application. Provided, that the remaining requirements regarding the appropriate address, delivery method, materials, instructions, notices, and other information are not suspended (W. Va. Code § 3-3-5(e)(1)).
5. Requirement that precincts must be operated separately with separate equipment and poll workers (W. Va. Code § 3-1-5(a) and W. Va. Code § 3-4A-30);
6. Requirements that precincts must have at least 5 poll workers present to operate on Election Day (W. Va. Code § 3-1-29, 30);
7. Requirement that any person practicing or offering to practice as a registered nurse (RN) or advanced practice registered nurse (APRN) have a license issued by the West Virginia Board of Registered Professional Nurses (W. Va. Code § 30-7-2), with the exception of those with pending complaints, investigations, consent orders, board orders, or pending disciplinary proceedings and provided the RN or APRN is licensed in another state;
8. Requirement that RN and APRN licenses have a renewal period requirement (W. Va. Code §30-7-8);
9. Requirement for supervision or presence of any other healthcare provider when anesthesia is administered by a certified registered nurse anesthetist (CRNAs) (W. Va. Code §30-7-15);

10. Requirement for APRN authorization for prescriptive authority, collaborative requirements for prescriptive authority, prescriptive formulary limitations, prescriptive refill and supply limitations, and other prescriptive limitations including continuing education and renewal requirements (W. Va. Code §30-7-15a, §30-7-15b, §30-7-15c);
11. Requirement that RNs and APRNs furnish completion of continuing education, including drug diversion and veterans' mental health, for licensure or licensure renewal (W. Va. Code §30-1-7a);
12. Any statute or rule that prescribes time limits or deadlines by which state agencies or political subdivisions or agencies thereunder must hold hearings, and allowing abeyance of such hearings or for such hearings to be conducted by telephonic means, at the sole discretion of the applicable state agency or political subdivision or agencies thereunder; provided, that where a deadline is constitutional, the agency shall conduct the hearing telephonically, through other remote technology, or in compliance with any court order.

FURTHER, I **DECLARE** and **ORDER** that the following paragraphs of Executive Order 7-20 are hereby amended as follows:

1. Paragraph 1 is hereby deleted in its entirety and replaced with the following:  
 Requirement of full licensure for allopathic physicians and surgeons who have no pending complaints, investigations, consent orders, board orders, or pending disciplinary proceedings and who possess valid, unrestricted medical licensure in another state, district, or territory of the United States or, at one time, possessed an unrevoked license issued by the Board of Medicine but are now retired or in inactive status (W. Va. Code § 30-3-13(a)) and (W. Va. Code § 30-3-12(h)(j));
2. Paragraph 2 is hereby deleted in its entirety and replaced with the following:  
 Requirement for telemedicine providers to be licensed in West Virginia (W.Va. Code § 30-3-13a(b)(2) and (W. Va. Code § 30-3-13(b))), provided that such provider possesses an unrestricted medical license in their own state and otherwise complies with the provisions of W. Va. Code § 30-3-13a;
3. Paragraph 7 is hereby deleted in its entirety and replaced with the following  
 Requirement of full licensure for osteopathic physicians and surgeons who have no pending complaints, investigations, consent orders, board orders, or pending

disciplinary proceedings and who possess valid, unrestricted medical licensure in another state, district, or territory of the United States or, at one time, possessed a license issued by the Board of Osteopathic Medicine, which has not been revoked, but are now retired or in inactive status (W. Va. Code § 30-14-1) and (W. Va. Code § 30-14-10(a), (c), (d));

4. Paragraph 11 is deleted in its entirety and replaced with the following:

Requirement that telemedicine be performed by video only (W. Va. Code § 30-14-12d(c)) and (W. Va. Code § 30-3-13a(c).

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this Twenty-third day of March, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

*James E. Justice*  
GOVERNOR

*Mrs. Warner*  
SECRETARY OF STATE



FILED IN THE OFFICE OF  
THE SECRETARY OF STATE  
THIS DATE March 18, 2020  
ADMINISTRATIVE LAW DIVISION

State of West Virginia  
Office of the Attorney General

Patrick Morrisey  
Attorney General

(304) 558-2021  
Fax (304) 558-0140

March 18, 2020

The Honorable Mac Warner  
West Virginia Secretary of State  
State Capitol Building 1, Room 157-K  
1900 Kanawha Blvd. East  
Charleston, WV 25305

Dear Secretary Warner:

You have asked for an Opinion of the Attorney General concerning the authority of the Secretary of State ("the Secretary") to issue emergency rules related to the upcoming primary election in response to widespread public-health concerns. This Opinion is being issued pursuant to West Virginia Code § 5-3-1, which provides that the Attorney General "shall give written opinions and advise upon questions of law . . . whenever required to do so, in writing, by . . . the Secretary of State." To the extent this Opinion relies on facts, it is based solely on the factual assertions in your correspondence with the Office of the Attorney General and in the March 16, 2020 proclamation by Governor James C. Justice II declaring a state of emergency.

Your letter describes the consequences that the spread of COVID-19 ("coronavirus") may have on the upcoming statewide primary election, which is scheduled for May 12, 2020. Your request describes several ways that the spread of coronavirus—or the fear thereof—could affect your office's ability to protect voters' rights and public safety, while maintaining public confidence in the integrity of the election process. Your request identifies provisions of the West Virginia Code that address emergency and disaster response, and asks what authority these provisions grant the Secretary when determining how best to administer a primary election in the event of a viral epidemic.

State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305

The Honorable Mac Warner  
 March 18, 2020  
 Page 2

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Your letter raises two primary legal questions:

- (1) *Do the Secretary's emergency rulemaking powers apply in the context of an epidemic like the spread of coronavirus, and if so how is this authority invoked?*
- (2) *What is the extent of the Secretary's authority under these provisions?*

With respect to the first question, we conclude that Section 3-1A-6(e) of the West Virginia Code, which governs emergency election procedures, can apply in the face of an actual or imminent viral epidemic in the State. This provision can be invoked by declaration of the Governor or by order of the Chief Judge of an affected judicial circuit; the Governor's March 16 declaration satisfies the statutory standard. With respect to the second question, we conclude that Section 3-1A-6(e) grants the Secretary broad emergency powers outside the ordinary rulemaking process where necessary to promote voter access and public confidence in the election process, but that any emergency rules may not contradict the specific requirements governing elections already set forth in the Code.

#### *Discussion*

Most provisions of law controlling the conduct of elections in West Virginia are set forth in Chapter Three of the West Virginia Code. Among other things, Chapter Three prescribes the date and time of elections, the timeframes for registering to vote, and the circumstances in which individuals may cast absentee ballots in person or by mail. W. Va. Code §§ 3-1-31, 3-5-1; 3-1-3, 3-1-3a; 3-3-1.

The Secretary is the "chief election officer" of the State, W. Va. Code § 3-1A-6(a), and as such has many powers and responsibilities related to the administration of Chapter Three. With respect to rulemaking, the Secretary may consult with the State Election Commission to "promulgate legislative rules . . . as may be necessary to standardize and make effective the provisions of [Chapter Three]." *Id.* The Secretary also has power to promulgate "emergency rules" in certain circumstances. *See, e.g., id.* §§ 3-1-48(i) (Secretary may issue emergency rules to effectuate the State's access to federal grants under the Help America Vote Act); 3-12-14(a)(3) (Secretary may issue emergency rules to effectuate the public financing program for Supreme Court of Appeals elections). Most relevant to your request, Section 3-1A-6(e) also provides emergency rulemaking powers in the event of a natural disaster, war, or similar exigent circumstance:

- (1) The Secretary shall also have the power, after consultation with the Secretary of the Department of Military Affairs and Public Safety, to implement emergency procedures and rules to ensure that all eligible voters have the opportunity to cast a valid ballot and to uphold the integrity of an election in the

The Honorable Mac Warner  
 March 18, 2020  
 Page 3

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event of natural disaster as declared by the Governor of this state, terrorist attack, war or general emergency, if any of which occur during or immediately preceding an election.

(2) For purposes of this subsection, a “general emergency” means circumstances preventing the casting of ballots in one or more voting precincts. The chief judge of the circuit court of the county where the casting of ballots is being prevented must declare by order that a general emergency exists.

W. Va. Code § 3-1A-6(e).

The Secretary’s emergency authority under Section 3-1A-6(e) differs from ordinary rulemaking power in four respects. *First*, this authority may be invoked in four specific circumstances during or immediately before an election: a “natural disaster as declared by the Governor of this state, terrorist attack, war or general emergency.” W. Va. Code § 3-1A-6(e)(1). *Second*, the Secretary consults with the Secretary of the Department of Military Affairs and Public Safety, rather than the Board of Elections, before implementing rules pursuant to Section 3-1A-6. *Id.* *Third*, these rules take effect immediately: The Secretary is empowered to “implement” election rules as “emergency rules,” which are not subject to pre-approval by the Legislature, in contrast to ordinary rules. *Id.*; see also *id.* § 29A-3-15(a). *Fourth*, instead of general rules that are issued to “standardize and make effective” Chapter Three’s provisions, rules issued under Section 3-1A-6(e) must advance the twin goals of “ensur[ing] that all eligible voters have the opportunity to cast a valid ballot” and “uphold[ing] the integrity of an election.” *Id.* § 3-1A-6(a), (e)(1).

**I. Section 3-1A-6(e) Applies In Response To Public-Health Concerns After Declaration Of The Governor Or Order Of The Chief Judges Of The Judicial Circuits Where Affected Precincts Are Located.**

Your first question concerns the first of these four distinctions. Your letter asks whether Section 3-1A-6(e) can apply in the context of a threatened public-health crisis (as opposed to an attack or a natural disaster like a flood), and the mechanisms by which it can be invoked. We conclude that the proclamation declaring a state of emergency issued by Governor Justice on March 16, 2020 is sufficient to trigger Section 3-1A-6(e), and note that the Secretary’s authority could also be invoked by an order from the Chief Judge of each judicial circuit affected by the threat of an epidemic.

The first basis for invoking Section 3-1A-6 is “in the event [that] a natural disaster [is] declared by the Governor.” W. Va. Code § 3-1A-6(e)(1). The West Virginia Code does not contain a specific procedure for declaring a “natural disaster.” Rather, the Governor may declare a general state of emergency or a state of preparedness “if a natural or man-made disaster of major proportions has actually occurred or is imminent within the state.” *Id.* § 15-5-6(a). This

The Honorable Mac Warner  
 March 18, 2020  
 Page 4

statute expressly includes an “epidemic” as one form of “disaster” for which the Governor may make an emergency declaration. *Id.* § 15-5-2(h). As Section 3-1A-6(e) and the emergency-declaration provisions “relate to the same persons or things [and] have a common purpose,” we “regard[] [them] in *pari materia* to assure recognition and implementation of the legislative intent.” *Miller v. Wood*, 229 W. Va. 545, 552, 729 S.E.2d 867, 874 (2012). Thus, a state of emergency declared on the basis of an “actual[]” or “imminent,” naturally occurring “epidemic,”

W. Va. Code § 15-5-6(a) would satisfy Section 3-1A-6(e)’s requirement of a “natural disaster” “declared by the Governor,” *id.* § 3-1A-6(e)(1).

Here, the Governor’s March 16 proclamation found that “the COVID-19 epidemic constitutes a disaster under section two, article five, chapter fifteen of the Code of West Virginia,” and declared a state of emergency in all 55 counties. STATE OF WEST VIRGINIA, EXEC. DEP’T, A PROCLAMATION BY THE GOVERNOR 1-2 (Mar. 16, 2020), *available at* <https://governor.wv.gov/Documents/2020%20Proclamations/State-of-Emergency-March-16-2020.pdf>. This disaster is plainly “natural” as every indication shows it is not man-made, and rather arose and spreads through natural processes. Regardless, an epidemic like that at issue here is a valid statutory basis for the Governor to declare an emergency, and because there is no separate statutory mechanism to declare a “natural disaster,” it seems clear that the Legislature intended the Secretary to be able to implement emergency election rules in response to a state of emergency. We thus conclude that the Governor’s March 16 declaration declaring that a state of emergency exists because of the coronavirus epidemic is a sufficient basis to trigger the Secretary’s powers under Section 3-1A-6(e).

Section 3-1A-6(e) would also independently apply in any counties where the chief judge of the relevant circuit court, as described in West Virginia Code Section 51-2-1(a), issues an order finding a “general emergency” because “circumstances [are] preventing the casting of ballots in one or more voting precincts” within the circuit. W. Va. Code § 3-1A-6(e)(1)-(2). Public-health related travel restrictions or advisories would almost certainly satisfy this standard. Your letter also asks what procedures would govern seeking an order declaring a “general emergency.” The West Virginia Code and circuit court rules do not require a specific process for issuing such an order, but based on similar contexts, the chief judge could issue this order *sua sponte* or at the Secretary’s request. Chief judges are free to make similar determinations *sua sponte*, for example, when “weather or other emergency conditions in that county prevent the general transaction of court business in that county.” *Id.* § 2-2-2(b); *see also id.* § 3-10-3(b) (chief judge of a circuit is “responsible for” issuing an order and proclamation of special elections to fill judicial vacancies). Nevertheless, we note that orders declaring a general emergency must be issued by each of West Virginia’s thirty-one judicial circuits; no provision of the Code or West Virginia Constitution provides authority for the Supreme Court of Appeals to declare a statewide emergency (outside the context of court administration), and such an order could create tension with the Governor’s power to do so under Section 15-5-6.

The Honorable Mac Warner  
 March 18, 2020  
 Page 5

**II. Section 3-1A-6(e) Authorizes Emergency Election Rules To Ensure Eligible Voters Have The Opportunity To Vote And To Uphold Election Integrity, Provided They Do Not Contradict Clear Statutory Requirements.**

Your second question asks about the scope of the Secretary's powers under Section 3-1A-6(e), including whether they include the ability to implement emergency election rules that are "beyond or different than those in current" election laws. We conclude that the statute provides authority to issue broad, flexible rules without following the ordinary rulemaking

procedures where those rules are consistent with Chapter Three or speak to an issue on which the statute is silent. Section 3-1A-6(e) does not, however, authorize rules that contradict a clear statutory command.

The Secretary's general power to promulgate legislative rules is limited to rules that are "necessary to standardize and make effective the provisions of [Chapter Three]." W. Va. Code § 3-1A-6(a). The Secretary's power to implement emergency election rules is broader, extending beyond what is merely "necessary" to implement the specific directives of Chapter Three to include rules designed to "ensure that all eligible voters have the opportunity to cast a valid ballot and to uphold the integrity of an election." *Id.* § 3-1A-6(e)(1). Omitting the narrowing focus on "the provisions of [Chapter Three]" indicates that the Legislature intended to grant more latitude under Section 3-1A-6(e) to implement emergency election rules than for ordinary election rules. See *Christopher J. v. Ames*, 241 W. Va. 822, 831, 828 S.E.2d 884, 893 (2019) ("As the United States Supreme Court has recognized, when the Legislature includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that the Legislature acts intentionally and purposely in the disparate inclusion or exclusion." (Quotation and alterations omitted)); see also *Gibson v. Northfield Ins. Co.*, 219 W. Va. 40, 47, 631 S.E.2d 598, 605 (2005) ("Explicit direction for something in one provision, and its absence in a parallel provision, implies an intent to negate it in the second context." (Quotation and alterations omitted)).

This broad power to implement emergency election rules is subject to two important limitations. *First*, the Legislature may validly delegate rulemaking power only where it defines "clear public policy objectives or guidelines." *Fairmont Gen. Hosp., Inc. v. United Hosp. Ctr., Inc.*, 218 W. Va. 360, 367, 624 S.E.2d 797, 804 (2005) (citing W. Va. Const. art. VI, § 1). Here, the Legislature's policy objectives for emergency election rules include "ensur[ing] that all eligible voters have the opportunity to cast a valid ballot" and "uphold[ing] the integrity of [the] election." W. Va. Code § 3-1A-6(e)(1). Any rules issued pursuant to Section 3-1A-6(e) thus must be in furtherance of these goals. *Second*, it is a foundational tenet of regulatory rulemaking that "[w]here a statute contains clear and unambiguous language, an agency's rules or regulations must give that language the same clear and unambiguous force and effect that the language commands in the statute." Syl. pt. 4, *Maikotter v. Univ. of West Virginia Bd. of Trustees/West Virginia Univ.*, 206 W. Va. 691, 527 S.E.2d 802 (1999). Thus, the Secretary

The Honorable Mac Warner  
 March 18, 2020  
 Page 6

cannot implement emergency election rules that violate or alter clear statutory requirements in Chapter Three.

Any emergency election rule the Secretary implements must therefore operate within the boundaries of Chapter Three and advance the twin goals of promoting eligible voters' ability to vote and ensuring election integrity. These guidelines leave a number of options open to the Secretary under Section 3-1A-6(e) when preparing for the upcoming primary election—especially because Chapter Three is “construed in favor of enfranchisement, not disenfranchisement,” so any ambiguity when implementing Chapter Three during a state of emergency would likely be resolved in favor of broader access for eligible voters. *State ex rel. Bowling v. Greenbrier Cty. Comm'n*, 212 W. Va. 647, 649, 575 S.E.2d 257, 259 (2002) (citing *State ex rel. Sowards v. Cty. Comm'n of Lincoln Cty.*, 196 W.Va. 739, 750, 474 S.E.2d 919, 930 (1996)).

One option almost certainly available to the Secretary, for example, would be allowing broader access to absentee, by mail voting in the 2020 primary election. Chapter Three makes individuals eligible to vote absentee by mail if they are “confined to a specific location and prevented from voting in person throughout the period of voting in person” due to “illness . . . or other medical reason.” W. Va. Code § 3-3-1(b)(1)(A). The statute does not specifically define “other medical reason,” which leaves room for the Secretary to issue an emergency rule interpreting this term for purposes of the upcoming primary election to encompass individuals subject to mandatory or voluntary quarantine, as well as those advised to limit travel or avoid locations—like polling places—with groups of people in close proximity. Under an emergency rule of that nature, all eligible voters could likely vote absentee by mail while the coronavirus epidemic affects or threatens the State by relying on state-wide or local advisories. A rule could also account for national directives, like the President’s recent guidelines for mitigating the spread of coronavirus that call on everyone in the country to “avoid discretionary travel,” stay home whenever possible, and avoid gatherings of more than ten people. CTR. DISEASE CONTROL, THE PRESIDENT’S CORONAVIRUS GUIDELINES FOR AMERICA: 15 DAYS TO SLOW THE SPREAD 2 (Mar. 16, 2020), available at [https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20\\_coronavirus-guidance\\_8.5x11\\_315PM.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf). An emergency rule interpreting the statutory grounds for eligibility to vote absentee by mail that is tailored to the coronavirus epidemic would be consistent with Chapter Three, and would also advance the Secretary’s duty under Section 3-1A-6(e) to help “ensure all eligible voters have an opportunity to cast a valid ballot.”

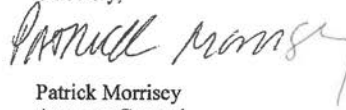
While the Governor’s declaration of emergency remains in place, we thus conclude that the Secretary may take emergency measures like the example above that help ensure voter access and election integrity in the primary election, as long as those measures do not conflict with the clear, unambiguous text of Chapter Three. Section 3-1A-6(e) is designed to provide broad and flexible authority to respond to serious public-health concerns like the coronavirus epidemic. The Secretary has full authority to invoke those powers now and while the state of emergency persists.

The Honorable Mac Warner  
March 18, 2020  
Page 7

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Finally, although this Opinion Letter addresses the Secretary's emergency powers, we also note that the Governor has separate and more extensive authority under a state of emergency. West Virginia Code § 15-5-6(c)(7), for instance, gives the Governor power "[t]o suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business . . . if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency." Similarly, West Virginia Code § 15-5-6(c)(6) provides authority "[t]o control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area and the occupancy of premises therein." Arguably, these provisions could support an order from the Governor regarding safe election procedures—potentially including personnel at polling places or the date of the primary election—if necessary to address the emergency that the coronavirus epidemic poses for the State.

Sincerely,



Patrick Morrissey  
Attorney General

Lindsay See  
Solicitor General

Curtis R.A. Capehart  
Deputy Attorney General

Thomas Lampman  
Assistant Solicitor General



**WEST VIRGINIA SECRETARY OF STATE**  
**MAC WARNER**  
**ADMINISTRATIVE LAW DIVISION**

**eFILED**  
3/20/2020 10:44:19 AM  
Office of West Virginia  
Secretary Of State

**NOTICE OF AN EMERGENCY RULE**

AGENCY: Secretary Of State TITLE-SERIES: 153-53  
RULE TYPE: Legislative Amendment to Existing Rule: No  
RULE NAME: ELECTION PROCESSES AND ABSENTEE  
ELIGIBILITY DURING STATE OF EMERGENCY  
CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:  
3-1A-6(e)

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR  
FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME  
LIMIT ESTABLISHED THEREIN:

**PRIMARY CONTACT:**

NAME: Donald Kersey  
ADDRESS: State Capitol Bldg 1 Ste 157 K  
Charleston, WV 25305  
EMAIL: dkersey@wvsos.gov  
PHONE NUMBER: 304-558-6000

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE  
SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND  
CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Pursuant to the Governors Proclamation declaring a State of Emergency for a natural disaster on March 16, 2020, the Attorney Generals Opinion Letter entered on March 18, 2020, and the Secretary of States authority provided in W. Va. Code § 3-1A-6(e)(1), this Rule establishes guidance and clarity regarding various election processes and absentee eligibility.

Furthermore, due to the emergency nature of a State of Emergency, pursuant to W. Va. Code § 3-1A-6(e) and W. Va. Code § 15-5-6(c)(7), the Secretary of State has the authority to issue this Rule upon declaration of a State of Emergency for a natural disaster by Proclamation of the Governor without regard to the regular rule-making procedures set forth in W. Va. Code § 29A-3-1 et seq. Therefore, there shall be no public notice and comment period for Rules filed by the Secretary of State during a State of Emergency declared for a natural disaster, and this Rule shall take effect upon filing.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/a

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

N/a

## D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>			

## E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Donald Kersey--By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 153  
LEGISLATIVE RULE  
SECRETARY OF STATE

SERIES 53

ELECTION PROCESSES AND ABSENTEE ELIGIBILITY DURING STATE OF EMERGENCY

**§ 153-53-1. General.**

1.1. Scope. -- Pursuant to the Governor's Proclamation declaring a State of Emergency for a natural disaster on March 16, 2020, the Attorney General's Opinion Letter entered on March 18, 2020, and the Secretary of State's authority provided in W. Va. Code § 3-1A-6(e)(1), this Rule establishes guidance and clarity regarding various election processes and absentee eligibility.

Furthermore, while this Rule cannot violate or alter clear statutory requirements in Chapter Three of the West Virginia Code, the law is construed in favor of enfranchisement, not disenfranchisement. Therefore, the provisions of this Rule shall be construed in favor of broader access for eligible voters to uphold the integrity of an election and ensure all eligible voters have the opportunity to cast a valid ballot in an election held during the current State of Emergency.

1.2. Authority. -- W. Va. Code § 3-1A-6(e)(1).

1.3. Filing Date. -- March 20, 2020.

1.4. Effective Date. -- March 20, 2020.

1.5. Sunset Provision. -- This rule shall terminate on the date of a subsequent Proclamation issued by the Governor declaring the State of Emergency is no longer in effect.

**§ 153-53-2. Definitions.**

2.1. "Confined" means a person who is restricted to a specific location for reasons beyond that person's control, including a recommendation by state or federal authorities for the person to self-quarantine, avoid public places or close contact with other persons.

2.2. "County clerk" means the clerk of a West Virginia county commission.

2.3. "Disaster" is defined in W. Va. Code § 15-5-2(h), which definition includes the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause, epidemic, air contamination, or other public calamity requiring emergency action.

2.4. "During or immediately preceding an election" means the time period starting with the first day of candidate filing established in W. Va. Code § 3-5-7(c), and continuing through the certification of results for any primary, general, or special election.

2.5. "Natural disaster" means a disaster caused by the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause, including fire, flood, earthquake, wind, snow, storm, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action.

2.6. "Other medical reason" means any threat to a person's health posed by an epidemic, pandemic, outbreak, disease, virus, or other medical emergency, which creates potential harm to the public interest, peace, health, safety, or welfare of citizens or voters.

2.7. "Poll worker" or "poll workers" mean one or more poll clerks or election commissioners assigned to a precinct by a county clerk for election-related duties in an election.

2.8. "Team" means two poll workers of opposite or different political parties assigned to a precinct by a county clerk for election-related duties in an election.

**§153-53-3. Absentee-By-Mail Voting Eligibility.**

3.1. Pursuant to W. Va. Code § 3-3-1(b), registered and other qualified voters in all West Virginia counties are authorized to vote an absentee ballot by mail under the following conditions:

3.1.1. If the voter is confined to a specific location and prevented from voting in person throughout the period of voting in person because of disability, illness, injury, or other medical reason;

3.1.2. The voter marks the first box in Section 4.A. on the West Virginia Absentee Ballot Application for "*Illness, injury or other medical reason which keeps me confined*"; and

3.1.3. All other requirements and deadlines for voting an absentee-by-mail ballot set forth in W. Va. Code § 3-3-1 *et seq.* are satisfied.

3.2. The procedures for applying for and receiving an absentee-by-mail ballot from a county clerk set forth in W. Va. Code § 3-3-5 shall remain in full force and effect during a State of Emergency.

3.3. The following statutory crimes set forth in the West Virginia Code related to absentee ballot voting, election fraud, or voting fraud shall remain in full force and effect during a State of Emergency. The Secretary of State shall exercise the authority provided in Chapter 3 of the West Virginia Code to fully investigate and refer for criminal prosecution any person that commits any election crime, including but not limited to:

3.3.4. Any person who, with the intent to commit fraud, obtains, removes, or disseminates an absent voter's ballot, intimidates an absent voter, or completes or alters an absent voter's ballot, which is a felony pursuant to W. Va. Code § 3-9-19;

3.3.5. Improper removal or possession of any ballot outside of its statutory storage place or location, which is a felony pursuant to W. Va. Code § 3-9-2;

3.3.6. Vote buying or promising a thing of value to any person as consideration for the voter to cast a vote for or against any candidate for any office, which is felony pursuant to W. Va. Code § 3-9-13;

3.3.7. Falsely swearing on any affidavit related to an absentee-by-mail applications, ballot, or other election-related affidavit, which is a misdemeanor pursuant to W. Va. Code §§ 3-3-4 and 3-9-3;

3.3.8. Counseling, advising, aiding or abetting another in the commission of false swearing, which is a misdemeanor pursuant to W. Va. Code §§ 3-3-4 and 3-9-3;

3.3.9. Signing the name of a voter without the voter's consent on any certificate, application, ballot, report, statement or writing with intent to mislead and deceive, which is a misdemeanor pursuant to W. Va. Code § 3-9-1(h);

3.3.10. Inducing, attempting to induce, or conspiring with any voter to write, paste or otherwise place on the ballot a name of any person, or any sign or device of any kind, as a distinguishing mark by which to indicate to any other person how such voter voted, which is a misdemeanor pursuant to W. Va. Code § 3-9-8; and

3.3.11. Illegal voting by any person who knowingly votes when not legally entitled, which is a misdemeanor pursuant to W. Va. Code § 3-9-17.

**§ 153-53-4. Absentee Ballot Processing.**

4.1. Absentee ballots received in a county clerk's office prior to Election Day may be processed in the usual manner, at the same time and under the same procedures for early voting pursuant to W. Va. Code § 3-3-3 and other applicable laws and regulations.

4.2. Absentee ballots received after the last day of the early voting period, and up to Election Day, may be processed in the usual manner set forth in W. Va. Code §§ 3-3-7 and 3-3-8.

4.3. Absentee ballots received after Election Day shall be processed in the usual manner as set forth in W. Va. Code § 3-6-6.

4.4. If a county cannot process absentee ballots received at any time due to reasons beyond the county's control, including but not limited to an unanticipated increase in absentee ballot volume or lack of staff or resources, absentee ballots may be processed at the county clerk's discretion at the most appropriate time and in the most appropriate manner according to law leading up to canvass.

4.5. In administering, superintending, processing, storing and managing absentee-by-mail ballots during a State of Emergency, the county clerk and county staff shall protect the integrity of the election and ensure all eligible voters have the opportunity to cast a valid ballot according to law.

4.6. All laws setting forth absentee ballot requirements for tracking, counting, separating, storing, and protecting the integrity of the ballot and voters' personal information are in full force and effect during a State of Emergency.

**§ 153-53-5. Poll Worker Training.**

5.1. Pursuant to W. Va. Code § 3-1-46(c), poll workers are required to attend an instructional program within thirty days of an election.

5.2. For counties that held an election in the year 2020, those poll workers have already and recently attended the same or similar instructional program, which includes one or more audio-visual programs produced by the Secretary of State in conjunction with the State Election Commission.

5.3. In light of the State of Emergency and risk of an epidemic being spread to any potential poll workers who attend the training held by the county clerk, any person who has attended an instructional program for a county's special election held in the year 2020 may satisfy the requirements of W. Va. Code § 3-1-46 under the State of Emergency if all of the following conditions are met:

5.3.1. The earlier instructional program included in-person training on the safe, secure and proper operation of the voting system in use for the 2020 Primary Election;

5.3.2. The person attends or views an approved instructional program provided by the county clerk's office in digital or electronic format during the time period required by law; and

5.3.3. The person swears or affirms in a manner approved by the county clerk that he or she attended by viewing the digital or other instructional program. Acceptable forms of proof of such attendance include but are not limited to a signed affidavit or oath that is received or administered by the county clerk (or county clerk's designee) at any time prior to working as a poll worker.

5.4. County commissions have the authority to determine the appropriate poll worker training salary pursuant to W. Va. Code § 3-1-44.

**§ 153-53-6. Poll Worker Availability on Election Day.**

6.1. Pursuant to W. Va. Code § 3-1-29(a), each precinct shall have two teams of poll workers, and one additional election commissioner.

6.2. Pursuant to W. Va. Code § 3-1-30(j), if a poll worker fails to appear at a precinct polling place on Election Day, the polling place may open for in-person voting under the following conditions:

6.2.1. There is a team of poll workers assigned to process voters at the check-in table, and an additional team of poll workers assigned to monitor the ballot box(es) or precinct scanner(s);

6.2.2. The election officials present contact the county clerk for assistance in filling the vacancy on Election Day; and

6.2.3. If the election officials are unable to contact the county clerk within a reasonable time, they shall diligently attempt to fill the position when an eligible person of the same political party that nominated the person who is absent until a qualified person has agreed to serve.

6.3. If two teams of poll workers are present at the precinct polling place, the fifth election commissioner to be appointed may belong to any political party.

6.4. If less than two teams of poll workers are present at the opening of the precinct polling place, or at any time during the voting process on Election Day, under the direction of the county clerk all poll workers shall ensure all eligible voters have the opportunity to cast a valid ballot in an election held during the current State of Emergency under the following conditions:

6.4.1. No voter may be issued a ballot without a team of poll workers being present at the check-in table;

6.4.2. No voter may cast a ballot without a team of poll workers present at the ballot box(es) or precinct scanner(s); and

6.4.3. At least one team of poll workers shall be present for each part of the voting process that requires a team of poll workers.

6.5. Pursuant to W. Va. Code § 3-1A-6(c) and the Attorney General's Opinion referenced in Section 1.1 of this Rule, all election officials and poll workers shall construe this Rule to support broader access for eligible voters to uphold the integrity of an election under the law.

**§ 153-53-7. Precinct Polling Place Location Changes.**

7.1. Pursuant to W. Va. Code § 3-1-7(f), if for any reason a designated precinct's polling place location is unavailable during a State of Emergency, the county clerk may direct the poll workers for that precinct to hold the election at the nearest place which can be secured for the purpose of voting, which may include combining multiple precincts into a new or existing polling place location pursuant to Section 7.4. of this Rule.

7.2. Under the direction of the county clerk, the poll workers assigned to the relocated precinct shall provide the affected voters with the address and directions to the new polling place location by (1) proclamation to the voters present at the original polling place at the time for opening the polls, and (2) posting a notice at or near the entrance of the original polling place location.

7.3. For any precinct polling place location changes made pursuant to W. Va. Code § 3-1-7(f) and Section 7.1 of this Rule, the county commission shall take all reasonable measures to issue public notice to all affected voters regarding the precinct polling place location change. Such notice may include but is not limited to newspaper legal ads, social media outreach, statewide or local media coverage, website banners or notices, postcards or any other form or medium of public notice deemed appropriate by the county commission under a State of Emergency.

7.4. A precinct which must be relocated during a State of Emergency may be combined into a new or existing polling place location under the following conditions:

7.4.1. The appropriate number of teams of poll workers are assigned to each precinct combined into the same polling place location;

7.4.2. Each precinct's voter check-in table and poll books are kept and maintained separately;

7.4.3. All poll workers in the combined location may provide general assistance to all voters and other poll workers within the polling place location, which assistance includes but is not limited to assisting voters with setting up and using the electronic voting machines, sanitizing voting machines and other election materials, objects or surfaces, assisting other poll workers in an emergency, gathering or delivering general supplies or materials at the county clerk's discretion, and providing information and comfort to voters concerned with long lines or health risks; and

7.4.4. Pursuant to W. Va. Code § 3-1-5(a), each precinct shall be operated separately and independently with separate voting booths, ballot boxes or scanners, poll workers, counting boards and whenever possible in separate rooms. *Provided*, that county clerks and poll workers must ensure that all eligible voters have the opportunity to cast a valid ballot and uphold the integrity of the election during a State of Emergency.

7.5. A polling place precinct location change shall be in effect only during the State of Emergency. No subsequent order or action by a county commission is necessary to reestablish the original precinct polling place location after the State of Emergency is lifted.

**§ 153-53-8. Canvassing the Election.**

8.1. The county commissioners in each county sitting as the ex officio board of canvassers shall initially convene canvass on the fifth day (Sunday excepted) after the election held in their county pursuant to W. Va. Code § 3-6-9(a)(1).

8.2. At the initial canvass, the board of canvassers shall determine whether additional time is required for the county clerk to process the election returns prior to canvassing the election.

8.3. In making its determination, the board of canvassers shall consider all health and safety information regarding the State of Emergency provided by the Governor, Department of Health and Human Resources, federal Center for Disease Control and Prevention, other relevant state or federal agencies and the county clerk's opinion regarding staff and resources available to properly process the election returns and prepare for canvass.

8.4. If, upon the considerations set forth in Section 8.3. of this Rule, the board of canvassers determines that the canvass of the election can begin immediately in a timeframe that does not disenfranchise voters, including those who submitted absentee-by-mail ballots, the board of canvassers may initiate the canvass pursuant to W. Va. Code § 3-6-9.

8.5. If, upon the considerations set forth in Section 8.3. of this Rule, the board of canvassers determines pursuant to W. Va. Code § 3-6-9(a)(3) that additional time is needed to receive and process the election returns received during a State of Emergency, the board of canvassers may establish a later date to reconvene canvass, but which later date shall be no longer than absolutely necessary and does not otherwise conflict with any deadline set forth in Chapter 3 of the West Virginia Code.

8.6. All procedures, deadlines, and requirements set forth in W. Va. Code § 3-6-9 shall remain in full force and effect for canvassing an election held during a State of Emergency.

**§ 153-53-9. Special Authority, Procedures and Applicability of this Rule under a State of Emergency.**

9.1. This Rule applies only upon declaration of a State of Emergency for a natural disaster by Proclamation of the Governor, and shall remain in effect only during the time that a State of Emergency is in effect.

9.2. Pursuant to W. Va. Code § 5-3-1, the West Virginia Attorney General has issued a written opinion addressing the Secretary of State's authority to issue emergency rules upon a declaration of a State of Emergency for a natural disaster by Proclamation of the Governor. This Rule is promulgated in accordance with the opinion of the Attorney General, which is available on the Attorney General's website at the following URL:  
<https://ago.wv.gov/publicresources/Attorney%20General%20Opinions/Documents/March%2018%20Opinion.pdf.pdf>.

9.3. Due to the emergency nature of a State of Emergency, pursuant to W. Va. Code § 3-1A-6(e) and W. Va. Code § 15-5-6(c)(7), the Secretary of State has the authority to issue this Rule upon declaration of a State of Emergency for a natural disaster by Proclamation of the Governor without regard to the regular rule-making procedures set forth in W. Va. Code § 29A-3-1 *et seq.* Therefore, there shall be no public notice and comment period for Rules filed by the Secretary of State during a State of Emergency declared for a natural disaster.

**STATE OF WEST VIRGINIA**

**EXECUTIVE DEPARTMENT**

**At Charleston**

**EXECUTIVE ORDER NO. 18-20**

**By the Governor**

**WHEREAS**, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

**WHEREAS**, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor, among other things, to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency, to control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, it is projected by national and state health officials that the COVID-19 pandemic will continue to worsen throughout the country and throughout the state, with an apex for the number of cases occurring in West Virginia on or about the last week of April 2020; and

**WHEREAS**, the primary elections in West Virginia are currently scheduled to be held on May 12, 2020, soon after the currently anticipated apex of the pandemic; and

**WHEREAS**, the constitutional right to cast a ballot in a fair election in this state is sacrosanct and the right to cast a ballot in person, if a person desires to, on the polling day must be preserved to the extent possible, even in this state of emergency; and

**WHEREAS**, the congregation of the public at polling places so soon after the projected apex of the COVID-19 pandemic poses a large-scale threat to the public health, safety, and welfare; and

**WHEREAS**, the state has taken significant steps to date to mitigate the spread of the COVID-19 virus, but the virus remains a serious threat to the health, safety, and welfare of the public, and further efforts and actions are necessary to disrupt the spread of the virus and to mitigate the impact of COVID-19, including the postponement of West Virginia's primary elections currently scheduled for May 12, 2020; and

**WHEREAS**, it has been advised that postponing the date of the West Virginia primary elections approximately one month, to June 9, 2020, is in the best interest of the public health, safety, and welfare; and

**WHEREAS**, the postponement of the primary elections in this state will necessitate the postponement of municipal elections in this state for a similar period of time to allow voting resources to be efficiently utilized and to ensure that all elections proceed in the safest manner possible during this state of emergency, and the postponement of the primary elections may likewise make it necessary or advisable for levying bodies to coordinate with the appropriate county commission and board of ballot commissioners, in consultation with the State Auditor, regarding the possibility of placing the question of such levies on the primary elections ballot.

**NOW, THEREFORE, I, JIM JUSTICE**, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, as follows:

1. The provisions of West Virginia Code § 3-5-1, regulating the particular date on which primary elections are to be held, are suspended for the primary elections currently scheduled to be held on May 12, 2020, to the extent that the date provided for such primary shall be moved forward approximately one month to June 9, 2020.
2. The provisions of all other statutes of the West Virginia Code regulating particular dates by which certain actions relating to elections in this state must be performed,

in the discretion of the West Virginia Secretary of State, are likewise suspended for the same period of time, to the extent the Secretary of State deems necessary or advisable in order to properly conduct the primary elections on June 9, 2020. The Secretary of State is instructed to update the 2020 Elections Calendar, published by the West Virginia Secretary of State's Office, Elections Division, and the Secretary of State advises that this update will be complete and available by April 6, 2020.

3. The provisions of West Virginia Code § 8-5-5 and other applicable sections of Code regulating the particular date(s) on which municipal elections are to be held are suspended for the elections currently scheduled to be held between June 1, 2020, and June 9, 2020, to the extent that the date(s) provided for such elections shall be moved forward an equal number of days, and all local governing bodies charged with administering or conducting such elections shall take such actions as may be necessary or advisable to effect such postponement, in consultation with the West Virginia Secretary of State.
4. The provisions of West Virginia Code § 8-4-7, § 8-4-8, and other applicable sections of Code regulating the timing requirements for municipalities with election dates or procedures established under a charter to amend their charter to allow for a postponement of any municipal elections currently scheduled to be held between June 1, 2020, and June 9, 2020, are suspended to the extent that the timing requirements for amending such municipality's charter may need to be expedited to allow for a postponement of such elections for the number of days as may be necessary to postpone such municipal elections until a date after June 9, 2020, and all local governing bodies charged with administering or conducting such elections shall take such actions as may be necessary or advisable to effect such postponement, in consultation with the West Virginia Secretary of State. To the extent that any municipal charter or other law allows for emergency meetings or other procedures to otherwise postpone the election dates for such municipalities, such emergency meetings or other procedures may be used.
5. Any and all materials published or provided to the public by a state agency or other public body to date which may cite or reference the May 12, 2020 primary elections date shall be amended to cite or refer to the June 9, 2020 primary elections date

provided for in this Order, in order to ensure the public is properly and consistently noticed of the postponed date of the primary elections; provided that those ballots and voting machines that have been printed or programed, prior to the effective date of this Order, with the date May 12, 2020 shall be excluded from the requirement of this section to amend materials.

6. Local levying bodies which must present a levy to the voters of their jurisdiction prior to July 1, 2020, are permitted to coordinate with the appropriate county commission and board of ballot commissioners, after consultation with the State Auditor, regarding the possibility of placing the question on the levy on the ballot for the June 9, 2020 primary election provided for under this Order; provided that the appropriate county commission and board of ballot commissioners are not required to add the question of a levy to the ballot for the June 9, 2020 primary election if there are insufficient time and/or resources to add the requisite language to election materials, ballots, voting machines, or other required materials. The local levying body shall follow the procedures set forth in Chapter 11 of the West Virginia Code for public notice and other requirements.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this First day of April, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

  
GOVERNOR

  
SECRETARY OF STATE

300

**State of Tennessee**



The Secretary of State  
State Capitol  
Nashville, Tennessee 37243-0305

Tre Hargett  
Secretary of State

615-741-2819  
Tre.Hargett@tn.gov

August 14, 2020

The Honorable Roy Blunt  
Chairman  
Committee on Rules and Administration  
United States Senate  
206 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Blunt,

Thank you for the honor and opportunity to testify before you and your esteemed colleagues. I am grateful for the interest in the integrity of our elections shown by your committee. While each election has its own set of challenges, I am confident in Tennessee's ability to meet these challenges.

Attached are my state's answers to the supplemental questions asked by yourself and other members of the committee.

Please accept my best wishes for clarity, courage, and wisdom to you and each of your fellow United States Senators. I am grateful for your willingness to serve our great nation.

Humbly Submitted,

A handwritten signature in blue ink that reads "Tre Hargett".

Tre Hargett  
Secretary of State

**Senate Committee on Rules and Administration**  
 2020 General Election Preparations  
 July 22, 2020  
 Questions for the Record  
**Secretary Tre Hargett**

Chairman Blunt

- What efforts are you taking to give voters confidence in election results to help them understand why election results may legitimately be delayed?
  
- R. Since April 23, 2020, the initial publication of the Tennessee Election COVID-19 Contingency Plan (the Plan), the Division of Elections in my office has sounded this alarm. The Plan explicitly states, “[w]ith the anticipation of a substantial increase in absentee by-mail ballots, voters should be prepared to understand results may be delayed for days.” (p. 1 of the Plan). Since that time, we have continued to set expectations in our own communications, such as <https://sos.tn.gov/news/everything-voters-need-know-state-and-federal-primary-and-county-general-election>, and the message has been repeated in the public arena and in news stories, such as what can be found at <https://www.tennessean.com/story/news/politics/2020/08/04/tennessee-election-official-absentee-ballots-rise-may-delay-results/3290398001/> and <https://www.wmot.org/post/election-official-warns-thursdays-tennessee-primary-and-general-election-results-may-be-delayed#stream/0>.
  
- How do you intend to get the message out to voters to instill confidence in elections before and after the upcoming election?
  
- R. By communicating with Tennesseans through social media, the press and personal visits to the 95 county election commission offices, confidence will be instilled in the voters of Tennessee. On August 6, 2020 Tennessee’s statewide primary went smoothly. The success seen during the August 6 election solidifies confidence in our election process.
  
- During the August 6 election, Tennesseans saw their election officials rise to the occasion of conducting a trustworthy election despite the challenges from COVID-19. Election workers in all 95 counties wore the necessary Personal Protective Equipment and worked to keep the polling places sanitized.
  
- The 95 counties implemented the Plan and benefitted from effective planning outlined in the Plan. The act of conducting a fair and honest election amid COVID-19 serves as reliable evidence to instill confidence in Tennesseans for the upcoming election.
  
- What are you doing to ensure that voters have accurate information about elections and to identify and counter malicious attempts by those who may spread misinformation to undermine confidence in election results?

- R.** The National Association of Secretaries of State (NASS) launched #TrustedInfo2020—an education effort to promote election officials as the trusted sources of election information. By driving voters directly to election officials’ websites and social media pages, we help ensure voters are getting accurate election information and reduce the opportunity for the misinformation and disinformation that can surround elections. #TrustedInfo2020 aims to highlight state and local election officials as the credible, verified sources for election information. To that end, this office uses a series of public information outlets to spread accurate and reliable election information. The GoVoteTN app, a free downloadable election information app, is available for Tennessee voters to find their Election Day polling locations, view and mark sample ballots, see their elected officials, districts and county election commission information as well as access online election results.

Also, <https://sos.tn.gov/> serves as an accurate and up-to-date election source. On this website, the public can find election information ranging from online voter registration to election results.

Using our website, Twitter, Facebook, Instagram, and videos, we are the trusted source for election information and news.

- How has your state used the resources that were made available through the last CARES Act and the 2003, 2018, and 2020 HAVA funds to prepare for the upcoming elections? Do you need additional resources and how would you use them?

- R.** Tennessee is using money from the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to procure hand sanitizer, sneeze guards, ballot boxes, postage to mail absentee ballots to the voters, temporary staff to process absentee ballots, ballot scanners and millions of absentee envelopes. We also launched a poll official recruitment campaign paid for by CARES funds. Each county in Tennessee received at least \$.50 for every registered voter for the August election and \$1.00 for every registered voter for the November election in grant money. The county election commissions may use the money for costs associated with conducting an election under circumstances caused by COVID-19.

In addition, we partnered with the Tennessee Emergency Management Agency to provide gloves, masks, gowns, and face shields for poll officials.

Tennessee predominantly uses HAVA funds to purchase replacement voting systems for counties. We used HAVA funds to create an online voter registration system, maintain our voter registration database, GoVoteTN app, computers for each county to be used for our voter registration system, cyber hygiene measures, strategic partnership with the Tennessee National Guard, assisting voters with disabilities and training. In addition, three employees are paid utilizing HAVA funds.

If Congress grants additional funds to states for the November 3, 2020 election, Tennessee would use the funds for additional personnel and equipment to assist counties with processing absentee by-mail applications and ballots.

- What are you doing to adequately recruit and train poll workers during the pandemic?

**R.** This office has engaged a “Be a Patriot. Become a Poll Official” campaign to help counties recruit eligible Tennesseans to work in elections. Over 3,700 individuals applied to work as poll officials at our “Be a Patriot. Become a Poll Official” website.

Also, during this past legislative session, we proposed legislation that was adopted by the Tennessee General Assembly expanding who is eligible to serve as a poll official. The legislation allows county and city employees who do not work for a candidate on the ballot to serve as poll officials. The legislature also lowered the minimum age of poll officials from 17 to 16. During the August 6 election, counties reported 596 poll officials were 21 years old or younger. Recently, National Public Radio did a feature story discussing out efforts to utilize young people in polling locations.

Training of poll officials is being conducted in small groups. Cross training as well as educational materials that may be used as a reference on Election Day have been encouraged.

- How are you working with local and regional U.S. Postal Service leadership to ensure that election mail is handled appropriately and delivered promptly?

**R.** We assigned an employee to work with the U.S. Postal Service (USPS) to ensure that the county election commission offices do what is needed to facilitate the timely processing of election mail. Counties have been instructed to use the specific tags to expedite ballots to both domestic and overseas voters.

During the August 6 election, the USPS provided contact names and phone numbers to local post offices to facilitate timely collection of mailed absentee by-mail ballots prior to the polls closing.

- How are you educating voters on election mail deadlines and what do to if their ballots arrive late or not at all?

**R.** Our website provides voters with accurate election information, including election deadlines and instructions on absentee by-mail voting.

Press releases to television stations, radio stations and newspapers, Twitter, Facebook, and Instagram are each used by this office to educate the public on all relevant information about upcoming elections.

We also created an online by-mail ballot tracker. By using the by-mail ballot tracker, a voter can track when the ballot has been sent from the local county election office as well as when the ballot has been received by the local election commission office.

- What actions are you taking to ensure that your election infrastructure is also safe and secure from a cybersecurity perspective?

- R. This office offers monthly online security training to members of the Division of Elections and to county administrators of elections, their staffs, and county election commissioners.

Our website has gone through extensive testing and monitoring by Strategic Technology Solutions (STS) in the Department of Finance & Administration and Secretary of State staff. Our online voter registration system is scanned weekly by the Department of Homeland Security (DHS). Staff and local election commission offices use two-factor authentication set up for access to the voter registration database. This office contracted a cybersecurity vendor to offerNESSUS vulnerability scans to county election commission offices, which assisted counties in making updates identified by the scans.

Over the years, cybersecurity has been an increasing point of emphasis in the training we conduct with county election officials. We have brought in experts from the federal government, state government, and private industry to discuss best practices at the training conferences we conduct. Also, our State system is monitored by an Albert sensor.

Coordinator of Elections Mark Goins and I have clearances to obtain information regarding threats through classified security briefings. Also, as members of the Election Infrastructure Information Sharing and Analysis Center (EI-ISAC) our election commission offices receive frequent updates regarding new threats along with steps they can take to protect their systems, like installing recommended patches and blocking IP addresses that have been identified as malicious. Mr. Goins also serves on the Government Coordinating Council.

During the 2020 legislative session, this office supported legislation that makes it a felony to knowingly disseminate misinformation about the qualifications to vote or to register to vote, voter registration status, voter registration deadlines, and/or polling dates, times, and locations. The legislation also criminalizes tampering with voting systems, voter registration software, election results and election webpages.

Senator Klobuchar

#### Election Security of Voting Systems

The Department of Homeland Security has emphasized the added importance of securing voter registration databases and online voter registration systems during the pandemic. Experts have also recommended that all states implement online voter registration and online absentee ballot applications, and an increased number of voters are expected to rely on these systems during the pandemic. At the same time, we have recently seen a number of cyberattacks from foreign adversaries, including Russia.

- Have your offices been working this year with the Department of Homeland Security to improve online voter systems? How have you worked to further bolster the security of these systems?

- R. Yes, this office works with the Department of Homeland Security to improve our elections systems. Specifically, DHS scans our online voter registration system weekly. Also, the state does extensive testing and monitoring by Strategic Technology Solutions (STS) in the Department of Finance & Administration and Secretary of State staff. Our staff and local election commission offices use two-factor authentication set up for access to the voter registration database. This office contracted a cybersecurity vendor to offer NISSUS vulnerability scans to county election commission offices, which assisted counties in making updates identified by the scans.

Over the years, cybersecurity has been an increasing point of emphasis in the training we conduct with county election officials. We have brought in experts from the DHS, Tennessee Department of Homeland Security, Tennessee Bureau of Investigation, and private industry to discuss best practices at the conferences we conduct. Also, our State system is monitored by an Albert sensor.

Coordinator of Elections Mark Goins and I have clearances to obtain information regarding threats through classified security briefings. Also, as members of the Election Infrastructure Information Sharing and Analysis Center (EI-ISAC) our election commission offices receive frequent updates regarding new threats along with steps they can take to protect their systems, like installing recommended patches and blocking IP addresses that have been identified as malicious. Mr. Goins also serves on the Government Coordinating Council.

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Senator Leahy

At a time when the health and safety of all Americans is threatened by this relentless pandemic, it is crucial that voters are provided with safe means for exercising their right to vote. Discussions about expanding mail-in voting often involve myths and fearmongering about rampant voter fraud. Yet, as you have previously acknowledged, true voter fraud is exceptionally rare in this country.

- Have you encountered any major issues with managing the increased numbers of mail-in ballot applications during this election cycle?
- R. I do not recall previously acknowledging that true voter fraud is exceptionally rare in the country. In fact, I can only speak to elections conducted in Tennessee. What is widespread? Fraud is fraud. It appears to me that officials tend to dismiss fraud when the results affect races they don't care about, but they discuss fraud when it impacts races that concern their own spheres of influence. In counties that experienced a dramatic increase in absentee by-mail ballots, the election commission offices increased the number of people working on the absentee by-mail ballot applications, absentee by-mail ballot counting boards, they ordered additional equipment needed

to process the applications and ballots, and they worked diligently to get the job done. Tennessee did expand opportunities for voters to vote in-person during early voting. It should be noted that in Tennessee that, overwhelmingly, Tennesseans chose to vote in person for the August 6 election and not by-mail even though a court had mandated any voter could vote by-mail.

- You testified that Tennessee would not be prepared to handle the level of mail-in ballots that would result from a court mandate that mail-in voting be available to everyone. What additional funding and/or resources would you need in order to be prepared for such a requirement?
- R. We do not anticipate a court mandate in Tennessee. Our election will be conducted under present Tennessee law. On August 5, the Tennessee Supreme Court reversed the chancery court's order which had allowed any otherwise eligible Tennessee voter to vote absentee by-mail merely due to concerns over COVID-19.
- With your ID checks and signature matching safeguards in place, have you seen any evidence in Tennessee to suggest that expanding access to mail-in ballots will result in *widespread* voter fraud?
- R. There does remain concern for the potential for inappropriate influence on absentee by-mail applicants, which has been alleged during previous elections. Also, shortly after the court mandate to expand by-mail voting for the August 6 election, one of our counties had an incident where a person or group mailed absentee by-mail request forms, pre-populated with the Democratic Primary selection, to voters throughout the county. Several voters reported receiving the forms unsolicited and, in some cases, they did not want to vote a Democratic Primary ballot.

Moreover, Tennessee wants to avoid problems with absentee by-mail ballots experienced by California, New Jersey and New York. These states reported a significant number of absentee by-mail ballots that did not count because the signature on the ballot did not match the one on file, the ballot arrived too late or the voter did not include required documentation with the absentee by-mail ballot.

Tennessee has long struggled with voter registration and turnout, especially among African American and young voters. But last year, the legislature passed a law that will make registering to vote *even more difficult* in Tennessee, by imposing substantial civil and criminal penalties on nonprofits working to register voters and boost the state's turnout numbers. You have supported the bill, even though a federal judge enjoined enforcement of the law because of its chilling effects.

- What efforts have you taken to increase voter registration and turnout in the past two years? What efforts have you taken to specifically increase African American and young voter turnout?
- R. In 2019, this office supported legislation with the intent of protecting unsuspecting applicants from those who conduct voter registration drives for personal gain rather than civic duty. The motives behind the legislation were to ensure that when a person applies to vote at a voter registration drive conducted by non-election officials they

would have some assurance that the registration application would be processed and they would have a smooth and positive experience when they came to vote.

This past year, when the court issued a preliminary injunction, this office supported legislation which addresses concerns addressed by the court. I supported this legislation for the same purpose of ensuring that applications collected at a voter registration drive can be timely processed and new registrants will not experience delays when voting their first time.

Regarding actions to increase African American and young voter turnout, this office has partnered with colleges and universities across the state to host voter registration drives. We have conducted voter registration drives and voter engagement events at churches with primary membership of African Americans. We provide basic materials to host a drive and encourage participation in the #GoVoteTN social media campaign.

This past year, I also partnered with three of Tennessee's professional sports teams—the Memphis Grizzlies, Nashville Predators and Tennessee Titans in a *Your Vote Matters* campaign. The intent of this partnership is to increase voter registration for all demographics and Election Day turnout. It has never been easier to register to vote in Tennessee. Voters can register online, by-mail or in-person.

COVID-19 has killed African Americans at disproportional rates. For instance, in states like Alabama and Michigan where African Americans comprise 27 percent of the population, they represent 45 percent of COVID-19 deaths. Moreover, on the national level, African Americans encompass 13.4 percent of the general population, but represent 23 percent of deaths. COVID-19 has unduly impacted communities of color, along with the poor and working class. Despite your general assertions that people do feel safe to vote in-person, undoubtedly, there remain substantial populations that do not.

- Choosing between risking their health and exercising their right to vote is the stark reality for some when the government mandates any in-person voting during a pandemic. The heightened risk for African Americans must not be dismissed. Accordingly, what efforts will you lead to ensure that African American voters are not disenfranchised due to COVID-19?
- R. I am sure you are aware of the numerous articles that have focused on African Americans and their preference to voting in-person. In case you are not, here is one of the many articles <https://www.cnn.com/2020/05/09/politics/black-voters-mail-in-voting/index.html> that discuss the issue. In the most recently conducted election, we worked hard to keep polling locations open and spent months preparing to ensure the safety of voters. Early voting opportunities were expanded. We helped provide gloves, masks, gowns, face shields, and hand sanitizer for every polling place used during the August 6 election. The county election commissions also hired additional employees for this election. The election commissions also gave voters single-use pens to complete their applications for ballot and popsicles to make selection on their voting systems. Throughout the Election Day voters commented on how safe they felt at the polling places. I am sure you are aware of the positive media coverage from voters who voted in Tennessee.

Every election, a concerning number of absentee ballots are invalidated for unintentional errors like forgetting to sign or provide a wrong address.

- When you receive a mail-in ballot with an error, do you provide the voter with any notice or opportunity to correct the problem so their votes can still be counted?
- R. Yes. It is the policy and practice that when an absentee by-mail ballot is rejected for any reason, the election commission sends a rejection notice to the voter with a 2<sup>nd</sup> set of balloting materials for the voter to correct the error.
- Should opportunities to correct mail-in ballot errors be widely available to ensure that voters are not disenfranchised due to minor mistakes?
- R. Given the policy and practice for election commission offices to send a 2<sup>nd</sup> set of absentee balloting materials with any notice of rejection, the opportunity for voters to be disenfranchised due to minor mistakes is greatly reduced.

#### Senator King

#### Internet Voting

The National Academies of Science, Engineering and Medicine reported in 2018 that “The Internet is not currently a suitable medium for the transmission of marked ballots, as Internet-based voting systems in which votes are cast on remote computers or other electronic devices and submitted electronically cannot be made adequately secure today....Conducting secure and credible Internet elections will require substantial scientific advances.” We have certainly not made the requisite scientific advances in the last 18 months.

There is no safe online voting system. There is none – I have not seen any evidence of a safe online voting system. I’ve seen lots of evidence to the contrary.

- Why are any jurisdictions anywhere even trying to use the Internet to conduct balloting, when it is clear that this would be one of the easiest ways for malign actors to corrupt the results—or more dangerously *appear to corrupt the results*—of our upcoming elections?
- R. Tennessee law does not allow for marked ballots to be transmitted through the Internet.
  - Why do states, cities, and counties think to substitute their judgment in place of that of the best expertise that our country has to offer?
  - R. A state that either allows internet voting or is considering internet voting will be better suited to respond to this question.
  - What reasoned justification makes them want to ignore best practice and endanger votes?

- R.** A state that either allows internet voting or is considering internet voting will be better suited to respond to this question.

#### Solarium Recommendations

In my work as co-chair of the Cyberspace Solarium Commission over the past 18 months, one of the clear recommendations that we made was the Election Assistance Commission needs substantial further cyber expertise and resources to streamline the advice and assistance the commission provides. While the Congress has long underfunded the EAC, it's clear to me and others on both sides of the aisle that this is the best place to put these resources. None but perhaps the biggest states have the resources to vet the cyber issues before election administrators.

- Would you support the addition of a fifth member to the EAC, who would serve a limited term, could not be chair, and *could only vote on matters related to the cybersecurity of elections*? Why or why not?

**R.** No. I believe the addition of a fifth member would upset the balance of the commission.

- Would you support changing the EAC so that it had explicit authority to *publicize best practices in cybersecurity for voting and non-voting elections systems*? Why/not?

**R.** Yes, best practices could be beneficial to not only the election community but the electorate at-large.

- Would you support granting the EAC explicit authority *to issue grants for research on non-voting election systems*?

**R.** Yes.

**Senate Committee on Rules and Administration**  
2020 General Election Preparations  
July 22, 2020  
Questions for the Record  
**Secretary Mac Warner**

Chairman Blunt

- What efforts are you taking to give voters confidence in election results to help them understand why election results may legitimately be delayed?

**The State of West Virginia has a close network of state and local media outlets, print newspapers, radio, independent journalists, social media, associations, organizations, and advocate groups. My office has built a strong working relationship with that network, who regularly assist with educating our voters.**

**Regarding potential delays of election results, appropriate messaging is published through the aforementioned media network. Messaging include easy-to-understand explanations of why the delay is possible, why voters should be patient and unconcerned, and positive confidence-boosting language noticing that slower-than-typical reporting of results is not indicative of unreliable returns.**

- How do you intend to get the message out to voters to instill confidence in elections before and after the upcoming election?

**Please refer to the previous answer.**

- What are you doing to ensure that voters have accurate information about elections and to identify and counter malicious attempts by those who may spread misinformation to undermine confidence in election results?

**As the trusted source of election information, my office has successfully established itself as the primary source for West Virginia the media network to obtain election information.**

**To counter malicious attempts at spreading misinformation, my office is in regular communication with DHS, CISA, EI-ISAC, and other appropriate federal agencies. When misinformation is identified, my office reports the incident and coordinates mitigation with the appropriate person(s)/agency(ies) pursuant to established protocols.**

- How has your state used the resources that were made available through the last CARES Act and the 2003, 2018, and 2020 HAVA funds to prepare for the upcoming elections? Do you need additional resources and how would you use them?

**HAVA funds are distributed to county jurisdictions via sub-recipient grants for election system and equipment upgrades, cyber and physical security fortifications, training, and**

various other expenditures permitted by federal law as described in West Virginia's HAVA State Plan. As I stated in my testimony, more funding is needed for HAVA equipment upgrades.

Regarding CARES Act funding, West Virginia's funding is sufficient to hold the 2020 General Election safely. Please refer to my testimony for additional detail.

- What are you doing to adequately recruit and train poll workers during the pandemic?

In cooperation with local election officials, West Virginia launched a statewide campaign to encourage citizens to volunteer to be poll workers. The campaign includes an online portal where citizens can sign up and learn about the benefits of being a poll worker. To date, West Virginia has over 1,000 voters who have volunteered to be poll workers in the 2020 General Election.

- How are you working with local and regional U.S. Postal Service leadership to ensure that election mail is handled appropriately and delivered promptly?

Regular meetings with regional, state and local USPS managers to share concerns and to educate each other on our local processes to ensure elections mail is delivered adequately.

- How are you educating voters on election mail deadlines and what do to if their ballots arrive late or not at all?

Press releases, media interviews, print newspaper advertisements, opinion editorials, social media platforms, and website content.

- What actions are you taking to ensure that your election infrastructure is also safe and secure from a cybersecurity perspective?

West Virginia took a four-year approach of identifying and upgrading the state's infrastructure and election officials' training for the 2016 election. During the past nearly four years, the state local officials have significantly advanced the security posture for 2020. These goals were accomplished with a multi-agency and federal, state, and local approach to secure our election systems from foreign and domestic interference.

Senator Klobuchar

#### Election Security of Voting Systems

The Department of Homeland Security has emphasized the added importance of securing voter registration databases and online voter registration systems during the pandemic. Experts have also recommended that all states implement online voter registration and online absentee ballot applications, and an increased number of voters are expected to rely on these systems during the pandemic. At the same time, we have recently seen a number of cyberattacks from foreign adversaries, including Russia.

- Have your offices been working this year with the Department of Homeland Security to improve online voter systems? How have you worked to further bolster the security of these systems?

**Yes, West Virginia engages with DHS to monitor web activity to ensure elections infrastructure that does connect to the internet is safe from interference. My office is in regular communication with DHS, CISA, EI-ISAC, and other appropriate federal agencies to quickly and accurately identify vulnerabilities in any system and take necessary steps to fortify our security posture.**

Senator Leahy

In the lead up to West Virginia's June primary election, every voter received an absentee ballot application in the mail. By all means, the effort to expand absentee voting was successful. Over half of the 436,000 ballots cast were mail-in absentee ballots. And as you stated after the election, aside from a few reports of delays in ballot shipping and processing, there was "nothing widespread" in the way of election issues, and nothing to merit a criminal investigation.

- Sadly no one expects our nation to be rid of this pandemic by November. After the successful expansion of absentee voting in the West Virginia primary election, what steps have you taken to keep your residents safe by making absentee voting universally available in the November election?

**West Virginia rules for the 2020 Primary Election have extended to the 2020 General Election. All voters qualify to vote absentee if they are confined to their homes due to COVID-19 concerns.**

- After the successful expansion of absentee voting in the West Virginia primary election, you stated that despite the success absentee ballots shouldn't become a sole method of voting. What concerns do you have with absentee voting? And how do you balance any concerns with absentee voting's potential to reduce the spread of COVID-19 and potentially save lives?

**Voting is only as good as the confidence that our constituents have in the system. More people will vote when the options to vote are presented to them to make a choice. Using an all-vote-by mail system in West Virginia will erode the confidence in the system that is built around in-person voting. West Virginia has encouraged the opening of additional early voting locations and to open as many polling locations as possible to lower the amount of people in one location, increasing the confidence in the election and keeping voters safe in the process. However, eliminating the cornerstone option of in-person voting will decrease voter turnout and voters' confidence in the integrity of election results and processes.**

As counties across the nation held their 2020 primary elections, polling site closures jeopardized voter participation, by creating mass confusion and voter disenfranchisement as voters were

either unaware of their new voting sites or waited countless hours in lines amid the rapid spread of COVID-19. You have permitted county clerks to change polling locations in response to COVID-19.

- Can you confirm the number of polling locations that were changed? On what grounds were the sites changed?

**West Virginia changed around 240 of 1,727 polling locations due to consolidations in three (3) counties or temporarily moving locations due to COVID-19-related exposure risks (e.g. senior living facilities and nursing homes).**

- How and when was the public informed about changes in polling locations?

**Notification time varies, but a majority of location changes were planned and noticed thirty-plus (30+) days before the election. In most cases, the notifications were done via traditional earned media and public awareness held by the local election officials. In some cases, counties paid for newspaper advertisements. In all cases, counties posted a physical notice to the original polling place door, which included an address/directions to the new location.**

- Do you plan to provide county clerks with the same authority for the November general election? If so, what will you do to ensure that voters have sufficient notice of any changes?

**Yes.**

As new COVID-19 cases spread across the country, election officials have made efforts to adapt to the pandemic by providing voters alternative methods to vote, including mail-in voting. Although I strongly believe these are positive steps, it is also true that any changes to voting procedures have the capacity to confuse voters without sufficient, simultaneous education and public awareness efforts.

- States similar to yours have sent voting applications to every registered voter in response to state-issued stay-at-home orders. As lockdowns are lifted, some states plan to shift back to requiring voters to request an application on their own. How do you intend to adequately and promptly educate voters on their options?

**Robust earned media, social media campaigns, and newspaper advertising.**

You mentioned that a significant issue involving vote-by-mail is over-voting, referencing a county under your jurisdiction that had 1,017 overvotes that remained uncounted.

- What method was used to determine that those 1,107 votes were over-votes?

Election results management software includes the ability for the county to record over votes in a specific race. This information was shared to us from the County.

- Should counties have better infrastructure to accurately streamline their methods to keep track of absentee ballots received and registered voters on file to eliminate the possibility of over-voting?

**For clarity on “over-voting,” the over-vote occurs when a voter selects/marks more than the allowable selection for any race or issue on the ballot. The best way to limit the possibilities of over voting on hand-marked absentee ballots is to educate voters on how to properly mark the ballot and include instructions with the absentee materials. In-person voting equipment completely prevents voters from over-voting on the ballot-marking device.**

Senator King

#### Internet Voting

The National Academies of Science, Engineering and Medicine reported in 2018 that “The Internet is not currently a suitable medium for the transmission of marked ballots, as Internet-based voting systems in which votes are cast on remote computers or other electronic devices and submitted electronically cannot be made adequately secure today.... Conducting secure and credible Internet elections will require substantial scientific advances.” We have certainly not made the requisite scientific advances in the last 18 months.

There is no safe online voting system. There is none – I have not seen any evidence of a safe online voting system. I’ve seen lots of evidence to the contrary.

- Why are any jurisdictions anywhere even trying to use the Internet to conduct balloting, when it is clear that this would be one of the easiest ways for malign actors to corrupt the results—or more dangerously *appear to corrupt the results*—of our upcoming elections?

**There continue to be voters that are unable to cast a ballot under commonly used methods of voting at a polling location or via absentee using the USPS. Specifically, deployed military members, overseas voters, and voters with a physical disability who are unable to cast a ballot without assistance. These voters would otherwise be disenfranchised from the electoral process. The risk involved in this very small scale of voters is an acceptable risk to protect their franchise and provide an equal opportunity to vote, which opportunity would not otherwise exist.**

- Why do states, cities, and counties think to substitute their judgment in place of that of the best expertise that our country has to offer?

**Please refer to the previous answer.**

- What reasoned justification makes them want to ignore best practice and endanger votes?

**Please refer to the previous answer.**

- While I understand that your state has taken some steps to address the new concerns of the pandemic, I am also concerned that you continue to pursue cyber-insecure strategies that no impartial voting expert recommends.
  - Why does your state continue to persist in pursuing internet voting strategies rather than in devoting time and energy to setting up a universal, mail-in paper ballot process and/or providing the safest possible in-person voting possible under current public health guidelines?

**West Virginia law requires the state to provide electronic transmission and return options to voters qualified under the Uniformed and Overseas Citizens Absentee Voting Act, and voters living with a physical disability who cannot vote in person or absentee without assistance.**

**As provided above, the scope of internet voting is limited to this very small group of voters. Their right to vote is not outweighed by the highly monitored internet voting process currently in use. Moreover, the alternatives include significantly less-secure electronic ballot delivery options, such as ballots emailed as attachments and fax transmissions.**

**Additionally, West Virginia spares no time, energy, or resources in setting up the safest absentee program and the safest possible in-person voting under current state law and health guidelines. In fact, West Virginia has zero confirmed cases of COVID-19 spread due to in-person voting in the Primary election.**

#### Solarium Recommendations

In my work as co-chair of the Cyberspace Solarium Commission over the past 18 months, one of the clear recommendations that we made was the Election Assistance Commission needs substantial further cyber expertise and resources to streamline the advice and assistance the commission provides. While the Congress has long underfunded the EAC, it's clear to me and others on both sides of the aisle that this is the best place to put these resources. None but perhaps the biggest states have the resources to vet the cyber issues before election administrators.

- Would you support the addition of a fifth member to the EAC, who would serve a limited term, could not be chair, and *could only vote on matters related to the cybersecurity of elections*? Why or why not?

**Election administration should not be a partisan process. A fifth member would allow decisions to be made that do not include bipartisan support.**

- Would you support changing the EAC so that it had explicit authority to *publicize best practices in cybersecurity for voting and non-voting elections systems*? Why/not?

**Yes, their guidance will be very appreciated for a small state like West Virginia.**

- Would you support granting the EAC explicit authority *to issue grants for research on non-voting election systems*?

**Yes.**

**Senate Committee on Rules and Administration**

2020 General Election Preparations

July 22, 2020

Questions for the Record

**Mr. Rick Stream**

Chairman Blunt

- What efforts are you taking to give voters confidence in election results to help them understand why election results may legitimately be delayed?
  - The St. Louis County Board of Elections (STLBOE) is a professional organization that continually strives to provide efficient, timely and accurate election results. During the statewide primary election held on August 4<sup>th</sup>, the BOE processed over 100,000 absentee ballots and 154,000 day of election ballots for an overall turnout of 39.5%. There were no problems and our office reported the absentee results at 7:45 p.m. and the final unofficial results at 10:00 p.m. We are making plans now to handle the increased voter turnout in both areas for the November election.
- How do you intend to get the message out to voters to instill confidence in elections before and after the upcoming election?
  - The local media reported extensively about the fine job that our office did on Election Day. We continue to do interviews with the print, TV and radio media explaining what the procedures are for voting going forward to November. We also have a large social media presence on twitter and Facebook that informs the voters.
- What are you doing to ensure that voters have accurate information about elections and to identify and counter malicious attempts by those who may spread misinformation to undermine confidence in election results?
  - The BOE continually informs the public regarding the safety of our voting equipment. It is never online and therefore, can never be hacked. Our office paid \$100,000 in 2018 to do a cyber security audit and our staff is in continual training to ensure that no malicious viruses are opened in our computers.
- How has your state used the resources that were made available through the last CARES Act and the 2003, 2018, and 2020 HAVA funds to prepare for the upcoming elections? Do you need additional resources and how would you use them?
  - The 2003 HAVA funds were used to purchase new voting equipment in 2006. That equipment was used until 2019 when new equipment was purchased. The STLBOE has not received any of the 2018 and 2020 HAVA funds.
- What are you doing to adequately recruit and train poll workers during the pandemic?
  - We have a large data base of workers to draw from for any election. During Covid, we have lost some of our workers so we are using social media and regular media to recruit new workers. Our on-site training has been scaled back to meet reduced capacity rules. In addition, we have on-line training to fill in the gaps and as a reinforcement. We were able to adequately staff our polls on August 4<sup>th</sup> and expect to do the same on Nov 3<sup>rd</sup>.

- How are you working with local and regional U.S. Postal Service leadership to ensure that election mail is handled appropriately and delivered promptly?
  - Our office has been in constant communication with the USPS, but the service was not what we expected it to be. Since my testimony on July 22<sup>nd</sup>, service has improved and we were able to have our employees at the St. Ann post office and the main downtown St. Louis post office at 7 p.m. on election night to pick up all the ballots that were in those offices at that time. We brought back more than 1,000 ballots that otherwise would not have been counted.
- How are you educating voters on election mail deadlines and what do to if their ballots arrive late or not at all?
  - The STLBOE sent a letter to all voters in July, explaining the deadlines and the provisions of the new state law that expanded absentee voting options and add a mail-in ballot option.
- What actions are you taking to ensure that your election infrastructure is also safe and secure from a cybersecurity perspective?
  - The STLBOE voting equipment is never online and therefore, can never be hacked. Our staff is in continual training to ensure that no malicious viruses are opened in our computers.

#### Senator Klobuchar

#### Online Voter Registration and Ballot Requests

Online voter registration and online absentee ballot requests allow voters and election workers to minimize contact and limit the potential spread of the virus. It also saves taxpayers money. West Virginia, Tennessee, and Missouri already have online registration and also offer downloadable absentee requests that voters can mail in.

- How does online voter registration and absentee ballot requests help ease the administrative burden on local election officials?
  - For the STLBOE, online registration and absentee ballot applications save time and money. Our office processed over 97,000 absentee ballot applications for the August 4<sup>th</sup> primary election with many of them arriving online. We also process each day, on average, 500 registration changes. Many of those are also online. Our office has continually tried to incorporate technology into every process we have.

#### Election Security of Voting Systems

The Department of Homeland Security has emphasized the added importance of securing voter registration databases and online voter registration systems during the pandemic. Experts have also recommended that all states implement online voter registration and online absentee ballot applications, and an increased number of voters are expected to rely on these systems during the pandemic. At the same time, we have recently seen a number of cyberattacks from foreign adversaries, including Russia.

- Have your offices been working this year with the Department of Homeland Security to improve online voter systems? How have you worked to further bolster the security of these systems?
  - The STLBOE hosted, along with the Missouri Secretary of State, Jay Ashcroft, a Cyber Security Conference in 2017 that featured as its main speaker, the Secretary of Homeland Security, Kirstjen Nielsen. Our office has continued to work with the DHS and the EAC to keep abreast of any relevant threats. Since none of our voting machines are online, there is no threat to them. Every state's voter registration system is online and therefore vulnerable. In Missouri, there is a double authentication protocol to enter the Missouri Centralized Voter Registration System (MCVR). However, with any online system, there is the threat of hacking, especially through the users' accounts. That is why our office paid \$100,000 in 2018 to do a cyber security audit and our staff is in continual training to ensure that no malicious viruses are opened in our computers.

Senator Leahy

You have been serving as co-director of the St. Louis County Board of Elections since 2016 and ran in elections for 20 years prior to that. The President has repeatedly claimed that mail-in ballots are "substantially fraudulent" and will create the "greatest Rigged Election in history."

- Are the elections rigged in St. Louis County? Have you seen any evidence of *widespread* fraudulent voting in your jurisdiction?
  - In our county, there is an indictment against a local municipal official for absentee voter fraud. Our office has not seen any *widespread* voter fraud, but then again, we are not authorized or staffed to look for it or investigate it if it comes to our attention.
  - The term mail-in ballot is very broad and needs defining and delineation. Missouri has ballots that are mailed in to election authorities. These are absentee ballots for a specified excuse (such as absence on Election Day) that have always been requested by the voter and in most cases are notarized. For this year alone, the legislature also authorized an additional absentee Covid excuse (no notary required) and a no-excuse Mail-in ballot for any voter. It must be requested, notarized and mailed back. Missouri does not mail unsolicited ballots to all voters as some states do. Missouri does not allow people to go around before and after the election and collect the ballots from voters who did not bother to vote.
  - A concern to me is what I have heard with my own ears, and that is that non-citizens are voting. Several County Clerks in Missouri said that they have seen non-citizens voting in their counties. These clerks are in small counties and know everyone in the county. Also, the California Secretary of State Alex Padilla said in his opening remarks at the Election Assistance Center National conference in August 2017 in Los Angeles that "he wanted all residents to be able to vote". He did not say citizens. In St. Louis County, we want all U.S. citizens (native-born or naturalized) to be able to register and to vote.

- What concerns you the most about the upcoming elections? Do you believe that many states and localities need additional federal assistance to ensure the November elections are successful?
  - We are concerned about a possible dramatic increase of Covid cases that would cause us to lose poll-workers and polling places. Even though the infection rate in St. Louis County is only 1.2%, the fear is out there.
- What precautions is the St. Louis County Board of Elections taking to keep voters safe at the polls?
  - All of our poll-workers have worn masks and gloves. They are wiping down all surfaces continuously and cleaning off the pens and styluses between each use. Voters are required to wear masks and socially distance.
- What precautions is the Board taking in preparation of receiving higher than average mail-in ballots?
  - The STLBOE is well prepared to take in many times the normal amount of mail-in and absentee ballots. For the June 2<sup>nd</sup> election, we processed 76,000 applications and 45,000 ballots. For the August 4<sup>th</sup> election, we processed 97,000 applications and 82,000 ballots. Both of those totals are 5 to 6 times the normal amount. In each case, we reported the absentee results at 7:45 p.m. on election night and the final results by 10 p.m. We are prepared for 150,000 to 200,000 absentee and mail-in ballots for the November election.

Voter education remains pivotal to maintain robust voter turnout. In 2020 Governor Parson signed new voting law in response to COVID-19, and election commissioners have then sent correspondence to voters explaining their 2020 voting options.

- Have you found this method effective in reaching and educating the masses?
  - Yes, it was very effective. The voters had very few questions after receiving our letter.
- Should any other changes to voting emerge approaching the November election, such as changes in voting locations or location shutdowns, are election officials equipped to quickly and effectively inform voters of last-minute changes to prevent confusion, voter disenfranchisement, and the spread of COVID-19?
  - We are prepared to make the changes and inform the voters. We have developed a strategic plan with many pandemic scenarios and our resulting actions. Our new voting equipment, the Hart Verity Ballot-on-Demand system gives us the flexibility to allow voters to vote anywhere in the County.

Senator KingInternet Voting

The National Academies of Science, Engineering and Medicine reported in 2018 that “The Internet is not currently a suitable medium for the transmission of marked ballots, as Internet-based voting systems in which votes are cast on remote computers or other electronic devices and submitted electronically cannot be made adequately secure today.... Conducting secure and credible Internet elections will require substantial scientific advances.” We have certainly not made the requisite scientific advances in the last 18 months.

There is no safe online voting system. There is none – I have not seen any evidence of a safe online voting system. I’ve seen lots of evidence to the contrary.

- Why are any jurisdictions anywhere even trying to use the Internet to conduct balloting, when it is clear that this would be one of the easiest ways for malign actors to corrupt the results—or more dangerously *appear to corrupt the results*—of our upcoming elections?
  - Why do states, cities, and counties think to substitute their judgment in place of that of the best expertise that our country has to offer?
  - What reasoned justification makes them want to ignore best practice and endanger votes?
    - The State of Missouri does not allow internet voting.

Solarium Recommendations

In my work as co-chair of the Cyberspace Solarium Commission over the past 18 months, one of the clear recommendations that we made was the Election Assistance Commission needs substantial further cyber expertise and resources to streamline the advice and assistance the commission provides. While the Congress has long underfunded the EAC, it’s clear to me and others on both sides of the aisle that this is the best place to put these resources. None but perhaps the biggest states have the resources to vet the cyber issues before election administrators.

- Would you support the addition of a fifth member to the EAC, who would serve a limited term, could not be chair, and *could only vote on matters related to the cybersecurity of elections*? Why or why not?
- Would you support changing the EAC so that it had explicit authority to *publicize best practices in cybersecurity for voting and non-voting elections systems*? Why/not?
- Would you support granting the EAC explicit authority *to issue grants for research on non-voting election systems*?
- It would be good for the EAC to have more resources to share cyber security best practices and research with election authorities. The Help America Vote Act designated the EAC as a clearinghouse for best practices in election administration. Cyber security is a huge part of election administration now and the EAC is the most logical agency to bring election related cyber security knowledge to the states.

**Senate Committee on Rules and Administration**

2020 General Election Preparations

July 22, 2020

Questions for the Record

**Ms. Kristen Clarke**Senator KlobucharOnline Voter Registration and Ballot Requests

Online voter registration and online absentee ballot requests allow voters and election workers to minimize contact and limit the potential spread of the virus. It also saves taxpayers money. West Virginia, Tennessee, and Missouri already have online registration, and also offer downloadable absentee requests that voters can mail in.

- How can Congress help states implement these systems which are considered best practices for election administration?

**Response:**

In my testimony,<sup>1</sup> I explained the need for Congress to appropriate \$3.6 billion needed to cover state and local expenses for the November general election and other elections being held nationwide in 2020. These funds should include support for online voter registration and online absentee ballot request systems. Also, federal law should require online voter registration, and when vote by mail ballot requests are needed, federal law should require that applications be made available online.

Resolving Signature Match Problems

In the Nevada primary this year, 12,366 ballots - or about 2.5 percent of ballots cast - were initially rejected because of a signature discrepancy or because they were missing signatures. Ballot issues like this can happen, especially when voters are unfamiliar with completing mail-in ballots and election workers are inexperienced with processing them. Approximately 16 states have official procedures that require election officials to notify voters of a signature discrepancy and give them the opportunity to resolve it, and in the case of Nevada about half of the signature problems were successfully resolved.

- Do you believe a formal process for resolving signature discrepancies is something all states should adopt? Can this process be adopted before November and should states offer training to election officials on signature matching?

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<sup>1</sup> 2020 General Election Preparations: Hearing Before the S. Comm. on Rules & Admin., 116th Cong. (2020) (statement of Kristen Clarke, President and Executive Director, Lawyers' Committee for Civil Rights Under Law).

**Response:**

All states must have a formal process to provide reasonable opportunities for voters to resolve issues relating to the acceptance of vote by mail ballots due to alleged signature mismatches, missing information, or other reasons. This can and should be adopted and put in place before November. Where signature matching is used, states should also provide training for election officials on signature matching.

These processes must make accommodations available to voters who are subject to restrictions and limitations caused by COVID-19. For example, Arapahoe County, Colorado allows voters to text a cure for a signature match issue on vote by mail ballots.<sup>2</sup> Both Georgia and Florida allow voters to submit signature match cure documents by email or fax.<sup>3</sup> It is important that accommodations be made for any voter who may not be able to appear in person to provide information to election officials to cure the issue; who do not have technology in their homes allowing them to submit verifying information electronically; or who do not have family members or friends who can deliver information to election officials on their behalf. Additionally, these processes must include options for disabled voters and limited English proficient voters needing assistance to resolve an issue with the ballots.

Signature match training should include directives to err on the side of accepting the ballot when there is a close call about whether a signature is a match, since voters' signatures can vary from year to year, if not day to day, and are not likely to be identical to the signatures on their voter registration records.

Extending Mail in Ballot Deadlines

Over 65,000 ballots have been disqualified this year because they have arrived past state deadlines. Typically, 35 states require ballots to arrive before or on election day in order to be counted. That means if you put your ballot in the mail on election day, it won't count unless it arrives the same day. In April, before the Wisconsin election, the United States Supreme Court ruled that ballots in Wisconsin could arrive after election day, as long as they were postmarked on or before election day.

- Secretary Warner's state of West Virginia already ensures that voters who cast their ballot on or before election day will be counted if received in a reasonable amount of time. Why is it important for all states to implement similar ballot deadlines?

**Response:**

Ballots postmarked by Election Day—or otherwise marked with unequivocal evidence that they were cast on or before Election Day—should be counted according to the deadlines under the

<sup>2</sup> [https://www.eac.gov/sites/default/files/electionofficials/vbm/Signature\\_Verification\\_Cure\\_Process.pdf](https://www.eac.gov/sites/default/files/electionofficials/vbm/Signature_Verification_Cure_Process.pdf).

<sup>3</sup> <https://www.georgiademocrat.org/wp-content/uploads/2020/08/9.-Absentee-Ballot-Cure-Affidavit.pdf>; <https://dos.myflorida.com/media/700479/dsde139.pdf>.

Uniformed and Overseas Citizens Absentee Voting Act.<sup>4</sup> States should assume that receipt of all ballots cast by Election Day will require a reasonable amount of time in order to prevent voters from becoming disenfranchised through no fault of their own as a result of delays in the delivery of their vote by mail ballots by the USPS to election officials, or because the voters received their ballots just before or on Election Day and had no reasonable opportunity to mail their ballots earlier.

Senator Leahy

Our election system is woefully behind the times. One way to update our electoral processes for the 21<sup>st</sup> century is to make voter registration automatic when eligible voters interact with government agencies like the DMV. I have led the Automatic Voter Registration Act for years, which already passed by the House in 2019.

- What have states, including my home state Vermont, taught us about the benefits of implementing automatic voter registration laws? Why should the federal government follow the lead of states and enact nation-wide automatic voter registration?

**Response:**

Automatic Voter Registration (AVR), adopted in 19 states and the District of Columbia, has been an important step to improve elections.<sup>5</sup> AVR increases registration<sup>6</sup> and turnout,<sup>7</sup> and thus addresses major shortcomings in U.S. elections. AVR can also reduce errors in registration records by eliminating cumbersome paper procedures and ensuring updates because data is sent electronically to election officials.<sup>8</sup> In sum, the process is cost-effective, increases registration rates, and helps reduce errors in the voter rolls.<sup>9</sup> AVR has been adopted in a diverse array of states and Vermont's success is in line with the experience in other parts of the country.<sup>10</sup> It would be desirable for a well-designed AVR system to be available nationwide because

<sup>4</sup> Uniformed and Overseas Citizens Absentee Voting Act §§ 103(b), 103A(b)(3), 52 U.S.C. §§ 20303(b), 20304(b)(3) (2020).

<sup>5</sup> <https://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx>.

<sup>6</sup> KEVIN MORRIS & PETER DUNPHY, BRENNAN CTR. FOR JUST., AVR IMPACT ON STATE VOTER REGISTRATION I (2019), [https://www.brennancenter.org/sites/default/files/2019-08/Report\\_AVR\\_Impact\\_State\\_Voter\\_Registration.pdf](https://www.brennancenter.org/sites/default/files/2019-08/Report_AVR_Impact_State_Voter_Registration.pdf).

<sup>7</sup> Jake Grumbach & Charlotte Hill, *Automatic Voter Registration Boosts Turnout Among Young and Low Income People*, Data for Progress (July 11, 2019), <https://www.dataforprogress.org/blog/2019/7/11/automatic-voter-registration-boosts-turnout-among-young-and-low-income-people>.

<sup>8</sup> Marie Lemieux, *4 Reasons Why Adopting Automatic Voter Registration is Good for American Democracy*, FairVote (July 26, 2017), <https://www.fairvote.org/4-reasons-why-adopting-automatic-voter-registration-is-good-for-american-democracy/>.

<sup>9</sup> See *Automatic Voter Registration*, Brennan Ctr. for Just., <https://www.brennancenter.org/issues/ensure-every-american-can-vote/voting-reform/automatic-voter-registration> (last visited Aug. 14, 2020); Rob Griffin et al., *Oregon's Voter Registration*, Ctr. for Am. Progress (June 7, 2017 8:56 AM) <https://www.americanprogress.org/issues/democracy/news/2017/06/07/433698/oregons-automatic-voter-registration/>.

<sup>10</sup> Press Release, Jim Condos, Vermont Secretary of State, Secretary of State Condos Shares Success of Automatic Voter Registration (May 3, 2019), <https://vt.digger.org/2019/05/03/secretary-state-condos-shares-success-automatic-voter-registration/>.

modernized procedure for registration is a fundamental element of our democratic system. When it comes to such fundamentals, citizens should not be faced with procedures that range from antiquated to satisfactory, based on the happenstance of where they reside.

It's been particularly rich hearing President Trump's baseless tirades against mail-in voting after him and many others on his staff voted by mail just a few months ago. Red and blue states have successfully used mail-in voting for years. And election officials in both parties believe strongly that mail-in voting will be critical to preserve Americans' right to vote during this deadly pandemic.

- How do you respond to claims that mail-in voting will result in mass voter fraud? And, specifically, how do you respond to voter disinformation efforts claiming widespread ballot harvesting, mail-in ballots submitted on behalf of the recently deceased, and voting applications addressed to family pets?

**Response:**

Independent analysis has shown that voter fraud, both in-person and in vote by mail, is miniscule.<sup>11</sup> The myth of voter fraud is used as a supposed justification for voter suppression. Lately, the obsessive attack on nonexistent fraud in mail voting seems to have become an attempt to distract from the tens, even hundreds, of thousands of voters disenfranchised by voter suppression and the reckless disregard for voting rights involving in-person voting during the pandemic. These state and local elections have involved broken machines, polling place closures, inadequate poll worker training, and long lines resulting in unconscionable and hazardous wait times, often stretching to many hours.<sup>12</sup>

Absentee ballot offenses are very rare, and when they occur are difficult to conceal, probably because they tend not to be voter fraud, but rather misconduct by campaign operatives, much like the old-fashioned ballot box stuffing that rarely occurs with in-person voting.<sup>13</sup> Washington Secretary of State, Kim Wyman has said that "in Washington State, we do not have higher fraud

<sup>11</sup> *Debunking the Voter Fraud Myth*, Brennan Ctr. for Justice (Jan. 31, 2017), <https://www.brennancenter.org/our-work/research-reports/debunking-voter-fraud-myth>; *Debunking the Absentee / Vote by Mail Fraud and Abuse Argument*, Nat'l Vote at Home Coal., [https://docs.wixstatic.com/ugd/ef45f5\\_81a3affd554e4b5b9b5852f8fb3c10fd.pdf](https://docs.wixstatic.com/ugd/ef45f5_81a3affd554e4b5b9b5852f8fb3c10fd.pdf) (last visited Aug. 14, 2020).

<sup>12</sup> For further details, see *2020 General Election Preparations: Hearing Before the S. Comm. on Rules & Admin.*, 116th Cong. 7 (2020) (statement of Kristen Clarke, President and Executive Director, Lawyers' Committee for Civil Rights Under Law).

<sup>13</sup> See Richard Hasen, *Trump's Bogus Attacks on Mail-in Voting Could Hurt His Supporters, Too*, Wash. Post (May 20, 2020), <https://www.washingtonpost.com/outlook/2020/05/20/trump-mail-vote-fraud/>.

because we vote-by-mail.”<sup>14</sup> In fact, she has said that “the vote by mail process is more secure [than in-person voting].”<sup>15</sup>

State election procedures contain strong safeguards against mail ballot fraud, including the mail ballot secrecy envelope and personal identifying information, such as birthday or the last four digits of a Social Security number. Many states also match signatures against voter registration records. States also include on ballot envelopes barcodes that connect each ballot to a legitimate voter, such that the voter can confirm their ballot was received and the state can eliminate duplicates. Additional security is provided by secure drop-off locations, drop boxes, and post-election audits. And, of course, there are severe penalties for fraud.<sup>16</sup>

These safeguards preclude fanciful worries about ballots being sent to and then submitted by animals, fictitious characters, and the like. Mail ballots submitted by people who are deceased is another contrived argument. Election experts do not see this rare occurrence as a threat.<sup>17</sup>

Ballot collection is sometimes necessary and important for people who need assistance in mailing or dropping off ballots. However, evidence does not support claims by opponents of vote by mail that collection is subject to widespread abuse. University of Florida Political Scientist Michael McDonald stated, “I have never seen a wide-scale attempt to ‘harvest’ ballots against voters’ candidate preferences in a statewide or national election.”<sup>18</sup>

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- Do mail-in ballots provide any significant partisan edge for either party in particular?

**Response:**

No. A comprehensive study based on data from three states found that vote by mail has no apparent effect on either party’s vote share.<sup>19</sup> More impressionistic assessments of various

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<sup>14</sup> Michael Goldberg, *Tarleton Calls on Wyman to Condemn Attacks on Vote by Mail*, Wash. St. Wire, (Apr. 9, 2020), <https://washingtonstatewire.com/tarleton-calls-on-wyman-to-condemn-attacks-on-vote-by-mail/>.

<sup>15</sup> Reid Wilson, *The Pros and Cons of All Mail Elections, as Told by Two Republican Secretaries of State*, Wash. Post (Dec. 16, 2014), <https://www.washingtonpost.com/blogs/govbeat/wp/2014/12/16/the-pros-and-cons-of-all-mail-elections-as-told-by-two-republican-secretaries-of-state/>.

<sup>16</sup> See Wendy Weiser, *To Protect Democracy, Expand Vote by Mail*, Brennan Ctr. for Just. (June 30, 2020), <https://www.brennancenter.org/our-work/analysis-opinion/protect-democracy-expand-vote-mail>; Holmes Lybrand & Tara Subramaniam, *Fact Check: Stephen Miller Carries Water for Trump in Promoting Mail-in Voting Conspiracies*, CNN (July 31, 2020), <https://www.cnn.com/2020/07/31/politics/mail-voting-verification-stephen-miller-fact-check/index.html>.

<sup>17</sup> See McKenzie Sadeghi, *Fact Check: Mailing Ballots to Dead People Not Leading to Voter Fraud, Experts and Studies Say*, USA Today (Jul. 15, 2020 2:04 PM) <https://www.usatoday.com/story/news/factcheck/2020/07/14/fact-check-mailing-ballots-dead-people-not-leading-voter-fraud/3214074001/>.

<sup>18</sup> Amy Sherman, *What is Ballot Harvesting, and Why is Trump Tweeting About It During an Election Year Pandemic?*, Politifact (May 29, 2020), <https://www.politifact.com/article/2020/may/29/what-ballot-harvesting-and-why-trump-tweeting-about/>.

<sup>19</sup> See Daniel Thompson et al., *The Neutral Partisan Effects of Vote-by-Mail: Evidence from County-Level Roll-Outs 9-11* (Stanford Inst. for Econ. Policy Research, Working Paper No. 20-015, 2020), <https://siepr.stanford.edu/sites/default/files/publications/20-015.pdf>.

experts and participants reach a similar conclusion.<sup>20</sup> This simply underscores that the real issue is the voter's ability to cast a ballot and have that ballot count. Especially during a pandemic, this depends on providing the options that will enable people in diverse circumstances to vote and providing the necessary support and safeguards to ensure that all votes are counted.

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Some claim that the only method to ensure mail-in voting is secure is to have individuals submit their own ballot, overlooking the needs of older Americans, the disabled, and ill who depend on the assistance of others to submit their votes at drop-off locations.

- How can you address security and privacy concerns about the fairness and validity of mail-in voting?

**Response:**

As discussed earlier, collection of mail ballots is sometimes necessary, and abuse is rare, probably in part because it is difficult to conceal and penalties are harsh. Special secure envelopes, barcodes, and signature matching procedures protect security and privacy of mail ballots. Family members or friends assisting a voter with mailing or submission of a ballot at a drop-off location is little different from driving a voter to the polls and there is no evidence of abuse.<sup>21</sup>

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President Trump and even Attorney General Barr have attempted to substantiate claims that wide-spread use of mail-in ballots will cause both foreign and domestic interference in the upcoming election with the massive influx of printing and disseminating counterfeit ballots.

- How would you respond to threats of domestic and foreign interference in the election pertaining to mail-in voting?

**Response:**

The safeguards against fraud described above preclude the scenario of an influx of counterfeit ballots. In common practice, each mail ballot must be associated with a registered voter through a variety of means such as signature, ballot tracking barcodes, and other identifying information.

Senator King

Internet Voting

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<sup>20</sup> Reid Epstein & Stephanie Saul, *Does Vote-by-Mail Favor Democrats? No. It's a False Argument by Trump*, N.Y. Times (July 31, 2020), <https://www.nytimes.com/2020/04/10/us/politics/vote-by-mail.html>.

<sup>21</sup> Nat'l Vote at Home Coal., *supra* note 11.

The National Academies of Science, Engineering and Medicine reported in 2018 that “The Internet is not currently a suitable medium for the transmission of marked ballots, as Internet-based voting systems in which votes are cast on remote computers or other electronic devices and submitted electronically cannot be made adequately secure today.... Conducting secure and credible Internet elections will require substantial scientific advances.” We have certainly not made the requisite scientific advances in the last 18 months.

There is no safe online voting system. There is none – I have not seen any evidence of a safe online voting system. I’ve seen lots of evidence to the contrary.

- Why are any jurisdictions anywhere even trying to use the Internet to conduct balloting, when it is clear that this would be one of the easiest ways for malign actors to corrupt the results—or more dangerously *appear to corrupt the results*—of our upcoming elections?
  - Why do states, cities, and counties think to substitute their judgment in place of that of the best expertise that our country has to offer?
  - What reasoned justification makes them want to ignore best practice and endanger votes?

**Response:**

The Lawyers’ Committee does not recommend that *any* jurisdiction use Internet-based voting. There are too many opportunities for malicious actors to compromise the integrity of an election by hacking computers or intercepting communications related to election systems, officials, voters, and government agencies. Election systems are critical infrastructure and are too sensitive to be connected to the Internet.

We recommend that all elections be conducted with hand-marked paper ballots, in conjunction with risk-limiting audits and other safeguards. More technology does not automatically make something better; often it serves as a distraction from doing the hard, but necessary, work to secure our democracy. We already know how to conduct safe, secure, fair, and reliable elections.

Solarium Recommendations

In my work as co-chair of the Cyberspace Solarium Commission over the past 18 months, one of the clear recommendations that we made was the Election Assistance Commission needs substantial further cyber expertise and resources to streamline the advice and assistance the commission provides. While the Congress has long underfunded the EAC, it’s clear to me and others on both sides of the aisle that this is the best place to put these resources. None but perhaps the biggest states have the resources to vet the cyber issues before election administrators.

- Would you support the addition of a fifth member to the EAC, who would serve a limited term, could not be chair, and *could only vote on matters related to the cybersecurity of elections*? Why or why not?

- Would you support changing the EAC so that it had explicit authority to *publicize best practices in cybersecurity for voting and non-voting elections systems*? Why/not?
- Would you support granting the EAC explicit authority *to issue grants for research on non-voting election systems*?

**Response:**

The Lawyers' Committee does not have a position on the Cyberspace Solarium Commission or its recommendations for the EAC. However, certainly the EAC, like many federal agencies and commissions, would greatly benefit from having in-house cybersecurity expertise. We must do more to safeguard the cybersecurity of our elections. Even just the implication that a malicious actor could or has compromised an election does devastating damage to the integrity of and trust in our core democratic institutions. Giving the EAC authority to publicize best practices and issue grants for research on non-voting election systems are also ideas worth considering in connection with efforts to rejuvenate and increase funding for the EAC.