

Election in Peril

Procedural Risks to the
2020 Presidential Election



About MapLight

MapLight is a nonpartisan 501(c)(3) nonprofit that seeks to achieve a government that (actually) works for the people. We illuminate the influence of money in politics, facilitate informed voting and civic engagement, and advance reforms that make government more responsive to the people. Our database, online tools, research, and policy work help to expose and counter the hidden influences on our democracy. MapLight is based in Berkeley, California.

Learn more about MapLight at <https://maplight.org/>.

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Executive Summary

Public confidence in the integrity of our elections is crucial for the peaceful and democratic transfer of power. That confidence, however, is coming under siege from internal and external players, raising the specter of another election whose legitimacy is questioned.

In addition to being held during a contentious and polarizing time, the 2020 presidential election will be subject to complex procedures not well known to the general public, and its integrity will be dependent upon leaders acting in good faith. While some states have taken steps to ensure that their citizens can vote safely in November, in others, politicians fighting over adaptations to the COVID-19 pandemic are already demonstrating that some officials will put the opportunity for a partisan victory over ensuring every citizen's right to vote. Public education about election procedures and advocacy for policy improvements will be critical to ensuring the legitimacy of the 2020 election cycle.

MapLight has uncovered multiple danger points for a general election that is being compared to the watershed 1860 contest for its potential to spawn more divisiveness and polarization. These potential trouble spots include:

- The continued coronavirus pandemic, which many experts believe will worsen in the fall, has the potential to depress turnout by discouraging voters from visiting crowded polling places. Many states are taking a proactive approach by planning for increased mail ballots, which present a potentially unique set of challenges.
- Already, President Trump (who, along with his wife, attorney general, daughter, and campaign manager, voted by mail during the 2018 midterms) has described voting by mail as an invitation to massive fraud.¹ The president's opposition makes it less likely that some Republican-controlled legislatures will act to ensure that all Americans can vote without fear.
- Mail ballots may be delayed in an overwhelmed Postal Service, both in their distribution to voters and in their return to election officials. In many states, ballots that are not received by Election Day are rejected, and voters that do not receive their ballot in time would have to go to the polls in person to cast their vote.
- Even absent fraud and political opposition, mail ballots will likely not be counted as quickly as votes cast at polling places. Delays could lead to false claims of victory by individual candidates, throwing the legitimacy of the election into further doubt.
- A dispute over state election results could also throw the Electoral College into legal and political chaos if two sets of electoral votes from the competing parties are sent to Congress. A split would be possible in states such as North Carolina or Wisconsin, where government control is bitterly divided among separate branches.
- Delays caused by a flood of mail ballots also could compromise the 2020 election. Electors must be named by December 8, six days before the Electoral College meets to officially name the winner of the contest. In the current political environment, however, it's entirely possible that time-consuming legal challenges by losers could spur different states to take different approaches to naming electors, which then would also likely be subject to legal challenges.
- Although it's highly unlikely that a third-party candidate would siphon enough votes to prevent the Republican or Democratic nominee from obtaining more than 270 electoral votes, history has shown that it would be foolish to rely upon 2020 to follow a normal pattern of behavior. If neither

¹Steib, M. (2020, June 22). Trump Staffers Who Voted By Mail, a Process He Calls 'Rigged.' New York Magazine. Retrieved from <https://nymag.com/intelligencer/2020/06/every-trump-ally-who-has-voted-by-mail-list.html>

candidate won a majority of the Electoral College, the decision would be made by the U.S. House of Representatives. Republicans currently control a majority of 26 congressional delegations and Democrats have 22 majorities (Pennsylvania and Michigan are effectively tied). It would take very few House seats to alter that balance, and it would likely require some members of Congress in closely contested states to choose between party loyalty and duty to represent the will of their constituents.

In our report, MapLight outlines some of the most significant risks to the 2020 presidential election. We provide a summary of the most important risks examined in more depth later in the report, followed by information about the federal procedures affecting presidential elections. Finally, we provide in-depth information about state election law for each state among seventeen “swing” states – every state that is not considered Solid Democrat or Solid Republican for the purposes of the presidential election by the Cook Political Report.² Although many of these states are not current toss-ups, the political landscape will continue to shift through the election and they could help decide the outcome.

The first section of the report, Key Risks in 2020, summarizes the issues and trends described in more depth in later pages. After considering the seventeen states’ election laws and federal requirements, three issues are the most likely to challenge the electoral process. First, we are seeing an unprecedented level of interest in mail ballots, but state policies raise the risk of widespread disenfranchisement. Second, a pandemic-driven increase in mail ballots and last-minute changes to election procedures raise the risk that ballots will take longer to process and count, and that the campaigns and media will rush to anoint a victor before the canvass is complete, leading to the potential delegitimization of the results. Third, close results in the Electoral College could lead to unusual and controversial procedures that could cast further doubt upon the legitimacy of the election. These risks are the result of the federal requirements and state election laws described in more detail in the following sections.

Next, we examine federal requirements for presidential elections. While most voters are familiar with the existence of the Electoral College, it is an arcane system whose intricacies are not well understood by the public. In addition to outlining the basic operation of the Electoral College, we detail procedures for scenarios where no candidate receives a majority of the votes, where there is a dispute in a state’s votes, and where electors vote contrary to the popular vote in their state.

Finally, this report profiles each of the seventeen swing states, providing key facts and details about the state election laws affecting the presidential election. Policies vary from state to state, including how elections are administered, how citizens’ votes are counted, and how those votes relate to the Electoral College. For each state we have summarized which public officials are responsible for the statewide canvass of presidential elections, when votes are counted, and whether the state has sought to bind presidential electors to the state popular vote. In addition, we outline details of state policies on mail ballots (absentee ballots) and emergency powers that have gained new relevance due to the coronavirus pandemic.

It should also be noted that this report is limited to the legal processes governing the presidential election, and does not include other risks that could threaten the election. Hacking voting machines and equipment failures, for example, constitutes a real threat to election integrity but is not within the scope of this particular report.³ Disinformation campaigns, either foreign or domestic, are also a substantial threat. (For more information on policies that can mitigate the risk of online

²Cook Political Report. (2020, March 9). 2020 Electoral College Ratings. Retrieved July 1, 2020, from <https://cookpolitical.com/sites/default/files/2020-03/EC%20030920.4.pdf>

³Cortés, E., Howard, E., Norden, L., Ramachandran, G. & Tisler, D. (2020, June 5). *Preparing for Cyberattacks and Technical Problems During the Pandemic: A Guide for Election Officials*. Brennan Center for Justice. Retrieved from <https://www.brennancenter.org/our-work/research-reports/preparing-cyberattacks-and-technical-problems-during-pandemic-guide>

disinformation impacting our elections, see MapLight's report, "Principles and Policies to Counter Deceptive Digital Politics".⁴) While these and other issues constitute substantial risks, we must ensure that the procedures governing the election are upheld as well.

Identifying procedural risks is only a first step to ensuring the integrity of the 2020 presidential election. In some areas, public education campaigns can inform voters what to expect in November, and how to recognize problems. An informed electorate can be its own best advocate, calling upon elected officials to improve ballot access or effectively responding to a challenged mail ballot. This information can also be used by good government advocacy groups to focus their attention on the most severe risks in the limited time before the election. Finally, as the election occurs, this information will help identify any deviations from appropriate electoral procedures and can jumpstart legal remedies to those challenges.

Public faith in the outcome of the presidential election is crucial for our democracy. People need to believe that they are able to vote and have their vote counted. This report outlines the biggest procedural risks to public confidence in the election. Understanding these risks is the first step to ensuring the integrity of the presidential election.

Key Risks in 2020

There are a number of scenarios that pose risks to the public legitimacy of the 2020 presidential election, including issues that could cause outsized disruptions to the political process, up to and including Constitutional crises. This report details the federal and state laws and procedures that will govern the election.

Disenfranchised Mail Voters

One of the unique challenges to the 2020 election is the need to increase voting by mail to reduce the spread of the COVID-19 virus. In an April Reuters/Ipsos poll, 72% of all U.S. adults supported a requirement for mail ballots in response to the pandemic.⁵ In June, the Centers for Disease Control and Prevention recommended that election officials "offer alternative voting methods that minimize direct contact and reduce crowd size at polling locations," such as voting by mail, in order to reduce the spread of COVID-19.⁶ Although voting by mail has been used in all states to some degree in previous elections, the scope of its use varies dramatically by state. A few (Oregon, Washington, Colorado, Utah, Hawai'i) send all voters a ballot and will need minimal changes to existing procedures for the 2020 election. Others require voters to request a mail ballot or restrict mail voting to specific groups, such as those with a qualifying excuse. In 2018, 26 states and Washington, D.C. had less than 10% of their votes cast by mail.⁷

Among 2020 potential swing states, New Hampshire and Texas both require an excuse to vote by mail. Secretary of State Bill Gardner of New Hampshire has already announced that fear of exposure to COVID-19 will qualify as a 'disability,' one of the valid excuses to receive a mail ballot for the November election.⁸ In Texas, however, Attorney General Ken Paxton has argued that concern around the

⁴Ravel, A. M., Wooley, S.C., & Sridharan, H. (2019). *Principles and Policies to Counter Deceptive Digital Politics*. MapLight. Retrieved from <https://s3-us-west-2.amazonaws.com/maplight.org/wp-content/uploads/20190211224524/Principles-and-Policies-to-Counter-Deceptive-Digital-Politics-1-1-2.pdf>

⁵Kahn, C. (2020, April 7). Most Americans, Unlike Trump, Want Mail-In Ballots for November if Coronavirus Threatens: Reuters/Ipsos poll. *Reuters*. Retrieved from <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>

⁶Centers for Disease Control and Prevention. (2020, June 22). Considerations for Election Polling Locations and Voters. Retrieved from <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>

⁷Brennan Center for Justice. (2020, March 24). Preparing Your State for an Election Under Pandemic Conditions. Retrieved July 2, 2020, from <https://www.brennancenter.org/our-work/research-reports/preparing-your-state-election-under-pandemic-conditions>

⁸Gardner, W. & MacDonald, G. (2020, April 10). Elections Operations During the State of Emergency [Memorandum]. Retrieved from New Hampshire Public Radio, https://www.nhpr.org/sites/nhpr/files/202004/covid-19_elections_guidance.pdf

pandemic does not fit the disability excuse allowed by state law.⁹

As more voters request mail ballots, states will need to prepare early to secure the materials needed, from printed ballots and envelopes to ballot scanning devices.¹⁰ Staffing will need to increase to ensure that mail ballots and applications for mail ballots are processed in a timely fashion. In the Wisconsin primary election earlier this year, approximately 9,000 voters that requested mail ballots did not receive them before the election.¹¹ Several presidential swing states will need to dramatically improve their mail ballot system to meet the demand in the general election. In Pennsylvania, for example, 1.5 million residents voted by mail during the June 2020 primary, more than 17 times the 84,000 mail ballots cast in the 2016 primary.¹²

Another unique risk to mail voters in 2020 is the possibility that the U.S. Postal Service will collapse before the election. Between its precarious financial position and a decrease in revenue due to the pandemic, the USPS is facing a severe budget shortfall. The postmaster general told Congress that if the agency does not receive further financial aid, it could run out of money by the end of September.¹³ If the USPS is not able to deliver mail ballots for the general election, states will have to rely on private shipping companies to deliver ballots at a higher cost, putting additional pressure on constrained budgets. In this scenario, rural voters would especially be at risk of disenfranchisement due to a lack of mail service. More likely, USPS may cut services back, resulting in longer delivery times and increasing the likelihood that a significant number of ballots would be returned too late to be counted.

Even without cuts to existing mail service, slow delivery times can prevent voters from casting a mail ballot. Over the past five years, USPS has failed to hit its on-time delivery goals, delivering only 81% of three- to five- day first-class mailings on time last year.¹⁴ In May, the Postal Service warned election officials that, “voters should mail their return ballots at least 1 week prior to the due date established by state law,” to ensure that their vote is received in time to be counted.¹⁵ However, many states, such as Georgia, allow voters to request mail ballots within that window. Election officials can work to inform voters of the time it takes a ballot to be returned through the mail, but the Postal Service cannot guarantee specific delivery dates. This is a particular problem in states that require mail ballots to be received by a specific deadline, but it can be mitigated either by adjusting that deadline or through the use of secure ballot drop boxes. This provides voters more flexibility to return mail ballots close to Election Day and has been popular with voters – in 2016, 73% of voters in Colorado, 59% in Oregon, and 65% in Washington returned their ballots to a physical location, rather than through the mail.¹⁶

Approximately one percent of mail ballots were rejected in the 2016 election.¹⁷ In addition to ballots received after the deadline (23% of all rejected mail ballots), mail ballots can be rejected because

⁹Vassar, R. (2020, April 14). [Letter]. Retrieved from Ken Paxton Attorney General of Texas, <https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/4.14.20%20Letter%20to%20Rep.%20Klick.pdf>

¹⁰Holden, D. (2020, April 26). Republicans May Undermine Mail-In Voting Just By Running Down The Clock. *Buzzfeed News*. Retrieved from <https://www.buzzfeednews.com/article/dominicholden/coronavirus-mail-voting-absentee-2020-election>

¹¹The New York Times. (2020, April 7). Wisconsin Primary Recap: Voters Forced to Choose Between Their Health and Their Civic Duty. *The New York Times*. Retrieved from <https://www.nytimes.com/2020/04/07/us/politics/wisconsin-primary-election.html>

¹²Broockvar, K. (2020, June 22). Historic Primary Paves Way for Successful General Election in Pennsylvania. *The Brookings Institution*. Retrieved from <https://www.brookings.edu/blog/fixgov/2020/06/22/historic-primary-paves-way-for-successful-general-election-in-pennsylvania/>

¹³Fandos, N. & Tankersley, J. (2020, April 9). Coronavirus Is Threatening One of the Government's Steadiest Services: The Mail. *The New York Times*. Retrieved from <https://www.nytimes.com/2020/04/09/us/politics/coronavirus-is-threatening-one-of-governments-steadiest-services-the-mail.html>

¹⁴McCarthy R. & Jameel M. (2020, June 15). The Postal Service Is Steadily Getting Worse – Can It Handle a National Mail-In Election? *ProPublica*. Retrieved from <https://www.propublica.org/article/the-postal-service-is-steadily-getting-worse-can-it-handle-a-national-mail-in-election>

¹⁵Marshall, T. (2020, May 29). [Letter]. Retrieved from USPS, <https://about.usps.com/newsroom/national-releases/2020/2020-05-29-marshall-to-election-officials-re-election-mail.pdf>

¹⁶Weiser, W. & Ekeh, H. (2020, April 10). The False Narrative of Vote-by-Mail Fraud. *Brennan Center for Justice*. Retrieved from <https://www.brennancenter.org/our-work/analysis-opinion/false-narrative-vote-mail-fraud>

¹⁷U.S. Election Assistance Commission. (n.d.). *The Election Administration and Voting Survey 2016 Comprehensive Report* (p. 11). Retrieved from https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf

signatures on the ballot are missing or do not match the voter file (20% and 28% of all rejected mail ballots, respectively).¹⁸ Mail ballot rejections especially affect young and minority voters, according to an ACLU report on mail ballots in Florida.¹⁹ Automated signature verification applications are used by some jurisdictions to systematize and streamline the processing of mail ballots, but those systems depend on the quality of a reference signature in the voter file for accurate comparisons.²⁰ Other jurisdictions rely upon a time-consuming, and often unstandardized, manual review of ballot signatures.

The process to resolve an issue with a mail ballot can be complex. If an issue arises when someone goes to a polling place, the voter is notified on the spot, and they have the opportunity to attempt to rectify the issue at that time. Resolving mail ballot issues is more difficult. In most states, after the issue is identified, the state or local jurisdiction notifies the voter. (Some states, such as New Jersey, have not historically notified voters when there is an issue with their ballot or provided a process to correct the issue.)²¹ The voter then has some set period of time to rectify the issue, such as by providing additional identifying information. This process can even take place after Election Day, when voters may assume their civic duty is already complete. In 2020, voters that are new to voting by mail will need to learn how to ensure their ballots have been counted. In nineteen states, the voter is required to be notified when there is an issue with their mail ballot, but in some states (including Maine, Nebraska, New Hampshire, North Carolina, Texas, and Virginia) mail ballots are rejected without any opportunity for voters to address the issue.²²

Public Pressure on Overtime Ballots

An increased number of mail ballots puts additional pressure on the officials who count ballots, even though the absolute number of votes cast doesn't increase. Mail ballots must be processed (checking that they are valid and align with the voter registration record) before they can be counted. In seven swing states, fewer than 10% of the ballots cast in the 2016 election were mail ballots: North Carolina, Pennsylvania, Wisconsin, Georgia, Texas, Nevada, and New Hampshire.²³ Those states are particularly likely to see an increase in mail ballot applications in 2020.

The time needed to count ballots depends upon the equipment and staff available to process them. However, there are two more significant constraints on counting mail ballots. First, most states do not allow mail ballots to be counted, and some do not process mail ballots, prior to Election Day. Even if a ballot is received early, election officials are prohibited from counting the ballots before November 3. For example, Michigan state law does not allow clerks to process or count mail ballots before Election Day, despite Secretary of State Jocelyn Benson's calling on the Michigan Legislature to ease that requirement.²⁴ At the same time, the media and the general public clamor for election results as soon as possible. Media outlets announce projected winners, even while thousands of ballots remain uncounted.²⁵

¹⁸Ibid.

¹⁹Smith, D. (2018, September 19). *Vote-By-Mail Ballots Cast in Florida* (p. 5). ACLU Florida. Retrieved from <https://apps.npr.org/documents/document.html?id=5141841-ACLU-Report-Vote-By-Mail-Ballots>

²⁰Cybersecurity and Infrastructure Security Agency. (n.d.). Signature Verification and Cure Process. Retrieved from U.S. Election Assistance Commission, https://www.eac.gov/sites/default/files/electionofficials/vbm/Signature_Verification_Cure_Process.pdf

²¹Goldstone, C. (2020, June 17). New Jersey Agrees to Discontinue Practice of Rejecting Absentee Ballots Without Notice. *Campaign Legal Center*. Retrieved from <https://campaignlegal.org/update/new-jersey-agrees-discontinue-practice-rejecting-absentee-ballots-without-notice>

²²Cybersecurity and Infrastructure Security Agency. (n.d.). Signature Verification and Cure Process. Retrieved from U.S. Election Assistance Commission, https://www.eac.gov/sites/default/files/electionofficials/vbm/Signature_Verification_Cure_Process.pdf

²³U.S. Election Assistance Commission. (n.d.). *The Election Administration and Voting Survey 2016 Comprehensive Report* (pp. 23-25). Retrieved from https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf

²⁴Dickerson, B. (2020, May 19). You're Wrong Mr. President: Michigan SOS Has Right Prescription for Our Endangered Elections. *Detroit Free Press*. Retrieved from <https://www.freep.com/story/opinion/columnists/brian-dickerson/2020/05/19/michigan-absentee-ballot-application-jocelyn-benson-gop/5217739002/>

²⁵Foley, E.B. (2020, February 4). Think Iowa's Delay Was a Fluke? Get Used to It. *Politico*. Retrieved from <https://www.politico.com/news/magazine/2020/02/04/think-iowa-was-a-fluke-get-used-to-it-110685>

In general, the number of mail ballots that have not been counted by election night is small, relative to the total amount. States that have large amounts of mail voters generally allow for the ballots to be processed as they are received, or have sufficient equipment to avoid significant delays. In other states, the number of remaining uncounted ballots is small enough to ensure confidence in the projected results. However, the outcome of an election can change on the basis of late-counted ballots, such as in the 2018 Arizona Senate election when Democrat Kyrsten Sinema overtook Republican Martha McSally's initial lead after Election Day.²⁶

An influx of 2020 mail ballots may result in a substantial number of votes being counted after Election Day. This year, that has already happened in recent primary elections in Wisconsin and Pennsylvania. The late ballots pose the risk of results changing after presumed winners have been announced – a danger that increases as the number of mail ballots increases.

The risk of confusion due to overtime ballots is further exacerbated by President Trump, who has already sown doubt on ballots counted after Election Day in Florida in 2018. As the election results grew less favorable for the Republican candidates for U.S. senator and governor, he tweeted, “The Florida Election should be called in favor of Rick Scott and Ron DeSantis in that large numbers of new ballots showed up out of nowhere, and many ballots are missing or forged. An honest vote count is no longer possible—ballots massively infected. Must go with Election Night!”²⁷ More recently, the president has attacked the legitimacy of mail voting, tweeting, “Because of MAIL-IN BALLOTS, 2020 will be the most RIGGED Election in our nations history - unless this stupidity is ended. We voted during World War One & World War Two with no problem, but now they are using Covid in order to cheat by using Mail-Ins!”²⁸ If initial Election Day results were favorable to the president's reelection, it's entirely reasonable to expect that his campaign would seek to discredit later results or even halt the counting of ballots before all votes can be tallied. Such assaults on democratic norms would likely be targeted specifically at states with less-established histories of mail voting.

In addition to partisan pressure for fast election results, media competition to call states can also exacerbate this risk. A report analyzing coverage of election results in the 2000 presidential election described that competition as, “a collective drag race on the crowded highway of democracy, recklessly endangering the electoral process.”²⁹ The competition led the networks to call states based on incomplete and inaccurate information. In a telling example, the computer models used by the networks assumed 7.2% of the Florida ballots would be cast absentee, but they actually made up 12% of the total, and were 23.7% more Republican than votes cast on Election Day.³⁰ Predictions of 2020 election results could be similarly skewed without appropriately accounting for the increase in voting by mail. While much has changed in the intervening decades, there is still substantial pressure on the media to produce real time election results, beyond what can be supported by the electoral process.

To mitigate the risks posed by overtime ballots, a public education campaign should inform voters about what to expect on election night and how to ensure their mail ballot has been counted.

²⁶Arkin, J. (2018, November 12). Sinema Wins Arizona Senate Race. *Politico*. Retrieved from <https://www.politico.com/story/2018/11/12/2018-arizona-senate-election-sinema-mcsally-98492827>

²⁷Trump, D. [realDonaldTrump]. (2018, November 12). The Florida Election should be called in favor of Rick Scott and Ron DeSantis in that large numbers of new ballots showed up out of nowhere, and many ballots are missing or forged. An honest vote count is no longer possible—ballots massively infected. Must go with Election Night! [Tweet]. Retrieved from <https://twitter.com/realDonaldTrump/status/1061962869376540672>

²⁸Trump, D. [realDonaldTrump]. (2020, June 22). Because of MAIL-IN BALLOTS, 2020 will be the most RIGGED Election in our nations history - unless this stupidity is ended. We voted during World War One & World War Two with no problem, but now they are using Covid in order to cheat by using Mail-Ins! [Tweet]. Retrieved from <https://twitter.com/realDonaldTrump/status/1275062328971497472>

²⁹Konner, J., Risser, J. & Wattenberg, B. (2001, January 29). *Television's Performance on Election Night 2000: A Report for CNN*. (p. 1). CNN. Retrieved from <https://edition.cnn.com/2001/ALLPOLITICS/stories/02/02/cnn.report/cnn.pdf>

³⁰Konner, J., Risser, J. & Wattenberg, B. (2001, January 29). *Television's Performance on Election Night 2000: A Report for CNN*. (p. 12). CNN. Retrieved from <https://edition.cnn.com/2001/ALLPOLITICS/stories/02/02/cnn.report/cnn.pdf>

Responsible media should avoid rushing to report results on election night and should clearly communicate the number of uncounted votes. States that restrict when mail ballots can be processed should loosen those requirements and ensure sufficient equipment and staffing to allow prompt and efficient counting of votes.

Challenges in the Electoral College

After the general public's votes have been cast and counted, the 2020 presidential election also faces procedural challenges in the Electoral College. Close (or contested) election results, combined with the heightened partisan environment, could produce the opportunity for a small number of individuals to change the course of the election.

One of the more widely known risks of the Electoral College is the possibility that one or more electors will vote contrary to their state's popular vote. Known as faithless electors, this possibility has been limited by constraints placed on electors by state law, often requiring electors to pledge how they will vote or imposing penalties for voting for a different candidate. Two cases challenging the states' ability to enforce such limits were decided in July by the U.S. Supreme Court – *Chiafalo v. Washington* and *Colorado Department of State v. Baca* – upholding the constitutionality of state requirements on electors.³¹

Even with pledges and penalties constraining presidential electors upheld, only 33 states have enacted such policies, and 16 of those do not include an enforcement mechanism that would prevent the vote from counting.³² In other states, electors are still free to vote contrary to the state's popular vote. In the case of a close Electoral College count, campaigning for individual electoral votes could continue well after Election Day. Among the swing states discussed in this report, eight allow the possibility of a "faithless" elector voting for a candidate other than their party's nominee - Florida, Georgia, New Hampshire, Ohio, Pennsylvania, Texas, Virginia, and Wisconsin. There, electors could cast their vote for someone other than their party's candidate, increasing the possibility that no candidate reaches the 270 votes necessary to be elected.

There is also a little-known possible risk caused by a state naming two different slates of electors. This could occur if there was a dispute about the election results within the state government, such that the governor and state legislature believed the results supported by the other were invalid. The details of how such a controversy could occur would depend substantially on state law, discussed further in the swing state profiles in this report. This risk is much higher, though, when control of state government is divided and the political environment is acrimonious. In battleground states such as North Carolina and Wisconsin, recent bitter debates over election procedures could escalate if the presidential election depended on that state's Electoral College votes.

In another scenario, recounts and delays in canvassing could stress the deadline for selecting presidential electors. After Election Day, presidential electors must be named by December 8, 2020 – six days before the Electoral College meets. In a close or controversial election, recounts and legal proceedings could take up all the time between the election and the deadline (and then some). Most states do not explicitly account for such scenarios in state law. In the case of North Carolina, however, state law provides that the General Assembly can step in if the governor has not proclaimed the presidential electors by noon on December 8.³³ If electors still aren't named, and the General Assembly does not appoint electors by noon on the day before the Electoral College meets, the governor can then appoint the electors without being challenged by the courts.

³¹*Chiafalo v. Washington*, No. 19–465 (U.S. July 6, 2020); *Colorado Department of State v. Baca*, No. 19–518 (U.S. July 6, 2020)

³²FairVote. (n.d.). Faithless Elector State Laws. Retrieved July 7, 2020, from https://www.fairvote.org/faithless_elector_state_law

³³N.C. Gen. Stat. Ann. § 163-210s

Additional risks occur if the Electoral College fails to provide a candidate with 270 votes, the number required for a majority. If that occurs, the newly elected House of Representatives would vote by state delegation. We will not know the composition of the 117th Congress until after the election but Republicans currently hold a majority in 26 state delegations and Democrats control 22 state delegations, with Pennsylvania and Michigan effectively tied.³⁴ A few House seats, then, could determine control of state delegations. Those state delegations are free to determine how they vote – not bound by the state’s presidential popular vote or their party affiliation. Particular attention would be drawn to states where the majority party of the state delegation differs from the popular vote results, with members pressured to choose between party loyalty and voter preferences.

The complexities of the Electoral College provide many procedural risks to a fair and representative presidential election. Election results will determine which, if any, of these risks appear in November, but a thorough knowledge of the system and its vulnerabilities is a first step towards preventing or mitigating harm.

³⁴Office of the Clerk U.S. House of Representatives. (n.d.). Member Information. Retrieved April 30, 2020, from http://clerk.house.gov/member_info/

Federal Requirements

The Electoral College

The Electoral College mechanism consists of the selection of electors, a meeting of the electors to cast votes, and the counting of electoral votes by Congress. There are a total of 538 electoral votes, with a majority of 270 needed to elect the president. The number of electoral votes awarded to each state is equal to the number in the state's congressional delegation — with Washington, D.C. awarded three electors.³⁵

Although the Constitution states that “no Senator or Representative, or person holding an office of trust or profit under the United States” shall be appointed as an elector, there are otherwise few federal guidelines on who can serve as an elector. Generally, the political parties in each state choose a slate of potential electors at a state party convention or by vote of the party's committee. Votes cast during the general election then determine which party's slate of electors are appointed to the Electoral College.³⁶

Presidential electors meet to cast their votes for president and vice president on the first Monday after the second Wednesday in December (December 14, 2020 for the 2020 election). All states except Maine and Nebraska use a “winner-take-all” policy where the state uses the overall winner of the state-wide popular vote to decide which political party's nominees will become the electors. In Maine and Nebraska, one elector is appointed based on the winner of each congressional district, and two electors are appointed based on the statewide popular vote.³⁷

A state's electoral votes are recorded on a certificate and counted in a joint session of Congress on January 6 following the election. The current vice president presides over the session and declares a winner, with the president-elect taking office on January 20.

If no candidate wins a majority of electors, it becomes the responsibility of the newly elected House of Representatives to elect the president. Each state's delegation receives one vote, regardless of the number of congressional districts in the state (Washington, D.C. does not get a vote).¹ A candidate must receive the vote of a majority of the states to be elected. Each state delegation determines how it will vote. Because each state gets one vote, the party holding the majority of the House is not necessarily the same as the party controlling the most state delegations. Currently, Republicans have a majority in 26 state delegations and Democrats in 22 state delegations, but that distribution can change as a result of the November election.³⁸

Pennsylvania's House delegation is currently tied, with nine seats held by each of the two major parties. Michigan is also effectively tied, with seven Democrats, 6 Republicans, and one Libertarian. If the House fails to elect a president by Inauguration Day, the vice president-elect (elected by the Senate) serves as acting president until the election is resolved in the House.

³⁵National Archives. (n.d.). What Is the Electoral College? Retrieved April 10, 2020, from <https://www.archives.gov/electoral-college/about>

³⁶National Archives. (n.d.). About the Electors. Retrieved April 10, 2020, from <https://www.archives.gov/electoral-college/electors#selection>

³⁷National Archives. (n.d.). Distribution of Electoral Votes. Retrieved April 10, 2020, from <https://www.archives.gov/electoral-college/allocation->

³⁸National Archives. (n.d.). Frequently Asked Questions. Retrieved April 10, 2020, from <https://www.archives.gov/electoral-college/faq>

³⁹Office of the Clerk U.S. House of Representatives. (n.d.). Member Information. Retrieved April 30, 2020, from http://clerk.house.gov/member_info/


TABLE 1: HOUSE OF REPRESENTATIVES DELEGATIONS

STATE	CONTROLLING PARTY	DEMOCRATS	REPUBLICANS	OTHER
Alabama	Republican	1	6	
Alaska	Republican		1	
Arizona	Democrat	5	4	
Arkansas	Republican		4	
California	Democrat	45	7	1 vacancy
Colorado	Democrat	4	3	
Connecticut	Democrat	5		
Delaware	Democrat	1		
Florida	Republican	13	14	
Georgia	Republican	4	9	1 vacancy
Hawai'i	Democrat	2		
Idaho	Republican		2	
Illinois	Democrat	13	5	
Indiana	Republican	2	7	
Iowa	Democrat	3	1	
Kansas	Republican	1	3	
Kentucky	Republican	1	5	
Louisiana	Republican	1	5	
Maine	Democrat	2		
Maryland	Democrat	7	1	
Massachusetts	Democrat	9		
Michigan	Tied	7	6	1 Libertarian ⁴⁰
Minnesota	Democrat	5	3	
Mississippi	Republican	1	3	
Missouri	Republican	2	6	
Montana	Republican		1	
Nebraska	Republican		3	
Nevada	Democrat	3	1	
New Hampshire	Democrat	2		
New Jersey	Democrat	10	2	
New Mexico	Democrat	3		
New York	Democrat	21	6	1 vacancy
North Carolina	Republican	3	9	1 vacancy
North Dakota	Republican		1	

⁴⁰Rep. Justin Amash is identified as a libertarian, but was formerly a member of the Republican Party. He is currently running for the Libertarian party's nomination for the presidency.

TABLE 1: HOUSE OF REPRESENTATIVES DELEGATIONS (CONTINUED)

STATE	CONTROLLING PARTY	DEMOCRATS	REPUBLICANS	OTHER
Ohio	Republican	4	12	
Oklahoma	Republican	1	4	
Oregon	Democrat	4	1	
Pennsylvania	Tied	9	9	
Rhode Island	Democrat	2		
South Carolina	Republican	2	5	
South Dakota	Republican		1	
Tennessee	Republican	2	7	
Texas	Republican	13	23	1 vacancy
Utah	Republican	1	3	
Vermont	Democrat	1		
Virginia	Democrat	7	4	
Washington	Democrat	7	3	
West Virginia	Republican		3	
Wisconsin	Republican	3	5	
Wyoming	Republican		1	

Among states with a narrow difference in the composition of their current House of Representatives delegations, a few seats are considered toss-ups for the 2020 election.⁴¹ In Iowa, the 1st, 2nd and 3rd Congressional Districts are all toss-ups currently held by Democrats. Similarly, one of Maine's two congressional seats (both currently held by Democrats) is a toss-up, so a Republican win would leave the state delegation tied. Minnesota's current delegation consists of five Democrats and three Republicans, but the Democrat-held 7th Congressional District seat is rated a toss-up. Similarly, Virginia's delegation is split 7-4 in favor of Democrats, but two seats (the 2nd and 7th Congressional Districts) could shift control of the delegation. Pennsylvania, currently tied, has toss-ups in one Republican seat and one Democratic seat.

Ballot Dispute Resolution

Election experts interviewed by MapLight point to another potential danger for the 2020 contest: the possibility of a single state submitting two different certificates of electoral votes. This would be a dangerous scenario without clear guidance on a resolution.⁴²

Two certificates could be filed if a state submitted one certificate from the governor and a separate one from the state's legislature, based on different interpretations of the state's vote, such as unclear initial electoral results. Although the governor is charged with submitting the certificate of the vote by federal law,⁴³ the legislative branch has the power in Article II of the Constitution to direct the manner that presidential electors are appointed.⁴⁴

⁴¹Cook Political Report. (2020, July 2). 2020 House Race Ratings. Retrieved July 3, 2020, from <https://cookpolitical.com/ratings/house-race-ratings>

⁴²Foley, E. (2020, March 3). Personal interview.

⁴³U.S.C. § 6

⁴⁴U.S. Const. art. II

It is not unimaginable that a legislature would vote to appoint a slate of presidential electors distinct from those certified through the electoral process by the governor.

If two certificates were submitted, it would be up to the U.S. House of Representatives and U.S. Senate to determine which certificate to honor. If the two chambers of Congress split their decision, a convoluted federal statute known as the Electoral Count Act suggests the certificate from the governor would be upheld.⁴⁵ Election scholars, however, differ in their interpretation of this statute. One reading of the statute backed by the Congressional Research Service suggested that both certificates shall be thrown out, but it becomes unclear whether a candidate would still need 270 electoral votes to win or if the state's electoral votes would be removed from the Electoral College denominator.⁴⁶ The Electoral Count Act was passed as a stopgap in response to the 1876 presidential election, but it remains dangerously unclear to this day.⁴⁷

“Faithless” Electors

Nothing in the Constitution or federal law requires electors to cast their votes for the winner of their state's popular vote, and the majority of states lack enforceable pledges which require electors to vote in line with a state's popular vote. Thirty-three states require electors to vote for their party's candidate, but 16 of those do not have a mechanism to prevent a rogue vote from being counted.⁴⁸ More information about the requirements imposed on electors by individual states is included in the state profiles section below.

Throughout its history, nearly all members of the Electoral College have voted for their party's candidate, without controversy. In the only exception, the election of 1872, one of the candidates died shortly after Election Day – aside from that election, faithless voters were less than one percent of all Electoral College votes cast.⁴⁹ However, in the case of a close election, the defection of a few electors could prevent any candidate from receiving a majority (270) of the votes. In 2016, a total of seven electors opted not to vote for either Donald Trump or Hilary Clinton. Three of those electors were fined by the state of Washington for their vote, becoming the basis of a Supreme Court case on the issue of faithless electors.

This July, the U.S. Supreme Court unanimously ruled that there is no Constitutional prohibition which stops states from enacting legislation to enforce an elector's pledge to support their party's nominee for president either by cancelling their vote or removing them from service as an elector.⁵⁰ This ruling does not mean that all presidential electors must vote for their party's nominee in the states that lack an enforceable pledge, but it does affirm the constitutionality of the states which already do have such pledges in place.

In the court's decision on *Chiafalo v. Washington*, Justice Elena Kagan concluded that “we now affirm the Washington Supreme Court's judgment that a State may enforce its pledge law against an elector.”⁵¹ Referring to the court's previous decision in *Ray v. Blair* that nothing “prohibits a State from appointing only electors committed to vote for a party's presidential candidate,”⁵² the court expanded

⁴⁵Electoral Count Act of 1887, 3 U.S.C. § 15

⁴⁶Foley, E. (2019, August 31). Preparing for a Disputed Presidential Election: An Exercise in Election Risk Assessment and Management. 51 *Loyola University Chicago Law Journal*, 2019(309), 332; Ohio State Public Law Working Paper No. 501. Retrieved from SSRN, <https://ssrn.com/abstract=3446021>

⁴⁷Foley, E. (2016, March 20). How John Kasich Could End Up Picking the Next President. Politico. Retrieved from <https://www.politico.com/magazine/story/2016/03/the-bizarre-130-year-old-law-that-could-determine-our-next-president-213645>

⁴⁸FairVote. (n.d.). Faithless Elector State Laws. Retrieved July 7, 2020, from https://www.fairvote.org/faithless_elector_state_laws

⁴⁹Liptak, A. (2020, July 6). States May Curb ‘Faithless Electors,’ Supreme Court Rules. New York Times. Retrieved from <https://www.nytimes.com/2020/07/06/us/politics/electoral-college-supreme-court.html>

⁵⁰*Chiafalo v. Washington*, No. 19–465 (U.S. July 6, 2020); *Colorado Department of State v. Baca*, No. 19–518 (U.S. July 6, 2020)

⁵¹*Chiafalo v. Washington*, No. 19–465 (U.S. July 6, 2020). Retrieved from https://www.supremecourt.gov/opinions/19pdf/19-465_i425.pdf (p. 7)

⁵²*Ibid.*, p. 8

on this to include “allowing a State to enforce an elector’s pledge to support his party’s nominee—and the state voter’s choice—for President.”⁵³ Justice Kagan notes that even if the Framers did seek to provide electors the capacity to use independent judgement in their vote, they did not specify such in the written record and therefore the court’s ruling must rest on established practice.

Justice Clarence Thomas wrote a concurring opinion. He disagreed with the idea that Article II, explicitly or implicitly, allows a State to enforce a pledge. Instead, he bases his decision on the fact that powers not granted to the federal government by the Constitution are reserved for the states and the people. Given that, nothing prevents a State from requiring electors to vote for the candidate chosen by the people.

While the ruling does not upend the electoral process, it does not eliminate the possibility of a faithless elector – the decision merely upheld the constitutionality of state laws that punish or remove an elector that does not vote as directed.

Swing State Profiles

Before the Electoral College meets, states control the election process. The following sections of this report provide more information about those state processes in general, and specific details of the applicable policies in the seventeen swing states. Each swing state profile includes information on election officials responsible for elections, party composition of their legislatures, and specific laws and procedures regulating elections. This includes the process for choosing presidential electors and vote by mail procedures, along with any other relevant context.

In general, states have four primary responsibilities after votes have been counted for a presidential election: appoint electors, prepare certificates of ascertainment, hold the meeting of electors, and distribute the certificates of the vote. Although the primary voter-level responsibility for conducting elections resides with county, city or town governments, states are responsible for managing the local government processes and providing them with assistance where required.⁵⁴ State officials also are required to ensure that local officials follow election laws and provide them with documents, materials, and training.⁵⁵

Presidential elections must be held on the Tuesday after the first Monday in November, according to federal law.⁵⁶ Although unofficial results are available on Election Day, ballots continue to be counted for days afterwards. In particular, mail ballots and provisional ballots take additional time to process and count. Votes that are recorded after election night are sometimes referred to as the “overtime count.”

After Election Day, there is a lengthy certification process, called canvassing, to tally votes and provide official election results. The canvass of a presidential election is typically performed at the precinct and county levels before a statewide canvass. If official election results are particularly close, a recount may be automatically triggered or requested by a candidate, with specific criteria and procedures defined by state law.

The governor of each state prepares several copies of Certificates of Ascertainment. The format is not specified by the Constitution or other federal law, but they must be signed by the governor, carry the state seal, list the electors and how many votes they received, and provide the names of all of the

⁵³Ibid., p. 9

⁵⁴National Archives and Records Administration’s Office of the Federal Register. (n.d.). Electoral College Instructions to State Officials. Retrieved May 7, 2020, from <https://www.archives.gov/files/electoral-college/state-officials-instructions.pdf>

⁵⁵National Conference of State Legislatures. (2020, February 3). Election Administration at State and Local Levels. Retrieved May 7, 2020, from <https://www.ncsl.org/research/elections-and-campaigns/election-administration-at-state-and-local-levels.aspx#State>

⁵⁶U.S. Code § 1

candidates and how many votes they received.⁵⁷ Copies of the Certificates of Ascertainment must be sent to the Archivist of the United States, who ensures they are appropriately prepared and forwards them to the House and Senate. Any problems are disclosed to the state and must be resolved by the prescribed deadline.⁵⁸

On the first Monday after the second Wednesday in December, states must hold a Meeting of Electors. Copies of the correct Certificates of Ascertainment must be provided at the meeting. It is at this meeting in which electors will cast the actual votes that elect the president and vice president. The Constitution doesn't require that electors vote according to the results of the canvass, but 33 states⁵⁹ have rules governing elector votes.⁶⁰ In North Carolina, for example, an elector who fails to vote as pledged is fined \$500 and automatically replaced by an alternate elector.⁶¹

Before election results are used to determine presidential electors, states control the methods of voting and how ballots are counted. States that allow early in-person voting have a variety of schedules and deadlines for casting a ballot. The District of Columbia has the shortest window for early voting, beginning seven days preceding an election and ending three days before the election (although it is possible to vote absentee in person up until the day before the election). Minnesota allows early voting from 46 days before an election until 5 p.m. on the day before the election and Ohio allows early voting from 28 days before an election until the Monday before the election.⁶²

All states offer some type of mail voting, with two-thirds allowing any qualified voter to apply for a mail ballot with no excuse. Colorado, Hawaii, Oregon, Washington and Utah conduct all of their elections by mail⁶³ while Minnesota, Nebraska, and Nevada, for example, allow certain smaller jurisdictions to conduct their elections entirely by mail. In Minnesota, any town with fewer than 400 voters can conduct an election by mail with "no polling place other than the office of the auditor or clerk or other locations designated by the auditor or clerk."⁶⁴ Nevada allows precincts with fewer than 20 voters to conduct all-mail elections and to combine two or more such precincts into "absent ballot precincts."⁶⁵ In Nebraska, counties may choose to conduct elections by mail if they have fewer than 10,000 inhabitants.⁶⁶

⁵⁷National Archives and Records Administration's Office of the Federal Register. (n.d.). Electoral College Instructions to State Officials. Retrieved May 7, 2020, from <https://www.archives.gov/files/electoral-college/state-officials-instructions.pdf>

⁵⁸Ibid.

⁵⁹FairVote. (n.d.). Faithless Elector State Laws. Retrieved July 2, 2020, from https://www.fairvote.org/faithless_elector_state_laws

⁶⁰National Archives and Records Administration's Office of the Federal Register. (n.d.). Electoral College Instructions to State Officials. Retrieved May 7, 2020, from <https://www.archives.gov/files/electoral-college/state-officials-instructions.pdf>

⁶¹National Conference of State Legislatures. (2020, July 6). The Electoral College. Retrieved July 6, 2020, from <https://www.ncsl.org/research/elections-and-campaigns/the-electoral-college.aspx>

⁶²National Conference of State Legislatures. (2019, August 2). State Laws Governing Early Voting. Retrieved May 7, 2020, from <https://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx>

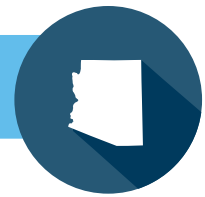
⁶³National Conference of State Legislatures. (2020, June 22). Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options. Retrieved July 6, 2020, from <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>

⁶⁴Minn. Stat. Ann. § 204B.45

⁶⁵Nev. Rev. Stat. § 293.213

⁶⁶Neb. Rev. Stat. § 32-960

ARIZONA



Electoral College Votes: 11

Cook Report Rating: Toss up

Governor: Doug Ducey, Republican

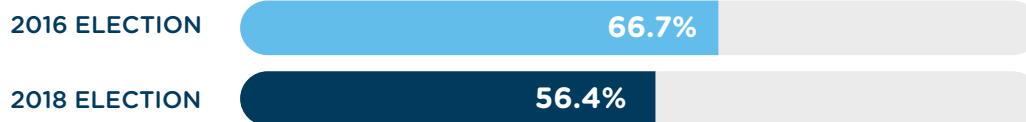
Secretary of State: Katie Hobbs, Democrat

House of Representatives Delegation: 5 Democrats, 4 Republicans

State Senate: 13 Democrats, 17 Republicans

State House: 29 Democrats, 31 Republicans

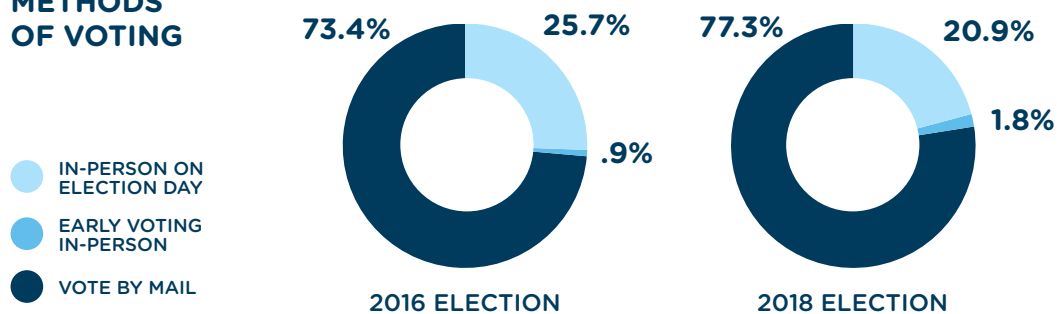
VOTER TURNOUT⁶⁷



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state oversees the conduct of elections in Arizona, including maintaining voter registration⁶⁸, certifying local election officials⁶⁹, and canvassing the statewide election results in the presence of the governor and attorney general⁷⁰. The secretary of state is also responsible for transmitting certificates of election to each individual duly elected to the office of presidential elector⁷¹.

2020 Primaries

The presidential preference primary took place on March 17, 2020. Due to the closure of several polling

⁶⁷Voter turnout is calculated based as the number of ballots received divided by the number of registered voters as reported in the Election Administration and Voting Survey

⁶⁸Ariz. Rev. Stat. § 16-142

⁶⁹Ariz. Rev. Stat. § 16-407

⁷⁰Ariz. Rev. Stat. § 16-648

⁷¹Ariz. Rev. Stat. § 16-650

locations due to the COVID-19 pandemic, Maricopa County's recorder announced that the county would mail ballots to all voters. An Arizona state judge blocked this decision and Secretary of State Katie Hobbs chastised the recorder saying "You do not have legal authority at this stage to mail a ballot to all voters who have not requested one."⁷² However, Hobbs has said she will be sending mail ballot applications to all voters before the upcoming August 4 primary for other elected offices.⁷³

Vote by Mail

Any Arizona voter may vote by mail.⁷⁴ However, in order to do so, a voter must submit a written or verbal application to the county recorder before 5 p.m. on the eleventh day before an election. Applications must include information necessary to tie a voter to their voter registration: name, address, signature, birthdate, and state or country of birth.⁷⁵ Voters may also request to be added to a list of voters to permanently receive a mail ballot.⁷⁶

After completing their mail ballot, a voter themselves, a family member, household member, or caregiver may return the ballot by mail or in person to the county recorder or other election official.⁷⁷ Only ballots received by 7 p.m. on Election Day will be counted.⁷⁸

Upon receiving a mail ballot, the county recorder will compare the signature on the envelope with the signature on the voter's registration record.⁷⁹ If the signatures are found to be inconsistent, the county recorder will make a reasonable effort to contact the voter and either allow the voter to correct their signature or confirm the inconsistent signature. Signatures may be corrected up until the fifth business day after the general election.⁸⁰

If a voter's signature is missing there is no requirement to contact or provide a cure period to correct such ballots. A lawsuit filed by the Democratic Party is challenging this law, seeking the same five-day period for ballots without signatures as is provided for ballots which have mismatching signatures.⁸¹

The county recorder will deliver all mail ballots received to the early elections board for processing after 7 p.m. on Election Day.⁸² The early election board will also check the voter's affidavit. If it is found to be insufficient, the ballot will not be counted. The affidavit consists of the voter's county of residence and signature. The early elections board will then proceed to tabulate the votes cast on accepted ballots.⁸³

State Timeline Requirements

When all votes are counted, the tally of votes will be signed by all the members of the board⁸⁴ and delivered to the officer in charge of the election at the county level.⁸⁵

The board of supervisors will meet to canvass the election returns between six and twenty days after

⁷²Ross, J. (2020, March 13). Arizona Judge Halts Ballot Mailings Amid Virus Outbreak. *Courthouse News*. Retrieved from <https://www.courthousenews.com/arizona-judge-halts-ballot-mailings-amid-virus-outbreak/>

⁷³Oxford, A. (2020, May 22). Arizona Counties Plan to Send Early Ballot Applications to Voters, A Move That Angered Trump In Other States. *AZ Central*. Retrieved from <https://www.azcentral.com/story/news/politics/elections/2020/05/22/arizona-counties-plan-send-vote-mail-applications-move-has-angered-trump/5237524002/>

⁷⁴Ariz. Rev. Stat. § 16-541

⁷⁵Ariz. Rev. Stat. § 16-542

⁷⁶Ariz. Rev. Stat. § 16-544

⁷⁷Ariz. Rev. Stat. § 16-1005

⁷⁸Ariz. Rev. Stat. § 16-548

⁷⁹Ariz. Rev. Stat. § 16-550

⁸⁰Ibid.

⁸¹Araiza, A.E. (2020, June 12). Democrats challenge Arizona law that rejects unsigned mail-in ballots. *Arizona Daily Star*. Retrieved from https://tucson.com/news/arizona_news/democrats-challenge-arizona-law-that-rejects-unsigned-mail-in-ballots/article_e7677afa-c650-5a84-97cc-5eff995ffa98.html

⁸²Ariz. Rev. Stat. § 16-551

⁸³Ariz. Rev. Stat. § 16-552

⁸⁴Ariz. Rev. Stat. § 16-614

⁸⁵Ariz. Rev. Stat. § 16-615

the election. If the returns of any polling place are missing, the canvass will be postponed from day to day until all the returns are received or until there have been six postponements.⁸⁶ Once completed, the board of supervisors will deliver a copy of the official canvass to the secretary of state.⁸⁷

On the fourth Monday after the election (November 30, 2020), the secretary of state, in the presence of the governor and attorney general, will canvass the election. If the official canvass of any county has not been received by the secretary of state by the fourth Monday after the election, the canvass will be postponed from day to day, but not to exceed 30 days after the election (December 3, 2020).⁸⁸ The secretary of state, unless ordered to not do so by the courts, will deliver to each duly elected presidential elector a certificate of election.⁸⁹

Presidential Elector Requirements

Presidential electors will cast their vote for the candidate who received the greatest number of votes based upon the certified returns. If a presidential elector knowingly refuses to cast their vote for this candidate, they are no longer eligible to hold office and their office is deemed vacant. The chair of their political party will appoint a new person qualified to serve as presidential elector.⁹⁰

Emergency Powers

The County Board of Supervisors may authorize the County Recorder or other election officer to establish and operate emergency voting centers. The Board shall specify in the resolution the location of the emergency voting centers and the hours of operation.

If an elections officer fails to establish an emergency voting center, the Justice of the Peace of the precinct shall designate the polling place and post public notice two days before the election in at least three locations in the precinct. If there is no such Justice, or if the Justice fails to do so, the election board of the precinct must designate and give notice of the place for holding the election.⁹¹

The secretary of state may approve emergency upgrades or modifications to a voting system or device that is certified for use if the governing body establishes in an open meeting that the election cannot be conducted without the emergency certification. Any emergency certification shall be limited to no more than six months.⁹²

During a state of emergency, the governor has complete authority over all agencies of state government.⁹³ The governor is authorized \$200,000 in emergency funds to allocate to a declared event.⁹⁴

Additional Information

In January 2020, the 9th U.S. Circuit Court of Appeals ruled⁹⁵ that Arizona's "ballot harvesting" law, which barred voters from delivering the mail ballots of neighbors and friends, along with the out-of-precinct policy⁹⁶, which called for election officials to reject provisional ballots which are cast by voters that were not at their designated precinct, were unconstitutional. The court found that the law violated the Voting Rights Act and disproportionately affected Native American, Black, and Latino

⁸⁶ Ariz. Rev. Stat. § 16-642

⁸⁷ Ariz. Rev. Stat. § 16-646

⁸⁸ Ariz. Rev. Stat. § 16-648

⁸⁹ Ariz. Rev. Stat. § 16-650

⁹⁰ Ariz. Rev. Stat. § 16-212

⁹¹ Ariz. Rev. Stat. § 16-411

⁹² Ariz. Rev. Stat. § 16-442

⁹³ Ariz. Rev. Stat. § 26-303

⁹⁴ Ariz. Rev. Stat. § 35-192

⁹⁵ Oxford, A. (2020, January 27). Federal Court Says Arizona 'Ballot Harvesting' Law Discriminates Against Minority Voters. AZ Central. Retrieved from <https://www.azcentral.com/story/news/politics/elections/2020/01/27/arizona-ballot-harvesting-law-discriminates-minority-voters-ninth-circuit/4589610002/>

⁹⁶ Mauroni, A. (2020, April 29). Arizona AG Asks Supreme Court to Validate Voting Laws as Not Racially Motivated. *Jurist*. Retrieved from <https://www.jurist.org/news/2020/04/arizona-ag-asks-supreme-court-to-validate-voting-laws-as-not-racially-motivated/>

communities. Arizona Attorney General Mark Brnovich has asked the U.S. Supreme Court to weigh in on the decision, stating “if you accept the logic of the 9th Circuit, it would jeopardize every voting integrity law in almost every state.”⁹⁷

Following the March primary, Secretary of State Katie Hobbs came out in support of an all-mail general election. The legislature has not responded to Hobbs’ request for such legislation and Senate President Karen Fann, who votes by mail⁹⁸, said, “My Republican caucus members are not in favor of that. This is more of a partisan issue.”⁹⁹ State Senator Michelle Ugenti-Rita, who attempted to ban the return of absentee ballots in-person¹⁰⁰, has vowed to prevent an all-mail election and Rep. Travis Grantham and Rep. Shawna Bolick, who vote by mail¹⁰¹, have both argued that an all-mail election will lead to more opportunities for voter fraud. With strong opposition against the move within the state legislature, it is unlikely any legislation will be passed.

A lawsuit filed in Arizona argued that the U.S. Supreme Court’s decision to allow mail ballots postmarked on Election Day to be counted in Wisconsin should also apply in Arizona. On June 18 a deal was reached and the lawsuit dropped. Under the agreement Secretary of State Hobbs will seek to do further voter education around returning mail ballots and look for ways to “expand voting opportunities in Hispanic and Latino, Native American, and rural communities.”¹⁰²

⁹⁷Fischer, H. (2020, April 27). Brnovich Takes Ballot Harvesting Case to U.S. Supreme Court. *Arizona Capitol Times*. Retrieved from <https://azcapitoltimes.com/news/2020/04/27/brnovich-takes-ballot-harvesting-case-to-u-s-supreme-court/>

⁹⁸Rosenblatt, D. (2020, April 16). Republicans Rail Against All-Mail Elections, But They Vote by Mail. *Arizona Capitol Times*. Retrieved from <https://azcapitoltimes.com/news/2020/04/16/republicans-rail-against-all-mail-elections-but-they-vote-by-mail/>

⁹⁹Rosenblatt, D. & Shumway, J. (2020, April 10). All Mail Election Debate Gets New Life, Spurred by Virus. *Arizona Capitol Times*. Retrieved by <https://azcapitoltimes.com/news/2020/04/10/all-mail-election-debate-gets-new-life-spurred-by-virus/>

¹⁰⁰Gardiner, D. (2019, February 6). Arizona Bill to Ban Dropping Off Early Ballots at Polls Is Near Death in Senate. *AZ Central*. Retrieved from <https://www.azcentral.com/story/news/politics/legislature/2019/02/06/arizona-bill-ban-dropping-off-early-ballots-polls-likely-fail-sen-michelle-ugenti-rita/2795984002/>

¹⁰¹Rosenblatt, D. (2020, April 16). Republicans Rail Against All-Mail Elections, But They Vote by Mail. *Arizona Capitol Times*. Retrieved from <https://azcapitoltimes.com/news/2020/04/16/republicans-rail-against-all-mail-elections-but-they-vote-by-mail/>

¹⁰²Fischer, H. (2020, June 21). Groups Settle Lawsuit Over Ballot Counting. *Arizona Capitol Times*. Retrieved from <https://azcapitoltimes.com/news/2020/06/21/groups-settle-lawsuit-over-ballot-counting/>

COLORADO



Electoral College Votes: 9

Cook Report Rating: Likely Democrat

Governor: Jared Polis, Democrat

Secretary of State: Jena Griswold, Democrat

House of Representatives Delegation: 4 Democrats, 3 Republicans

State Senate: 19 Democrats, 16 Republicans

State House: 41 Democrats, 24 Republicans

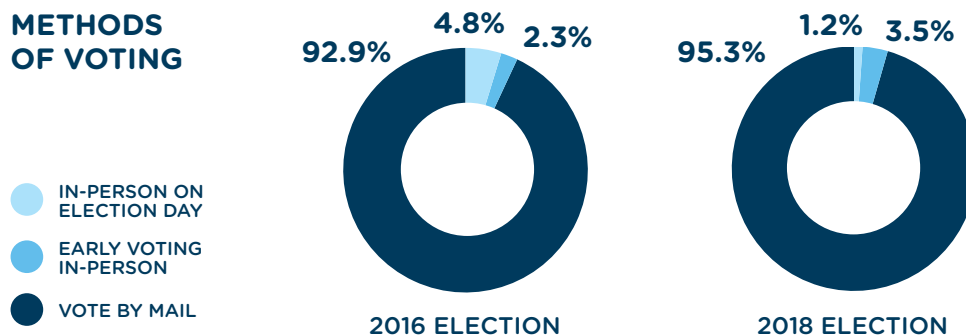
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state, with advice from election officials, oversees the conduct of elections in Colorado, including prescribing the materials utilized, procedures followed,¹⁰³ canvassing the statewide election returns,¹⁰⁴ and transmitting a certificate of election to each individual duly elected to the office of presidential elector.¹⁰⁵

2020 Primaries

The Colorado presidential preference primary took place on Super Tuesday, March 3, 2020. More residents participated in the 2020 presidential primary than have done so in any primary in the state's history.¹⁰⁶

¹⁰³Colo. Rev. Stat. § 1-7.5-106

¹⁰⁴Colo. Rev. Stat. § 1-10-105

¹⁰⁵Colo. Rev. Stat. § 1-11-105

¹⁰⁶Monaghan, S. (2020, May 1). No, Fraud Isn't Rampant in Colorado's Mail-In Voting System. 5280. Retrieved from <https://www.5280.com/2020/05/no-fraud-isnt-rampant-in-colorados-mail-in-voting-system/>

The state primary for other elected offices took place on June 30, with record-setting turnout for a non-presidential primary. Approximately 45% of active voters cast their ballots for the primary election, easily surpassing the 2018 primary in which turnout was 38%.¹⁰⁷

Vote by Mail

Any Colorado voter may vote by mail, and in fact, Colorado elections are conducted nearly exclusively by mail.¹⁰⁸ Therefore, no application needs to be submitted to receive a mail ballot; all active registered voters are automatically sent one.¹⁰⁹

After filling out their ballot, a voter may give their ballot to any person or an agent of the county clerk for delivery of said ballot, either by depositing it at the county clerk's office or at any voter service and polling centers, drop-off location, or by postal delivery. However, if they give it to someone who is not an agent of the county clerk, that person cannot deliver more than 10 ballots in any single election. In order to be counted, mail ballots must be received by the county clerk by 7 p.m. on Election Day.¹¹⁰

Upon receiving a ballot, an election judge will compare the signature on the self-affirmation on the envelope of a mail ballot with the signature of the voter in the voter registration system. Election judges may use a signature verification device to compare the signatures. If the self-affirmation is found to be invalid by the election judge, two other election judges (of two different political parties) will compare the signatures. If these two secondary judges agree that the signatures do not match or if a signature is missing, the county clerk and recorder will, within 3 days after the deficiency has been confirmed and no later than 2 days after the election, send the voter a letter explaining the issue and provide a form for the voter to confirm that the voter returned the ballot in question. This confirmation form, along with a copy of the voter's identification must be returned to the county clerk and recorder within 8 days following the election. If not returned by the eighth day, the mail ballot will be rejected.¹¹¹

During the 15 days preceding an election, the county clerk and recorder will deliver all the mail ballot envelopes received to the counting place judges. The clerk and recorder will continue delivering ballots received through Election Day.¹¹² The mail ballots may be counted during the 15 days before Election Day.¹¹³

State Timeline Requirements

After all votes have been counted, either at the precincts or the electronic balloting counting centers, the election judges will list the name of each candidate and the votes they received¹¹⁴ and deliver all materials to the secretary of the county canvass board.¹¹⁵ Another plan for counting votes may be submitted by an election official and can only be enacted if approved by the secretary of state at least 45 days before the election.¹¹⁶

No later than 22 days after the election (November 25, 2020), the canvass board will certify the abstract of votes cast¹¹⁷ and transmit their county results to the secretary of state. These results must be signed

¹⁰⁷Miller, B. (2020, July 1). Colorado voters set state primary record for turnout, with more than 99% using mail ballot. The Denver Channel. Retrieved from <https://www.thedenverchannel.com/news/politics/colorado-voters-set-state-primary-record-for-turnout-with-more-than-99-using-mail-ballot>

¹⁰⁸Colo. Rev. Stat. § 1-7.5-104

¹⁰⁹Colo. Rev. Stat. § 1-7.5-107

¹¹⁰Ibid.

¹¹¹Colo. Rev. Stat. § 1-7.5-107.3

¹¹²Colo. Rev. Stat. § 1-7.5-203

¹¹³Colo. Rev. Stat. § 1-7.5-107.5

¹¹⁴Colo. Rev. Stat. § 1-7-601

¹¹⁵Colo. Rev. Stat. § 1-7-701

¹¹⁶Colo. Rev. Stat. § 1-7-603

¹¹⁷Colo. Rev. Stat. § 1-10-102

by a majority of the canvass board. If the board is unable to certify the abstract for any reason, the board will transmit the noncertified abstract to the secretary of state along with a report detailing the reason for non-certification.¹¹⁸ Either the certified or noncertified abstract must be sent to the secretary of state by the 22nd day after the election.¹¹⁹

No later than 27 days after the election (November 30, 2020), the secretary of state will compile all returns from the counties and order recounts, if any are required,¹²⁰ and certify the statewide election results. After election results have been certified, the secretary of state will make and transmit a certificate of election to each individual elected to serve as a presidential elector.¹²¹ If for any reason a verifiable determination of the true count cannot be made, the secretary of state will not send out any certificates of election and will issue a report detailing the nature of such an irregularity.¹²²

Presidential Elector Requirements

Each elector will be given notice as to the meeting time and place by the secretary of state at least ten days before the meeting. Presidential electors will meet at noon on the day of the presidential elector meeting. If there is a vacancy among the presidential electors, the electors present vote for an individual to fill it. Once all vacancies are filled, each elector votes for the presidential candidate who received the highest number of votes in the state.¹²³

In 2016, presidential elector Micheal Baca voted for John Kasich rather than Hilary Clinton, who won the state's popular vote. He was replaced with an alternate elector who voted for Clinton. Baca and two other electors filed suit and their case is currently pending in the U.S. Supreme Court. For more information see the discussion of faithless electors on page 15.

Emergency Powers

If, due to (1) an extreme weather event, (2) natural disaster, (3) act of God, (4) human made incident, or disruption to, or threat of disruption to critical infrastructure, a county government or other entity closes all day, closes early, or delays the opening of a building where a voter service and polling center is located, then the county clerk may close for the day, close early, or delay the opening of any voter service and polling center located in those buildings affected.¹²⁴ If the voter service and polling center is closed, the secretary of state must issue an emergency ballot to any voter who requests it.¹²⁵

The governor may issue executive orders, proclamations, and regulations and amend or rescind them. Issuances have the force and effect of law. The governor may also suspend the provisions of any state agency that would prevent necessary action in coping with the emergency.¹²⁶

Additional Information

Colorado is one of five states to conduct all-mail elections, meaning all active registered voters receive a ballot in the mail without having to request one.¹²⁷ The Create the Voter Access and Modernized Elections Act was signed into law in 2013, which required every registered voter to be provided a mail ballot, though the option of voting in person remains.¹²⁸ The state consistently ranks among the highest in voter turnout.¹²⁹

¹¹⁸Colo. Rev. Stat. § 1-10-101.5

¹¹⁹Colo. Rev. Stat. § 1-10-103

¹²⁰Ibid.

¹²¹Colo. Rev. Stat. § 1-11-105

¹²²Colo. Rev. Stat. § 1-10-105

¹²³Colo. Rev. Stat. § 1-4-304

¹²⁴Colo. Rev. Stat. § 7.17.1

¹²⁵Colo. Rev. Stat. § 7.17.5

¹²⁶Colo. Rev. Stat. § 24-33.5-704

¹²⁷Colo. Rev. Stat. § 1-7.5-104

¹²⁸Create The Voter Access & Modernized Elections Act. HB 13-1303 (2013). Retrieved from <https://openstates.org/co/bills/2013A/HB13-1303/>

¹²⁹United States Election Project. (n.d.). Voter Turnout. Retrieved from <http://www.electproject.org/home/voter-turnout/voter-turnout-data>

FLORIDA



Electoral College Votes: 29

Cook Report Rating: Toss Up

Governor: Ron DeSantis, Republican

Secretary of State: Laurel Lee, Republican

House of Representatives Delegation: 13 Democrats, 14 Republicans

State Senate: 17 Democrats, 23 Republicans

State House: 46 Democrats, 73 Republicans, 1 vacancy

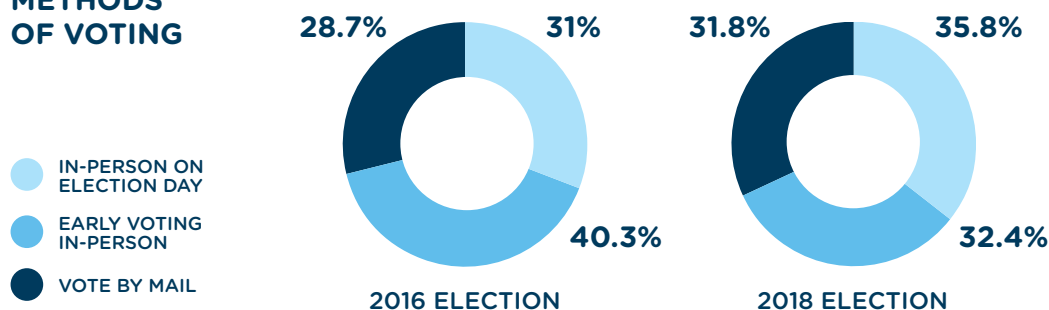
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

In Florida, the secretary of state is appointed by the governor and subject of confirmation by the Senate, rather than being elected by the state.¹³⁰ Laurel Lee was appointed in 2019. The secretary of state is the chief election officer and oversees the conduct of elections in Florida, including maintaining uniform implementation of election law, providing technical assistance to election supervisors, maintaining voter statewide voter registration, and providing formal signature matching training.¹³¹

The secretary of state's office is also responsible for receiving election returns from the county canvassing boards,¹³² but the statewide canvass is performed by the Elections Canvassing Commission, not the secretary of state. The Elections Canvassing Commission consists of the governor and

¹³⁰Fla. Stat. § 20.10

¹³¹Fla. Stat. § 97.012

¹³²Fla. Stat. § 102.112

two members of the cabinet selected by the governor.¹³³ The Elections Canvassing Commission is additionally the body which creates and signs the election certificates,¹³⁴ which are then distributed to the presidential electors by the secretary of state's office.¹³⁵

2020 Primaries

The presidential preference primary took place on Tuesday, March 17, 2020. Election officials opened several emergency polling locations after others were closed due to the COVID-19 emergency and more than 300 poll workers backed out. The primary election for other elected offices is set to take place on August 18.

In the March primary, mail ballots were the most common method of voting, surpassing both in-person and early voting. According to a study by the Stanford-MIT Healthy Elections Project, more than 18,000 mail ballots in the March primary were not counted – approximately 1.3% of all mail ballots cast.¹³⁶ In interviews, election officials said that most of those uncounted ballots were rejected because they arrived after the 7 p.m. Election Day deadline.

In early April, Tammy Jones, president of the Florida Supervisors of Elections, asked Governor DeSantis to expand early voting to 22 days rather than 14, and allow early voting sites to be open on Election Day to expand number of polling locations. She stopped short of pushing for an all-mail election, stating that she believes Florida is not in a position to do so at this time.¹³⁷ The governor's response fell short of the supervisors' request, allowing election officials to begin processing mail ballots more than 22 days before the election, the deadline under existing law, without allowing additional early voting. Craig Latimer, supervisor of elections in Hillsborough County, was dismayed by the response and its tardiness, saying, "It comes at a point when many of the state's supervisors of elections have already solidified their plans for the August primary election."¹³⁸

Many counties, including Seminole, Miami-Dade, Palm Beach, Broward, Sarasota, and Lee have sent mail ballot applications to all registered voter before the August primary.¹³⁹ Other counties have sent notices of how to request a mail ballot or reminders that they have previously voted by mail.¹⁴⁰

Vote by Mail

Any Florida voter may vote by mail. However, in order to do so voters must request a mail ballot in person or by written request before 5 p.m. on the tenth day before an election. Requests must include the voter's name, address, signature, date of birth, and driver's license number. If the person submitting the request is not the voter themselves the requester must also include their name, address, signature, and relationship to the voter. One request form enables a voter to receive a mail ballot for all elections taking place during the calendar year.¹⁴¹

After completing their mail ballot, a voters must mail, deliver, or have delivered by another individual

¹³³Fla. Stat. § 102.111

¹³⁴Fla. Stat. § 102.121

¹³⁵Fla. Stat. § 102.155

¹³⁶Ross, A. (2020, June 30). More Than 18,000 Mail Ballots Not Counted in Florida's March Presidential Primary. *Tampa Bay Times*. Retrieved from <https://www.tampabay.com/news/health/2020/06/29/more-than-18000-mail-ballots-not-counted-in-floridas-march-presidential-preference-primary/>

¹³⁷Haughey, J. (2020, April 10). Florida Elections Supervisors Seek 'Flexibility,' Reject Total Mail-In Election Scenario. *Fernandina Observer*. Retrieved from <https://fernandinaobserver.com/featured-story/florida-elections-supervisors-seek-flexibility-reject-total-mail-in-election-scenario/>

¹³⁸Moline, M. (2020, June 18). DeSantis Pushes Voters to Go to the Polls; Concedes Little to Elections Supervisors' Ambitions for Vote by Mail This Fall. *Florida Phoenix*. Retrieved from <https://www.floridaphoenix.com/2020/06/18/desantis-pushes-voters-to-go-to-the-polls-concedes-little-to-elections-supervisors-ambitions-for-vote-by-mail-this-fall/>

¹³⁹Shepard, W. (2020, April 28). South Florida Elections Supervisors Move to Increase Mail-In Voting. *NBC Miami*. Retrieved from <https://www.nbcmiami.com/news/local/south-florida-elections-supervisors-move-to-increase-mail-in-voting/2225970/>

¹⁴⁰Lemongello, S. (2020, July 4). Vote by Mail Has a Long History in Florida, but in 2020 It's a Coronavirus Salvation and Battleground. *Orlando Sentinel*. Retrieved from <https://www.orlandosentinel.com/politics/os-ne-mail-in-ballots-pace-20200703-sj4pkrlrvueuj3eadoo5g5i5u-story.html>

¹⁴¹Fla. Stat. § 101.62

their completed mail ballot to the office of the supervisor of elections or a secure drop box at early voting locations.¹⁴² In order to be counted, ballots must be received by 7 p.m. on Election Day.¹⁴³

Upon receiving a mail ballot, the supervisor of elections will compare the voter's signature on the mail ballot with the signature on record in the registration books.¹⁴⁴ After which, the supervisor will deliver the envelopes to the county canvassing board.¹⁴⁵

The county canvassing board may begin canvassing mail ballots between 7 a.m. on the 22nd day before the election and noon on the day following the election. The canvassing board, if the supervisor has not already done so, will compare the voter's signature on the voter's certificate with the signature of the voter in the registration books or the precinct register. Any canvassing board finding that a voter's signatures do not match must be done so by majority vote and beyond a reasonable doubt. If a signature is missing or doesn't match the voter's registration, the supervisor will attempt to contact the voter by e-mail, text, or telephone, directing the voter to the cure affidavit online. If the deficiency is identified before the day before the election, the supervisor will also mail the voter a letter directing them to the cure affidavit available online. The voter has until 5 p.m. on the second day after the election to submit an affidavit along with a copy of identification to cure their ballot. Only mail ballots in which the signatures match, or if through the curing process, a copy of valid identification was received, will be counted.¹⁴⁶

In 2018, the ACLU published a report on mail ballots cast during the 2012 and 2016 Florida elections which found a lack of uniformity in the vote by mail process and mail ballot curing process.¹⁴⁷ The rejection rate of mail ballots was significantly higher among younger voters as well as racial minority voters. In particular, in 2016, mail ballots cast by Black, Hispanic, and other racial minorities were more than two-and-a-half times as likely to be rejected as mail ballots cast by white voters.

Two laws passed since then rectified some of the issues highlighted in the report. In 2017, HB 105 allowed voters whose signatures did not match their signature on file to cure their ballot, whereas previously only ballots which lacked signatures could be cured.¹⁴⁸ Then, in 2019, SB 7066 enacted specific steps the supervisor must take to inform a voter that their ballot has been rejected and changed the cure affidavit deadline from 5 p.m. on the day before the election to 5 p.m. on the second day after the election.¹⁴⁹

State Timeline Requirements

Upon completion of the vote tally in each precinct, the inspectors and clerk will draw up and sign a certificate of the results. This certificate will be delivered immediately to the county supervisor.¹⁵⁰

The county canvassing board will file the county returns with the State Department immediately after certifying the election results.¹⁵¹ These returns must be filed by noon on the 12th day following the election. If the results are not received by this time, such returns shall be ignored and the results on file at that time shall be certified by the department. If the results are not received due to an emergency, the Elections Canvassing Commission will determine the deadline by which the returns must be

¹⁴²Fla. Stat. § 101.65

¹⁴³Fla. Stat. § 101.67

¹⁴⁴Fla. Stat. § 101.68

¹⁴⁵Fla. Stat. § 101.67

¹⁴⁶Fla. Stat. § 101.68

¹⁴⁷Smith, D. (2018, September 19). Vote-By-Mail Ballots Cast in Florida. ACLU Florida. Retrieved from <https://apps.npr.org/documents/document.html?id=5141841-ACLUF-Report-Vote-By-Mail-Ballots>

¹⁴⁸HB 105 (Fla. 2017). Retrieved from <https://www.flsenate.gov/Session/Bill/2017/105/>

¹⁴⁹SB 7066 (Fla. 2019). Election administration. Retrieved from <https://www.flsenate.gov/Session/Bill/2019/7066>

¹⁵⁰Fla. Stat. § 102.071

¹⁵¹Fla. Stat. § 102.151

received.¹⁵² An emergency is defined as any occurrence, or threat thereof, whether accidental, natural, or caused by human beings, in war or in peace, that results or may result in substantial injury or harm to the population or substantial damage to or loss of property to the extent it will prohibit an election officer's ability to conduct a safe and orderly election.¹⁵³

The Election Canvassing Commission will meet at 9 a.m. on the 14th day after the election to certify the statewide election returns.¹⁵⁴ If any returns appear irregular or false and the Commission is unable to determine the true vote, the commission will not include the returns in its determination, canvass, and declaration. The Elections Commission does not have the authority to look beyond the county returns.¹⁵⁵ The Elections Canvassing Commission will make and sign the certificates of election.¹⁵⁶ The state department will send out the signed certificates to the elected presidential electors.¹⁵⁷

If a member of the county canvassing board determines (within 5 days after the certification by the Elections Canvassing Commission) that a typographical error occurred in the official returns of their county, they must certify corrected returns to the Department of State within 24 hours, and the Elections Canvassing Commission must correct and recertify the returns as soon as possible.¹⁵⁸

Presidential Elector Requirements

Each elector must take an oath that they will vote for the candidate of the party which nominated them, however, no statute enforces this oath and elector's votes are counted as cast. If death, incapacity, or another situation makes a presidential elector unable to serve, the governor will appoint a person (recommended by the respective political party's state executive committee) to fill the vacancy.¹⁵⁹

If, on the day of the presidential elector meeting, there are any vacancies among the electors, the electors present will elect a replacement elector by ballot.¹⁶⁰

Emergency Powers

The Election Canvassing Commission may adopt rules that allow overseas citizens an opportunity to vote in an emergency.¹⁶¹ The supervisor of elections shall designate a new polling place which shall be accessible to the public on Election Day and will create a notice to be posted at the old polling place advising the electors of the location of the new polling place.¹⁶²

The governor may, upon issuance of an executive order declaring a state of emergency or impending emergency, suspend or delay any election. The governor, upon consultation with the secretary of state, shall reschedule any election suspended or delayed due to an emergency.

The Division of Elections of the Department of State will adopt an elections emergency contingency plan, which will contain goals and policies that give specific direction to state and local elections officials when an election has been suspended or delayed due to an emergency.¹⁶³ The supervisor of elections may establish an additional polling place for the electors of that precinct.¹⁶⁴

¹⁵²Fla. Stat. § 102.112

¹⁵³Fla. Stat. § 101.732

¹⁵⁴Fla. Stat. § 102.111

¹⁵⁵Fla. Stat. § 102.131

¹⁵⁶Fla. Stat. § 102.121

¹⁵⁷Fla. Stat. § 102.155

¹⁵⁸Fla. Stat. § 102.111

¹⁵⁹Fla. Stat. § 103.021

¹⁶⁰Fla. Stat. § 103.061

¹⁶¹Fla. Stat. § 101.698

¹⁶²Fla. Stat. § 101.71

¹⁶³Fla. Stat. § 101.733

¹⁶⁴Fla. Stat. § 101.734

Additional Information

The tumultuous 2018 midterm election in Florida, which involved three statewide recounts, saw more than 10,000 people have their mail ballots rejected for mismatched signatures or other forms of voter error.¹⁶⁵ Some of the rejections were the result of voters having only until the second day after the election to cure their mail ballots if election officials could not match their signature. Mail ballots take longer to process, and Broward County had approximately 38,000 ballots to tally by the morning after the election.¹⁶⁶ The recounts, issues surrounding Broward County's suspicious vote counting,¹⁶⁷ and allegations of voter fraud from Sen. Rick Scott¹⁶⁸ and the president¹⁶⁹ led to an investigation into the election. The investigation recently wrapped up without finding proof that Republicans were illegally blocked from witnessing the recount in Broward and without evidence that Democrats committed fraud through mail ballots, although the new Broward County supervisor of elections did find 22 instances where people voted illegally (0.003 percent of the vote).¹⁷⁰

During the same fraught 2018 election, voters approved Constitutional Amendment 4, which sought to make it easier for ex-felons to become eligible to vote, stating that ex-felons will have their voting rights restored "upon completion of all terms of sentence including parole or probation."¹⁷¹ Republican legislators and Governor DeSantis interpreted "all terms" in the amendment to include fines and court fees, and last summer passed SB 7066 which has enshrined this interpretation into the law. However, a federal civil rights trial contesting the legality of this law concluded that SB 7066 discriminates against those who cannot afford to pay and violates the 24th Amendment outlawing poll taxes.¹⁷² Governor DeSantis appealed the federal judge's decision to the 11th Circuit Court, which has stopped the earlier decision from taking effect until the entire Circuit Court panel can hear the case.¹⁷³ This ruling could make a significant difference in Florida's 2020 election, with one analysis finding that there are more than 700,000 Floridians who would have been ineligible to vote due to outstanding legal financial obligations and are now eligible to vote in the coming election.¹⁷⁴

Other lawsuits are currently underway arguing that ballots postmarked on Election Day should be counted and that requiring voters to provide postage for mail ballots is a form of a poll tax.¹⁷⁵ U.S. District Judge Robert Hinkle has ruled on the question of paid postage, stating that requiring voters to pay for their own postage is no different than costs assumed in paying for gas or public transportation to get to the polls.¹⁷⁶

¹⁶⁵Lemongello, S. & Chen, A. (2018, November 20). How Vote-By-Mail Ballots Backfired in Florida Elections. *Orlando Sentinel*. Retrieved from <https://www.orlandosentinel.com/politics/os-ne-signature-mismatch-florida-laws-20181120-story.html>

¹⁶⁶Smiley, D. & Ostroff C. (2019, February 28). Mail-In Votes Helped Make Florida's Election a Nightmare. A Solution? More Mail-In Votes. *Miami Herald*. Retrieved from <https://www.miamiherald.com/latest-news/article224873455.html>

¹⁶⁷Caputo, M. (2018, November 12). 'Incompetence': Broward Election Chief Likely to be Forced from Office by Scott, DeSantis. *Politico*. Retrieved from <https://www.politico.com/states/florida/story/2018/11/12/incompetence-broward-election-chief-likely-to-be-forced-from-office-by-scott-desantis-691675>

¹⁶⁸Caputo, M. & Dixon, M. (2018, November 8). Scott Asks for Broward Voting Probe as His Nelson Lead Shrinks. *Politico*. Retrieved from <https://www.politico.com/states/florida/story/2018/11/08/scott-orders-investigation-of-and-sues-broward-county-as-his-margins-shrink-against-nelson-690074>

¹⁶⁹Trump, D. [realDonaldTrump]. (2018, November 8). Law Enforcement is looking into another big corruption scandal having to do with Election Fraud in #Broward and Palm Beach. Florida voted for Rick Scott! [Tweet]. Retrieved from <https://twitter.com/realDonaldTrump/status/1060723241193484288>

¹⁷⁰Caputo, M. (2020, May 21). A Trump Election Conspiracy Collapses. *Politico*. Retrieved from <https://www.politico.com/states/florida/story/2020/05/21/a-trump-election-conspiracy-collapses-1285442>

¹⁷¹Washington, W. (2019, May 9). Democrats Rip DeSantis After He Pledges to Sign Voting Bill. *The Ledger*. Retrieved from <https://www.theledger.com/news/20190509/democrats-rip-desantis-after-he-pledges-to-sign-voting-bill>

¹⁷²Breslow, J. (2020, May 24). Federal Judge Rules Florida Law Restricting Voting Rights For Felons Unconstitutional. *NPR*. Retrieved from <https://www.npr.org/2020/05/24/861776313/federal-judge-rules-florida-law-restricting-voting-rights-for-felons-unconstitut>

¹⁷³Mower, Lawrence. (2020, July 1). Appeals court stops judge's order granting Florida felons right to vote. *Tampa Bay Times*. Retrieved from <https://www.tampabay.com/florida-politics/buzz/2020/07/01/appeals-court-stops-judges-order-granting-florida-felons-right-to-vote/>

¹⁷⁴Jones v. DeSantis, Consolidated Case No. 4:19-cv-300 (N.D. Fla. 2020) Retrieved from <https://www.courthousenews.com/wp-content/uploads/2020/04/fla-expert-report.pdf>

¹⁷⁵McCaskill, N.D. & Fineout, G. (2020, May 4). Priorities USA Challenges Florida Voting In Light of Coronavirus. *Politico*. Retrieved from <https://www.politico.com/news/2020/05/04/priorities-usa-florida-voting-coronavirus-234384>

¹⁷⁶Hughey, J. (2020, June 29). Judge sets trial date for lawsuit seeking to expand Florida's mail-in-voting laws. *The Center Square*. Retrieved from https://www.thecentersquare.com/florida/judge-sets-trial-date-for-lawsuit-seeking-to-expand-floridas-mail-in-voting-laws/article_138265f6-ba2b-11ea-a7a1-0795523185ae.html

GEORGIA



Electoral College Votes: 16

Cook Report Rating: Toss Up

Governor: Brian Kemp, Republican

Secretary of State: Brad Raffensperger, Republican

House of Representatives Delegation: 4 Democrats, 9 Republicans, 1 vacancy

State Senate: 21 Democrats, 34 Republicans, 1 vacancy

State House: 75 Democrats, 105 Republicans

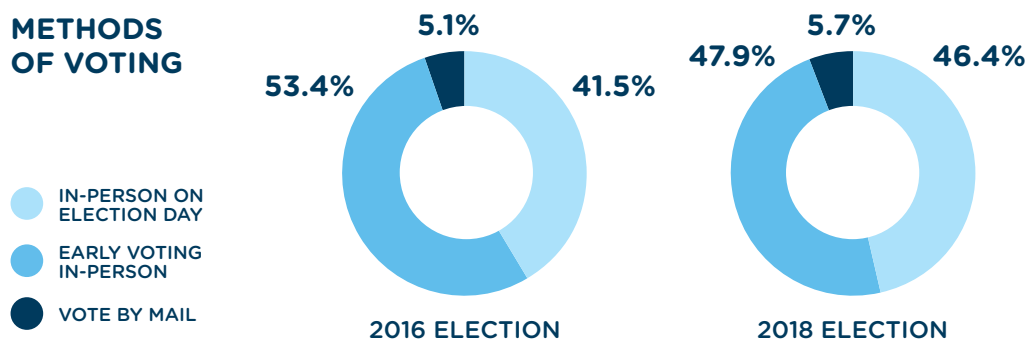
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The State Election Board oversees the elections in Georgia, including maintaining uniform implementation of election law, formulating and promulgating rules conducive to a fair and orderly election, and investigating irregularities and reported violations.¹⁷⁷ The State Election Board is composed of five members: the secretary of state, one member elected by the state Senate, one member elected by the state House of Representatives, and two members appointed by the governor from nominees provided by the major political parties. The secretary of state serves as the chair of the board and three members of the board constitute a quorum.¹⁷⁸

The secretary of state is the chief election official and alone oversees the how ballots are formatted, the

¹⁷⁷Ga. Code Ann. § 21-2-31

¹⁷⁸Ga. Code Ann. § 21-2-30

receipt of election returns and the performance of the statewide canvass,¹⁷⁹ the training of registrars and superintendents of elections, and maintenance of voter registration files.¹⁸⁰

After the secretary of state conducts the statewide canvass of election returns, the results are delivered to the governor. The governor is responsible for transmitting the certificates of election to the presidential electors.¹⁸¹

2020 Primaries

The 2020 presidential primary was originally scheduled for March 24. On March 14, Secretary of State Brad Raffensperger announced that the primary would be postponed due to the COVID-19 emergency until May 19, the same day as the regular primary for other elected offices. On April 9, Raffensperger announced that the primary would be postponed once more, until June 9, and that mail ballot applications would be sent to all registered voters in Georgia.¹⁸² Additionally, the State Election Board passed an emergency ruling allowing election officials to set up drop boxes as another way for voters to return their completed mail ballots.¹⁸³

The primary took place on June 9, but was plagued with confusion and chaos, including hours-long lines at polling sites and reports of broken voting machines. A significant number of polling sites were closed due to limited staffing. Other problems stemmed from the use of new voting machines and shortages of provisional ballots.¹⁸⁴ Chatham County, which includes Savannah, kept three dozen precincts open until 9 p.m. and all polling locations in Fulton County were ordered to stay open until 9 p.m. as well, past the typical 7 p.m. close. Raffensperger reported receiving a record 2.3 million ballots, with 1.1 million submitted absentee.¹⁸⁵ Turnout broke the prior primary record of 2 million voters in 2016. However, some residents reported that they never received the mail ballot which they had requested.¹⁸⁶ Complaints were not isolated to any one location, but widespread across the state.

Blame was passed between the local election officials and Raffensperger. Raffensperger said that the problems were unacceptable and his office has opened an investigation to resolve the issues before the general election.¹⁸⁷ House Speaker David Ralston has also opened an investigation into the election problems, saying that SB 463, which would open more precincts, could help alleviate some of the issues.¹⁸⁸

Vote by Mail

Any voter in Georgia may vote by mail.¹⁸⁹ In order to vote by mail, a voter must submit a mail ballot

¹⁷⁹Ga. Code Ann. § 21-2-499

¹⁸⁰Ga. Code Ann. § 21-2-50

¹⁸¹Ga. Code Ann. § 21-5-502

¹⁸²Niese, M. (2020, April 20). Voters Mailed Absentee Ballot Request Forms for May 19 Georgia Primary. *Atlanta Journal-Constitution*. Retrieved from <https://www.ajc.com/news/state--regional-govt--politics/voters-mailed-absentee-ballot-request-forms-for-may-georgia-primary/hc0FkOo85uVCALbWvQUo9L/>

¹⁸³Fowler, S. (2020, April 15). Georgia Elections Board Allows Absentee Ballot Drop Boxes for June 9 Primary. *Georgia Public Broadcasting*. Retrieved from <https://www.gpbnews.org/post/georgia-elections-board-allows-absentee-ballot-drop-boxes-june-9-primary>

¹⁸⁴Collier, K., Farivar, C., Gregorian, D., & Popken, B. (2020, June 9). Georgia Election 'Catastrophe' In Largely Minority Areas Sparks Investigation. *NBC News*. Retrieved from <https://www.nbcnews.com/politics/2020-election/georgia-secretary-state-launches-investigation-after-unacceptable-voting-problems-n1228541>

¹⁸⁵Wickert, D. & Niese, M. (2020, July 3). Georgia Primary Election Results Finalized After Three Weeks. *Atlanta Journal-Constitution*. Retrieved from <https://www.ajc.com/news/state--regional-govt--politics/georgia-primary-election-results-finalized-after-three-weeks/BnK2LwCTzJTgBroHsjjWaN/>

¹⁸⁶Gray, J. (2020, June 4). Fulton County Under Investigation After Repeated Complaints of Voters Not Receiving Absentee Ballots. *WSB-TV*. Retrieved from <https://www.wsbtv.com/news/local/fulton-county/fulton-county-under-investigation-after-repeated-complaints-voters-not-receiving-absentee-ballots/K6S7SN4PIRAUVANBTTNLRG4PFI/>

¹⁸⁷Collier, K., Farivar, C., Gregorian, D., & Popken, B. (2020, June 9). Georgia Election 'Catastrophe' In Largely Minority Areas Sparks Investigation. *NBC News*. Retrieved from <https://www.nbcnews.com/politics/2020-election/georgia-secretary-state-launches-investigation-after-unacceptable-voting-problems-n1228541>

¹⁸⁸Niese, M. (2020, June 10). Georgia's Election Problems Blasted as November Vote Looms. *Atlanta Journal-Constitution*. Retrieved from <https://www.ajc.com/news/state--regional-govt--politics/georgia-election-problems-blasted-november-election-looms/m7JraAY5E4hsHc4mFvLHl/>

¹⁸⁹Ga. Code Ann. § 21-2-380

application in person, online, or by e-mail. The application must contain proper identification of the voter (name, date of birth, and address on file), contact information, signature, and the election in which they wish to vote by mail.¹⁹⁰ Voters must re-apply to vote by mail for each election.¹⁹¹ Applications must be received before the end of business on the Friday before Election Day to receive a mail ballot.¹⁹²

After completing their mail ballot, voters must mail or personally deliver them to the board of registrars or absentee ballot clerk. This delivery can also be performed by the voter's close relative (parent, grandparent, aunt, uncle, sibling, spouse, child, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law) or any individual residing in the household of the voter.¹⁹³ In order to be counted, the ballots must be received by the close of the polls on Election Day, with the exception of U.S. armed forces members and overseas citizens, whose ballots will be accepted up to three days after the election.¹⁹⁴

When the registrar or clerk receives a mail ballot, they will compare the identifying information on the oath with the information on file, as well as the signature on the oath with the voter's registration card and the signature on the voter's application for a mail ballot. If a vote is found to be disqualified to vote, for instance if the signatures do not appear to match, the clerk will notify the voter of the issue and the voter has until 3 days after the election¹⁹⁵ to submit an affidavit along with a copy of their identification.¹⁹⁶ This process of curing a disqualifying mail ballot was implemented in 2019; previously there was no legal process for a voter to correct a rejected ballot.

After 7 a.m. on Election Day, a registrar or absentee ballot clerk will deliver the already processed mail ballots to the manager of the absentee ballot precinct of the county. Following the close of the polls, the ballots will be opened, the votes counted, and an election return created which shows the results of the mail ballots cast in the county.¹⁹⁷

State Timeline Requirements

All ballot boxes from precincts will be delivered to the superintendent's office after the polls close.¹⁹⁸ Sometime before noon on the day following the election, the superintendent's staff will begin canvassing the county's returns. The returns must be certified by 5 p.m. on the second Friday after the election. Once certified, they will be transmitted to the secretary of state. This deadline can be extended by the secretary of state at their discretion.¹⁹⁹

After receiving the returns from all counties, the secretary of state will canvass the statewide returns. The statewide canvass will be certified no later than 5 p.m. on the 17th day following the election. The certified returns will then be transmitted to the governor. The governor will ascertain the number of votes for each person in the presidential elector race and certify the slate of presidential electors. This must be completed by 5 p.m. on the 18th day following the election. These deadlines can be altered for just cause by an order of the judge of the superior court of Georgia.²⁰⁰ Following the governor's certification, they will issue a certificate of election to each individual elected to serve as a presidential elector.²⁰¹ Upon the certification of election results, a person elected to a federal office may be sworn

¹⁹⁰Georgia Secretary of State Elections Division. (2014). Absentee Voting: A Guide for Registered Voters. Retrieved from https://sos.ga.gov/admin/uploads/Absentee_Voting_Guide_20142.pdf

¹⁹¹Ga. Code Ann. § 21-2-381

¹⁹²Georgia.gov. (n.d.). How Do I Vote by Absentee Ballot? Retrieved June 16, 2020, from <https://georgia.gov/vote-absentee-ballot>

¹⁹³Ga. Code Ann. § 21-2-385

¹⁹⁴Ga. Code Ann. § 21-2-386

¹⁹⁵Ga. Code Ann. § 21-2-419

¹⁹⁶Ga. Code Ann. § 21-2-386

¹⁹⁷Ibid.

¹⁹⁸Ga. Code Ann. § 21-2-490

¹⁹⁹Ga. Code Ann. § 21-2-493

²⁰⁰Ga. Code Ann. § 21-2-499

²⁰¹Ga. Code Ann. § 21-2-502

into office notwithstanding that their election is contested.²⁰²

Presidential Elector Requirements

Presidential electors will meet at noon on the day of the presidential elector meeting to perform the duties required of them by the Constitution.²⁰³ If there are any vacancies, for whatever reason, the electors present will vote on and choose a new elector of the same political party as the absent elector.²⁰⁴

Emergency Powers

In the event of an emergency occurring within ten days of the election, the superintendent of a county or the governing authority of a municipality may change the location of a polling site.²⁰⁵

During a state of emergency, concurred to by the state legislature, the governor has the authority to exercise functions as are deemed necessary to promote the safety and protection of the population, along with the power to suspend any statute prescribing the regulations of any state agency, if compliance with such a regulation may hinder coping with the emergency.²⁰⁶

Additional Information

In March 2019, the U.S. House Committee on Oversight and Reform conducted an investigation into voter suppression while Governor Kemp served as secretary of state, documenting “new, concerning information about voter suppression in Georgia.”²⁰⁷ As one example, Kemp, while serving as secretary of state, shared a 2017 article reporting on the patchwork process of voter roll cleanups saying, “good work, this story is so complex folks will not make it all the way through it.”²⁰⁸ A separate article highlighting the cancellation of 591,500 voters’ registration in Georgia was forwarded to Kemp by a campaign staffer who added two laughing emoticons and wrote “us” in the email.²⁰⁹ Kemp replied with “us” and a smiling emoticon. Since Kemp was elected secretary of state in 2010, more than 1.4 million inactive voter registrations were cancelled, with low-income and minority voters more likely to be affected.²¹⁰

Emails released to the committee²¹¹ showed that state officials defended the state’s “exact match” law — which flags voter registrations for such errors as hyphenated last names, spelling mistakes, or discrepancies — to place holds on over 50,000 voter registrations.²¹² Civil rights groups filed suit against the procedure, and the courts ruled that the procedures were likely to violate the voting rights for many and must be stopped. The judge stated that the procedures brought up “grave concerns for the Court about the different treatment inflicted on a group of individuals who are predominately

²⁰²Ga. Code Ann. § 21-2-503

²⁰³Ga. Code Ann. § 21-2-11

²⁰⁴Ga. Code Ann. § 21-2-12

²⁰⁵Ga. Code Ann. § 21-2-265

²⁰⁶Ga. Code Ann. § 38-3-51

²⁰⁷House of Representatives Committee on Oversight and Reform. (2020, February 21). Hearing on “Voter Suppression in Minority Communities: Learning from the Past to Protect Our Future” [Memorandum]. Retrieved from <https://docs.house.gov/meetings/GO/GO00/20200226/110563/HHRG-116-GO00-20200226-SD002.pdf>

²⁰⁸Kemp B. & Dove D. (2017, September 23). Good work, this story is so complex folks will not make it all the way through it. BK [E-mail]. Retrieved from <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20David%20Dove%20to%20Brian%20Kemp%2C%20et.%20al.%20%28Sept.%2023%2C%202017%29.pdf>

²⁰⁹Kemp B. & Dove D. (2017, October 7-8). voting registrations GUTTED [E-mail]. Retrieved from <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Brian%20Kemp%20to%20David%20Dove%20%28Oct.%208%2C%202017%29.pdf>

²¹⁰Niese, M. (2018, October 17). Georgia Cancels Fewer Voter Registrations After Surge Last Year. *Atlanta Journal-Constitution*. Retrieved from <https://www.ajc.com/news/local-govt--politics/georgia-cancels-fewer-voter-registrations-after-surge-last-year/fqT1bcSzGu33UEpTMDzMVK/>

²¹¹Reid, T. & Broce C. (2018, February 26 - March 6). Reuters - HB268 [E-mail]. Retrieved from <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Candice%20Broce%20to%20Timothy%20Reid%20%28Mar.%206%2C%202018%29%20Redacted.pdf>

²¹²Rosenberg, E. (2018, November 2). Judge Rules Against Brian Kemp Over Georgia Voting Restrictions Days Before Gubernatorial Election. *Washington Post*. Retrieved from <https://www.washingtonpost.com/politics/2018/11/03/judge-rules-against-brian-kemp-over-georgia-voting-restrictions-days-before-gubernatorial-election/>

minorities.²¹³

After Kemp's gubernatorial election in 2018, a lawsuit was filed calling for a federal judge to overturn state laws that had purged voter registration and cancelled ballots. The lawsuit was backed by Stacey Abrams, the 2018 Democratic candidate for governor in Georgia.

An analysis performed by the Atlanta Journal-Constitution found that election officials rejected 3% of the total votes in 2018, significantly higher than the national rate, with minority voters twice as likely to have their ballots rejected.²¹⁴

In April 2019, Governor Kemp signed legislation into law which altered how elections are conducted. Under the new law, polling places cannot be switched within 60 days before the election, people who do not vote have a longer period before their voter registration is cancelled, and election officials are blocked from rejecting mail ballots without notifying voters because of mismatched signatures. The law also required that electronic machines which print paper ballots be used for all in-person voting in 2020, while some warned that these machines may be vulnerable to hacks or malfunctions.²¹⁵

Nearly 287,000 names were removed from the list of registered voters in December 2019.²¹⁶ Due to the new law, election officials notified voters by mail before cancelling their registration. Voters had 30 days to save their registration by returning a postcard.

Secretary of State Raffensperger decided that while his department did send out mail ballot applications before the June primary, this will not be done before the August runoff or November election, citing high costs. He is also backing new election legislation which would allow him to intervene in local election offices following the troublesome June primary.²¹⁷ The State Election Board has voted to continue allowing local election offices to provide drop boxes for receiving mail ballots and allowing these ballots to be processed starting the second Monday preceding the election.²¹⁸

A bill passed by the state Senate in March, SB 463, has again gained traction in response to the June primary. The bill would require election officials to add more precincts, poll workers, or voting equipment to address long lines. Democrats have come out against the bill, arguing that adding new precincts will confuse voters.²¹⁹

²¹³Ibid.

²¹⁴Joyner, C. & Peebles, J. (2018, December 20). AJC Analysis: Absentee Voting Pitfalls Tripped Thousands of Ga. Voters. *Atlanta Journal-Constitution*. Retrieved from <https://www.ajc.com/news/state--regional-govt--politics/ajc-analysis-absentee-voting-pitfalls-tripped-thousands-voters/5Qu6ynxydaKrT4le1edtPL/>

²¹⁵Kauffman, J. (2019, April 4). Georgia Governor Signs Law Addressing Some Criticisms of Contested 2018 Election. *NPR*. Retrieved from <https://www.npr.org/2019/04/04/709911541/georgia-governor-signs-law-addressing-some-criticisms-of-contested-2018-election>

²¹⁶Niese, M. (2019, December 27). U.S. Judge Denies Bid to Restore 98,000 Purged Georgia Voters. *Atlanta Journal-Constitution*. Retrieved from <https://www.ajc.com/news/state--regional-govt--politics/judge-denies-bid-restore-000-purged-georgia-voters/yxmYF6eObx2tqCIn4co3jl/>

²¹⁷Associated Press. (2020, June 17). Georgia Election Chief Wants Power to Intervene in Counties. *WGXA*. Retrieved from <https://wgxa.tv/news/local/georgia-election-chief-wants-power-to-intervene-in-counties-06-18-2020>

²¹⁸Fowler, S. (2020, July 1). Election Board Oks Continued Use of Absentee Drop Boxes, Early Processing Of Ballots. *Georgia Public Broadcasting*. Retrieved from <https://www.gpbnews.org/post/election-board-oks-continued-use-absentee-drop-boxes-early-processing-ballots>

²¹⁹Niese, M. & Wickert, D. (2020, March 12). Senate Passes Election Bill Over Objections from Democrats. *Atlanta Journal-Constitution*. Retrieved from <https://www.ajc.com/news/state--regional-govt--politics/senate-passes-election-bill-over-objections-from-democrats/ZlT88kq9quH4SVmrNY6xtN/>

IOWA



Electoral College Votes: 6

Cook Report Rating: Leans Republican

Governor: Kim Reynolds, Republican

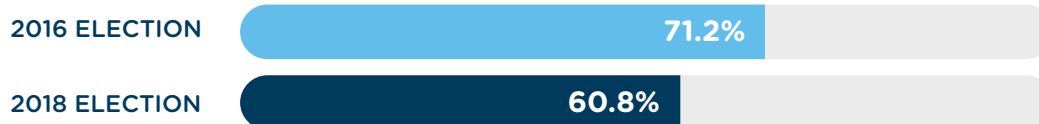
Secretary of State: Paul Pate, Republican

House of Representatives Delegation: 3 Democrats, 1 Republican

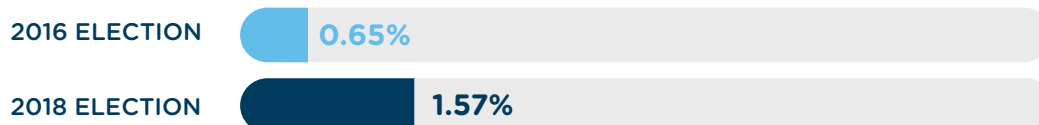
State Senate: 18 Democrats, 32 Republicans

State House: 47 Democrats, 53 Republicans

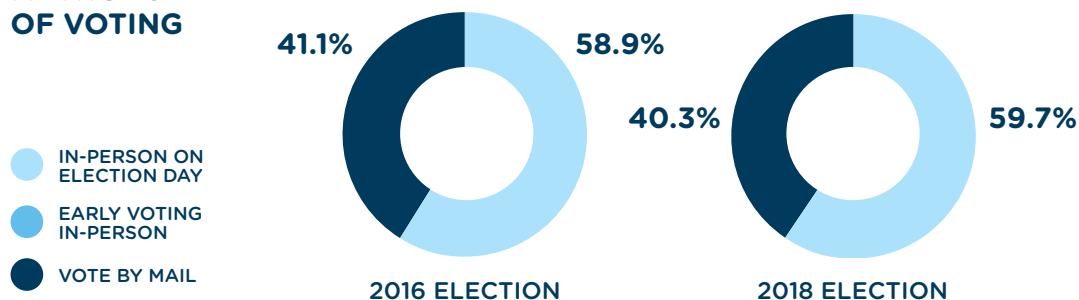
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state is the state commissioner of elections and oversees the elections in Iowa, including supervising the county elections commissioners, prescribing uniform election practices, and providing the necessary forms to carry out an election.²²⁰ The secretary of state is also responsible for receiving the election returns from each county commissioner and canvassing the statewide returns.²²¹ The secretary of state may invite one representative from each major political party to attend the canvass if they so wish.²²²

The secretary of state will deliver to the executive council the completed statewide canvass.²²³ The executive council is composed of the governor, secretary of state, state auditor, state treasurer, and the

²²⁰Iowa Code § 47.1

²²¹Iowa Code § 50.30

²²²Iowa Code § 50.36

secretary of agriculture.²²⁴ The executive council will review the results received from the secretary of state and, if accurate, approve them.²²⁵ The governor will sign the certificates of election²²⁶ which will be transmitted to each presidential elector by the secretary of state.²²⁷

2020 Primaries

The 2020 presidential preference caucus took place on Tuesday, February 3, 2020. The primary for all other election officials took place on June 2.

In response to the coronavirus pandemic, Secretary of State Paul Pate sent every registered voter a mail ballot request for the primary, extended the window in which voters can request early ballots, and extended the window to submit mail ballots from 29 days to 40 days.²²⁸ Many counties significantly reduced the number of polling places. Pate has stated that “if this thing doesn’t get better before the fall elections, we may be faced with an all-mail campaign effort instead of polling sites.”²²⁹ More than 520,000 ballots were cast in the June primary, surpassing the previous primary turnout record of 450,000 in 1994, with more than 411,000 of those ballots returned by mail.²³⁰

Vote by Mail

Any Iowa voter may vote by mail.²³¹ However, in order to do so, a voter must submit a written request for a mail ballot before 5 p.m. 10 days before the election. All applications must include the voter’s name, signature, date of birth, address, driver’s license number or non-operator’s identification number or four-digit Voter PIN, and name & date of the election for which the ballot is requested.²³²

After completing their mail ballot, voters must deliver their ballot to the commissioner’s office themselves, or have a designee deliver it for them. If delivered by the voter’s designee, the ballot must be delivered within 72 hours of receiving it from the voter. Ballots may also be mailed in by the voter or the voter’s designee (if using a designee, the ballot must be mailed within 72 hours of the handoff).²³³ In order to be counted, mail ballots must be received by the close of polls on Election Day. If mailed, rather than hand delivered, ballots must be entered into the federal mail system by the day before the election and received by noon on the Monday following the election.²³⁴

If a mail ballot is received by 5 p.m. on the Friday before the election, the commissioner will review the affidavit on the return envelope. If the affidavit is incomplete or if the signature on the affidavit does not appear to be that of the voter, they will (within 24 hours) notify the voter so that the voter can complete the affidavit in person by 5 p.m. on the day before the election, vote a replacement ballot, if time permits, or vote in person on Election Day.²³⁵

In each county there is a ‘special precinct’ established which counts the mail ballots cast. Results from

²²³Iowa Code § 50.37

²²⁴Iowa Code § 7D.1

²²⁵Iowa Code § 50.38

²²⁶Iowa Code § 50.41

²²⁷Iowa Code § 50.42

²²⁸Gruber-Miller, S. (2020, March 23). Iowa Secretary of State Extends Absentee Voting Period for June Primary Due to Coronavirus. *Des Moines Register*. Retrieved from <https://www.desmoinesregister.com/story/news/politics/2020/03/23/iowa-secretary-state-extends-absentee-voting-period-june-primary-coronavirus-covid-19/2876215001/>

²²⁹Murphy, E. (2020, April 4). Iowa Election Officials Pushing Vote by Mail for June Primary. *The Gazette*. Retrieved from <https://www.thegazette.com/subject/news/government/iowa-election-officials-pushing-vote-by-mail-for-june-primary-20200404>

²³⁰Pfannenstiel, B. (2020, June 3). Iowa Sets New Primary Election Turnout Record After Mail-In Ballots Surge. *Des Moines Register*. Retrieved from <https://www.desmoinesregister.com/story/news/politics/2020/06/03/iowa-sets-new-primary-election-turnout-record-mail-ballots-surge/3131529001/>

²³¹Iowa Code § 53.1

²³²Iowa Code § 53.2

²³³Iowa Code § 53.17

²³⁴Ibid.

²³⁵Iowa Code § 53.18

the special precinct are reported separately from the other precincts.²³⁶ The number of members of this precinct board will be such that they can complete the counting of the mail ballots by 10 p.m. on Election Day. The special precinct election board's convening time will be set by the commissioner (allowing for a reasonable amount of time to complete the count by 10 p.m.). The board may meet on the day before the election to review the affidavits on the mail ballots and also may, if approved by the commissioner, begin counting the mail ballots on the day before the election. If, in the preceding election, the counting of mail ballots was not completed by 10 p.m., the commissioner will convene this years' meeting on the day before the election.²³⁷ Ballots will not be counted if the voter's affidavit lacks a signature, the voter is not a registered voter as of election day, the envelope contains more than one ballot, the ballot envelope is open or has been opened and resealed, or the voter also voted in person.²³⁸

State Timeline Requirements

Upon the closing of polls, the precinct election officials will begin canvassing the vote.²³⁹ Upon completion, the precinct election results will be transmitted to the commissioner's office. The Commissioner will remain on duty until they receive the results from each polling place in the county.²⁴⁰

The county board of supervisors will meet on the Monday or Tuesday following the election, unless the law authorizing the election specifies another date. The board will canvass the votes and prepare and certify abstracts stating the number of votes cast for each candidate²⁴¹ and forward these abstracts to the secretary of state by the 13th day after the election.²⁴²

If any abstracts are not received by the 15th day after the election, the secretary of state will send a messenger to the county commissioner who will give the messenger the abstracts.²⁴³ The executive council will be the board of canvassers at the state level.²⁴⁴ The statewide canvass will take place no later than 27 days after Election Day.²⁴⁵

Certificates sent to the elected presidential electors will be made out by the governor.²⁴⁶ Ten days after the completed canvass, the governor will issue a certificate of election to each presidential elector. If there is a contest of the election, no certificate shall be issued until it is determined.²⁴⁷ Contests regarding the election of presidential electors must be concluded 6 days before the presidential elector meeting.²⁴⁸

Presidential Elector Requirements

All presidential elector nominees must affirm the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for president and vice president for the nominees for those offices of the party (or group of petitioners) that nominated me."²⁴⁹

If a presidential elector is not present at the meeting, the vacancy will be filled by an alternate elector.

²³⁶Iowa Code § 53.20

²³⁷Iowa Code § 53.23

²³⁸Iowa Code § 53.25

²³⁹Iowa Code § 50.1A

²⁴⁰Iowa Code § 50.11

²⁴¹Iowa Code § 50.24

²⁴²Iowa Code § 50.30

²⁴³Iowa Code § 50.34

²⁴⁴Iowa Code § 50.37

²⁴⁵Iowa Code § 50.38

²⁴⁶Iowa Code § 54.3

²⁴⁷Iowa Code § 54.6

²⁴⁸Iowa Code § 60.5

²⁴⁹Iowa Code § 54.5

If there are more vacancies than alternates, the secretary of state will appoint as elector a person voted upon by the alternate electors present. If there are no alternates present, the secretary of state will appoint a person voted upon by the presidential electors who are present. If all presidential electors and alternates are absent from the meeting, the secretary of state will appoint one person as an elector and it will be their responsibility to fill the remaining positions. All newly appointed presidential electors must affirm the following pledge: “I agree to serve and mark my ballot for president and vice president consistent with the pledge of the individual whose elector I have succeeded.”²⁵⁰ The secretary of state will only accept ballots whose votes are consistent with the elector’s pledge, any elector who does not vote or who votes contrary to their pledge, vacates the office of elector.²⁵¹

Emergency Powers

The secretary of state can exercise emergency powers when there is either a natural disaster or extremely inclement weather. They can also exercise emergency powers “if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.”²⁵²

Modifications may be made to the method for conducting the election, including relocating the polling places, modifying the method of voting, or reducing the number of precinct officials and “other modifications of prescribed election procedures that will enable the election to be conducted.”²⁵³

Additional Information

In 2017, then Governor Terry Branstad signed into law a controversial identification requirement at the polls.²⁵⁴ The law also reduced the early voting time period and removed the straight-party voting checkbox. About 25 percent of all Black Iowans and 15 percent of Iowans age 65 or older do not have a driver’s license.²⁵⁵ In total, about 11 percent of adults in the state do not have a driver’s license. While voters can apply for “free” voter identification, the process to attain the necessary documents costs money. In September 2019, after a series of legal decisions, a judge upheld the election law requiring voters to present ID at the polls, but struck down the law allowing election officials to dispute the signatures on a voter’s mail ballot request.²⁵⁶

In June 2020, Governor Reynolds has said she plans to issue an executive order sometime between late summer and early fall which would reinstate the voting rights to residents who have completed their felony sentences. This decision arose after the state legislature chose not to pass a resolution which would allow for a constitutional amendment restoring the voting rights of certain convicted individuals. As it currently stands, Iowa is the only state in which convicted felons are banned from ever voting again, unless they appeal to the governor and are granted restoration of this right. According to ACLU Iowa, the current law has particularly affected black voters, as one in ten black adults cannot vote due to a past felony conviction.²⁵⁷

Following the primary election, the Iowa Senate passed a bill which would prevent the secretary of state from again sending mail ballot applications to all voters as was done before the 2020 primary.

²⁵⁰Iowa Code § 54.7

²⁵¹Iowa Code § 54.8

²⁵²Iowa Code § 47.1

²⁵³Iowa Code § 21.1(12)

²⁵⁴Pfannenstiel, B. (2017, May 5). Branstad Signs Controversial Voter ID Bill Into Law. *Des Moines Register*. Retrieved from <https://www.desmoinesregister.com/story/news/politics/2017/05/05/branstad-signs-controversial-voter-id-bill-into-law/311568001/>

²⁵⁵ACLU of Iowa. (n.d.). Voter ID in Iowa Fact Sheet. Retrieved from <https://www.aclu-ia.org/en/voter-id-iowa-fact-sheet>

²⁵⁶Spoerre, A. (2019, October 1). Judge Upholds ID Requirement at Polls but Strikes Down Other Parts of 2017 Iowa Voting Reform Law. *Des Moines Register*. Retrieved from <https://www.desmoinesregister.com/story/news/crime-and-courts/2019/10/01/judge-rules-portions-2017-voter-reform-law-unconstitution/3829470002/>

²⁵⁷Stracqualursi, V. (2020, June 17). Iowa Governor Says She Will Issue Executive Order Restoring Felons’ Voting Rights. *CNN*. Retrieved from <https://www.cnn.com/2020/06/17/politics/iowa-governor-felons-voting-rights/index.html>

The bill passed on party lines, with two Republicans joining the Democrats in dissent.²⁵⁸ The Iowa House passed a heavily amended version²⁵⁹ which, rather than restricting the secretary of state entirely, requires him or her, when making decisions while in a state of emergency, to receive approval from the Legislative Council, a 20-member committee that acts when the full legislature is not in session. The bill also includes a limit on the extent to which local election officials can reduce the number of polling locations and a requirement that all presidential electors pledge to vote for the party that nominated them.²⁶⁰ Following the passage of the amended bill, the Legislative Counsel voted down a proposal to send mail ballot requests to all voters, as had been done leading up to the June primary.²⁶¹ However, some county auditors have announced that they plan on sending out mail ballot applications on their own in the lead up to the general election.²⁶²

The state budget, also passed in June, included a couple new voting requirements. The new law requires that people who vote early in person must show ID before receiving a ballot, and if a voter provides incomplete or incorrect information while requesting a mail ballot, the county auditor must contact the voter rather than using existing voter registration information to fill in the blanks. Many Democrats, including Rep. Todd Prichard strongly disagreed with the new requirements, stating, “This is going to make it harder and more onerous to count votes. It’s going to disenfranchise voters because now typos and administrative errors from voters are going to be harder to fix to get the ballots out to the voters.”²⁶³

²⁵⁸Cummings, C. (2020, June 11). Iowa Senate GOP Limits Secretary of State’s Ability to Change Voting Process in Pandemic. *CBS2 Iowa*. Retrieved from <https://cbs2iowa.com/news/local/iowa-senate-gop-limits-secretary-of-states-ability-to-change-voting-process-in-pandemic>

²⁵⁹HF 2486 (2020). Retrieved from <https://www.legis.iowa.gov/docs/publications/LGE/88/Attachments/HF2486.html>

²⁶⁰Lynch, J. (2020, Jun 12). Iowa House Approves Changes to Limit Secretary of State Emergency Powers. *Quad-City Times*. Retrieved from https://qctimes.com/news/local/govt-and-politics/iowa-house-approves-changes-to-limit-secretary-of-state-emergency-powers/article_d8394d33-f5c1-5861-9f30-147424ae36fc.html

²⁶¹Gruber-Miller, S. (2020, July 1). Lawmakers Approve Special Election Changes, Turn Down Democratic Absentee Ballot Request. *Des Moines Register*. Retrieved from <https://www.desmoinesregister.com/story/news/politics/2020/07/01/iowa-legislative-council-paul-pate-absentee-ballot-emergency-request-special-election-law/5354935002/>

²⁶²Rynard, P. (2020, July 7). Republicans Screwed Themselves By Attacking Iowa Absentee Ballot Efforts. *Iowa Starting Line*. Retrieved from <https://iowastartingline.com/2020/07/07/republicans-screwed-themselves-by-attacking-iowa-absentee-ballot-efforts/>

²⁶³Gruber-Miller, S. & Richardson, I. (2020, June 14). Iowa Legislature Adjourns After Passing Budget That Includes New Voter ID Requirements. *Des Moines Register*. Retrieved from <https://www.desmoinesregister.com/story/news/politics/2020/06/14/iowa-legislature-adjourns-2020-session-budget-voter-id-abortion-felon-voting/3184423001/>

MAINE



Electoral College Votes: 4

Maine appoints two electors based on the winner of the statewide popular vote and one elector based on the vote in each of its two congressional districts.

Cook Report Rating: Likely Democrat (statewide)

Solid Democrat (ME-01); Leans Republican (ME-02)

Governor: Janet Mills, Democrat

Secretary of State: Matthew Dunlap, Democrat

House of Representatives Delegation: 2 Democrats

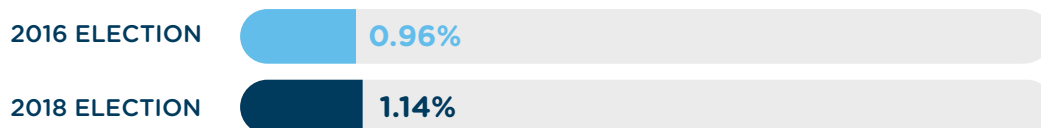
State Senate: 21 Democrats, 14 Republicans

State House: 88 Democrats, 56 Republicans, 6 Independents, 1 vacancy

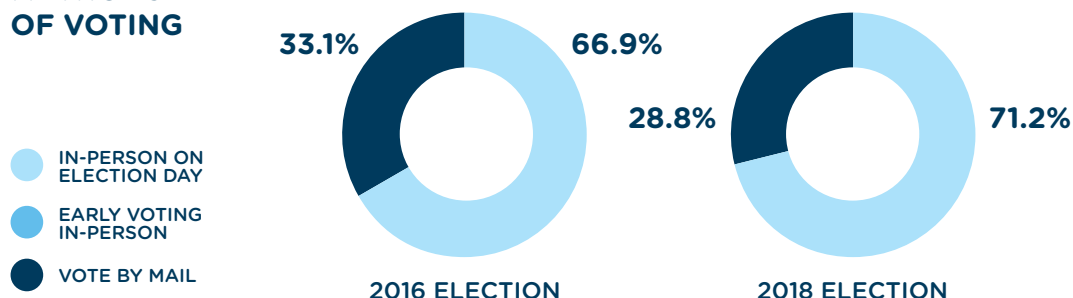
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state oversees the elections in Maine, including properly preparing ballots,²⁶⁴ canvassing and tabulating statewide election results,²⁶⁵ and preparing the election certificates for the presidential electors.²⁶⁶ The governor must also sign the certificates of election before they are transmitted to the winning electors.

²⁶⁴Me. Rev. Stat. tit. 21-A § 601

²⁶⁵Me. Rev. Stat. tit. 21-A § 722

²⁶⁶Me. Rev. Stat. tit. 21-A § 724

2020 Primaries

The 2020 presidential preference primary took place on Super Tuesday, March 3, 2020. The primary for other elected officials was scheduled to take place on June 9. Maine's legislature gave Governor Janet Mills emergency powers to make changes to the primary by executive order²⁶⁷ and on April 10, she signed an Executive Order delaying the primary until July 14.²⁶⁸ The executive order also allows mail-in voter registration to be accepted up to a week prior to the primary, rather than the typical three-week cutoff, as well as allowing voters to request a mail ballot up through Election Day.²⁶⁹ Secretary of State Dunlap has encouraged voters to vote by mail, stating, "It's a simple way to cast your vote from the safety of your own home."²⁷⁰

A coalition of advocacy organizations released a petition in April asking that Governor Mills sign an Executive Order to (1) provide for online voter registration, (2) waive the 21-day mail registration deadline, (3) mail ballots to all registered voters, (4) preserve safe in-person voting options, (5) include paid postage for mail ballots, and (6) begin the tallying of mail ballots earlier.²⁷¹

Vote by Mail

Any Maine voter may vote by mail.²⁷² However, in order to do so a voter must request a mail ballot in person, by written request, or by telephone. The application must include the voter's name, address, and signature (unless applying by telephone). A voter must apply for a mail ballot in each election in which they wish to vote by mail.²⁷³

After completing their ballot, a voter must return their ballot in person, by mail, or by depositing it into a secure drop box. This can be done by either the voter themselves, an immediate family, or some other individual. If a voter has an individual, other than their family member return their ballot, they must mark their ballot beforehand in the presence of one notary public and either (1) the clerk of a municipality, (2) a clerk of courts, or (3) two other individuals. These witnesses must affirm that the ballot is unmarked before the voter votes. After voting, the witnesses must sign the witness certification.²⁷⁴ In order to be counted, mail ballots must be received by the municipal clerk at some point before the polls close on Election Day.²⁷⁵

Upon receiving a mail ballot, the clerk will compare the signature on the mail ballot request to the signature on the return envelope.²⁷⁶ The warden may begin to process mail ballots on Election Day before the polls close, if they give notice to the municipal clerk at least 7 days prior. Otherwise, mail ballots will be processed after the polls close. Whether processed before or after the polls close, ballots will not start being counted by the warden until after the polls close. If the warden sees that the clerk noticed a discrepancy on the return envelope, the warden will not open the envelope and will write "rejected" on it.²⁷⁷ Rejected ballots will not be counted.

²⁶⁷Wlodkowski, D. (2020, April 8). Maine Primary Likely to be Postponed Due to Coronavirus Pandemic. *NBC Universal*. Retrieved from <https://www.necn.com/news/local/maine-primary-likely-to-be-postponed-due-to-coronavirus-pandemic/2257772/>

²⁶⁸Maine Exec. Order No. 39 FY 19/20. (2020, April 10). Retrieved from <https://www.maine.gov/governor/mills/sites/maine.gov/governor.mills/files/inline-files/An%20Order%20Modifying%20the%20Primary%20Election%20to%20Reduce%20Exposure%20to%20COVID-19.pdf>

²⁶⁹Dunlap, M. (2020, June 17). We're Confident July Election Will Be a Successful Mission. *Bangor Daily News*. Retrieved from <https://bangordailynews.com/2020/06/17/opinion/contributors/were-confident-july-election-will-be-a-successful-mission/>

²⁷⁰Associated Press. (2020, May 25). Maine Encourages Absentee Voting in July Primary Election. *Bangor Daily News*. Retrieved from <https://bangordailynews.com/2020/05/25/politics/maine-encourages-absentee-voting-in-july-primary-election/>

²⁷¹Maine Elections Coalition Files Petition to Governor to Ensure Safe, Secure Voting. (2020, May 1). *Penobscot Bay Pilot*. Retrieved from <https://www.penbaypilot.com/article/maine-elections-coalition-files-petition-governor-ensure-safe-secure-voting/133577>

²⁷²Me. Rev. Stat. tit. 21-A § 751

²⁷³Me. Rev. Stat. tit. 21-A § 753-A

²⁷⁴Me. Rev. Stat. tit. 21-A § 754-A

²⁷⁵Me. Rev. Stat. tit. 21-A § 755

²⁷⁶Me. Rev. Stat. tit. 21-A § 75

²⁷⁷Me. Rev. Stat. tit. 21-A § 759

State Timeline Requirements

Wardens at each precinct will fill out election returns, showing the number of first choice votes cast for each candidate. The warden will deliver these returns to the municipal clerk.

If the municipality has just one voting precinct, the clerk will send along the returns to the secretary of state. If the municipality has more than one voting precinct, the clerk will total all the precinct returns and send this compiled return to the secretary of state.²⁷⁸ If the returns have not been delivered to the secretary of state by 5 p.m. on the second business day after the election, the secretary may send a courier to the clerk to collect the returns.²⁷⁹

Within twenty days after an election, the secretary of state will tabulate the election returns based on the ranked-choice voting methodology.²⁸⁰ After completion of the canvass, the secretary of state will submit a certified copy of the tabulation to the governor. The election is then considered final, unless there are any contests in which a recount is pending.²⁸¹ The governor will then send a certificate of determination to each elector before the presidential elector meeting.²⁸²

Presidential Elector Requirements

One presidential elector shall be chosen from each congressional district and two electors from the state at large.²⁸³ If a vacancy occurs before the presidential elector meeting, the secretary of state will notify the appropriate party's state committee of the deadline to fill the vacancy.²⁸⁴ If there are any vacancies on the day of the presidential elector meeting, the electors present will vote on an individual to fill the vacancy.²⁸⁵

The at-large presidential electors will cast their ballots for the candidates who received the largest number of votes in the state and the presidential electors of each congressional district will cast their ballots for the candidates who received the largest number of votes in their respective congressional district.²⁸⁶

Maine statute requires the electors will cast their vote for winner of the popular vote within their district (state or congressional), but does not prescribe penalties for faithless electors. In 2016, an elector was ruled out of order after casting a vote for Bernie Sanders, and changed his vote back to Clinton.²⁸⁷ However, the U.S. Supreme Court did not include Maine in their list of states with sanctions-backed pledges for their presidential electors.²⁸⁸

Emergency Powers

Once the governor declares a state of emergency, the governor may assume control over any part of the public safety functions within the state.²⁸⁹ This includes suspending the enforcement of any statute outlining the procedures for the conduct of state business or orders of any state agency.²⁹⁰

Additional Information

The 2020 general election was going to be the first in which ranked choice voting (RCV) is used to determine presidential electors, both at the congressional district level and statewide level. However,

²⁷⁸Me. Rev. Stat. tit. 21-A § 711

²⁷⁹Me. Rev. Stat. tit. 21-A § 712

²⁸⁰Me. Rev. Stat. tit. 21-A § 723-A

²⁸¹Me. Rev. Stat. tit. 21-A § 722

²⁸²Me. Rev. Stat. tit. 21-A § 803

²⁸³Me. Rev. Stat. tit. 21-A § 802

²⁸⁴Me. Rev. Stat. tit. 21-A § 393

²⁸⁵Me. Rev. Stat. tit. 21-A § 804

²⁸⁶Me. Rev. Stat. tit. 21-A § 805

²⁸⁷Detrow, S. (2016, December 19). Donald Trump Secures Electoral College Win, With Few Surprises. *NPR*. Retrieved from <https://www.npr.org/2016/12/19/506188169/donald-trump-poised-to-secure-electoral-college-win-with-few-surprises>

²⁸⁸Chiafalo v. Washington, No. 19–465 (U.S. July 6, 2020). Retrieved from https://www.supremecourt.gov/opinions/19pdf/19-465_i425.pdf (p. 5)

²⁸⁹Me. Rev. Stat. tit. 37-B § 741

²⁹⁰Me. Rev. Stat. tit. 37-B § 742

the Maine Republican Party has gathered more than 72,000 signatures to advance a people's veto of the 2019 law expanding the use of ranked choice voting to the presidential election. If the signatures are certified, the veto would be added to the ballot in November, and the people would vote on whether to veto the law or keep it in place. This would be the third time Mainers have voted on ranked choice voting, passing it in 2016, and upholding it in 2018. Due to the success of past ranked choice voting ballot initiatives, it is unlikely to pass, but simply having the veto on the ballot will suspend the RCV process from being utilized in the 2020 presidential election. Advocates for ranked choice voting have filed suit against the referendum vote, citing the prohibition against the use of a people's veto once a law has taken effect.²⁹¹

²⁹¹Christie, I. (2020, June 16). Maine GOP Collects Enough Signatures to Advance People's Veto on Ranked-Choice Voting. *The Maine Wire*. Retrieved from <https://www.themainewire.com/2020/06/maine-gop-collects-enough-signatures-to-advance-peoples-veto-on-ranked-choice-voting/>

MICHIGAN



Electoral College Votes: 16

Cook Report Rating: Leans Democrat

Governor: Gretchen Whitmer, Democrat

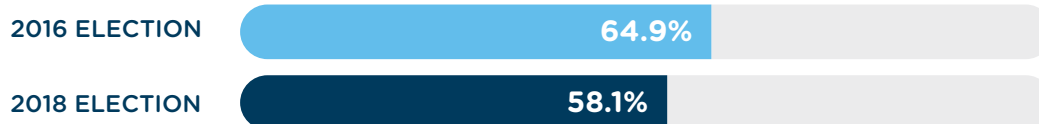
Secretary of State: Jocelyn Benson, Democrat

House of Representatives Delegation: 7 Democrats, 1 Libertarian, 6 Republicans

State Senate: 16 Democrats, 22 Republicans

State House: 51 Democrats, 58 Republicans, 1 vacancy

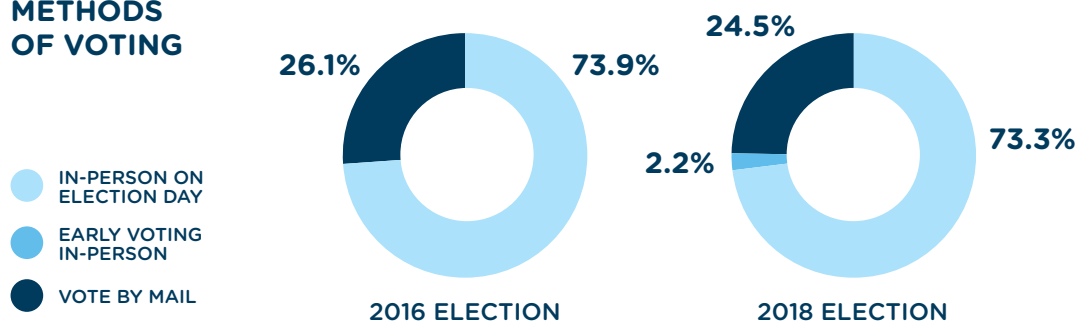
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state serves as the chief election officer and oversees elections in Michigan, including supervising local election officials,²⁹² providing the necessary materials to conduct elections, and investigating election violations.²⁹³ Along with the secretary of state, the board of state canvassers plays a role in Michigan elections. The board has the responsibility of canvassing statewide election returns and preparing presidential elector certificates of election²⁹⁴ which are given to the governor who certifies and transmits them to the individuals duly elected to serve as presidential electors.²⁹⁵ The board of state canvassers is composed of four members: two Republicans and two Democrats.²⁹⁶

²⁹²Mich. Comp. Laws § 168.21

²⁹³Mich. Comp. Laws § 168.31

²⁹⁴Mich. Comp. Laws § 168.841

²⁹⁵Mich. Comp. Laws § 168.46

²⁹⁶Mich. Comp. Laws § 168.22

The state central committee of each political party submits three nominees for each vacancy and the governor must choose one of the nominees to serve on the board.²⁹⁷

2020 Primaries

The 2020 presidential preference primary took place on Tuesday, March 10, 2020. Nearly 877,000 people voted by mail in this election, and 13,000 people registered on Election Day.²⁹⁸ The increase in mail ballots, same day registration, limitations on early processing of mail ballots, and COVID-19 protocols led to slowdowns in the canvassing the election returns. Following the election, Governor Whitmer signed an executive order which extended the deadline for completion of the county canvass by an entire month, until April 24.²⁹⁹

Another election, mostly for school millages and bond proposals, took place on May 5. By Executive Order, Governor Whitmer had mail ballot applications (with prepaid postage) sent to all voters located in jurisdictions with local elections on May 5.³⁰⁰ Secretary of State Benson reported that turnout was just over 22%, “which is nearly double the average turnout for May elections”³⁰¹ and 80-90% of all votes cast, as of 4 p.m. on Election Day, were mail ballots.

The primary for other elected offices is scheduled to take place on August 4 and Secretary Benson has stated that all registered voters will be sent mail ballot applications for this election as well.³⁰² As of June 30, more than one million ballots have been sent out.³⁰³

Vote by Mail

Any Michigan voter may vote by mail. However, in order to do so, a voter must submit an application in person or by mail. The application must include the voter’s signature, name, town/city, precinct, county, and address.³⁰⁴ A voter may mark on their application that they wish to receive a mail ballot application for all upcoming elections.³⁰⁵

After completing their ballot, voters must return their ballot in person or by mail themselves or by giving their ballot to a family member (specifically their father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild) or any person residing in the voter’s household. In order to be counted, mail ballots must be received at the office of the clerk before the polls close on Election Day.³⁰⁶

Clerks will hold onto mail ballots received until Election Day. If a voter needs to correct an issue with their mail ballot they have two options. Either they must submit a written statement, before 2 p.m. on the Saturday before an election, requesting that the clerk cancel their initial ballot and send them a replacement or they must show up in person to the clerk’s office, before 4 p.m. on the day preceding

²⁹⁷Mich. Comp. Laws § 168.22a

²⁹⁸Associated Press. (2020, March 11). Democrats Buoyed by High Turnout in Michigan Primary. *U.S. News and World Report*. Retrieved from <https://www.usnews.com/news/best-states/michigan/articles/2020-03-11/democrats-buoyed-by-high-turnout-in-michigan-primary>

²⁹⁹McClallen, S. (2020, March 25). Gov. Whitmer Extends Deadline for March 10 Canvass to April 24. *The Center Square*. Retrieved from https://www.thecentersquare.com/michigan/gov-whitmer-extends-deadline-for-march-10-canvass-to-april-24/article_33cd2ae4-6eb8-11ea-a21d-2ba0c803321f.html

³⁰⁰Michigan Exec. Order No. 2020-27. (2020, March 27). Retrieved from https://content.govdelivery.com/attachments/MIEOG/2020/03/27/file_attachments/1413519/EO%202020-27.pdf

³⁰¹Burns, G. (2020, May 5). Michigan Polls Quiet as Absentee Voting Booms to Record Levels Amid Coronavirus Outbreak. *MLive Media Group*. Retrieved from <https://www.mlive.com/public-interest/2020/05/michigan-polls-quiet-as-absentee-voting-booms-to-record-levels-amid-coronavirus-outbreak.html>

³⁰²Spangler, T. (2020, May 19). Secretary of State: All Michigan Voters Will Get Absentee Ballot Applications at Home. *Detroit Free Press*. Retrieved from <https://www.freep.com/story/news/politics/elections/2020/05/19/all-michigan-voters-get-absentee-ballot-applications-in-mail/5218266002/>

³⁰³Neavling, S. (2020, July 2). Record Number of Michigan Voters Request Absentee Ballots for August Primary. *Detroit Metro Times*. Retrieved from <https://www.metrotimes.com/news-hits/archives/2020/07/02/record-number-of-michigan-voters-request-absentee-ballots-for-august-primary>

³⁰⁴Mich. Comp. Laws § 168.759

³⁰⁵2020 Michigan Absent Voter Ballot Application. (n.d.). Retrieved May 27, 2020, from https://www.michigan.gov/documents/sos/AVApp_535884_7.pdf

³⁰⁶Mich. Comp. Laws § 168.764a

³⁰⁷Mich. Comp. Laws § 168.765b

the election, to cancel their initial ballot and vote a replacement.³⁰⁷

The statutes do not require the clerk to notify a voter of an error in their ballot affidavit and a 2019 lawsuit argued that Michigan law does not require election officials to notify voters that their mail ballots have been rejected due to a signature mismatch.³⁰⁸ However, the National Conference of State Legislators claims that clerks will notify voters if an error is found in their ballot affidavit.³⁰⁹

Before the polls open on Election Day, or as soon as possible after that, the clerk will deliver the mail ballots they have received to either the board of election inspectors of the voters' precinct or the absent voter counting board. They will later make a second delivery with any mail ballots received on Election Day.³¹⁰

If a city or town decides to use an absent voter counting board, the board of election commissioners will establish one for each precinct. The absent voter counting board may begin as early as 7 a.m. on Election Day to begin processing and tallying mail ballots.³¹¹

Upon receiving a mail ballot, the respective board will examine the voters' statement to see if it is properly completed and check the signatures on the envelope to see if it matches the digitized signature in the voter's registration file. If the voter does not have a digitized signature, they will compare the signature with the signature on the master card.³¹² If the signatures do not agree sufficiently, if the board knows that the voter is dead, or if the majority of the board determines that the vote is illegal for another reason, then the ballot will be rejected.³¹³

Even before the COVID-19 pandemic, Secretary of State Benson warned that Michigan's election results could take days to report unless the laws regarding the processing of mail ballots were changed. Currently, mail ballots cannot start being processed until Election Day, Benson has called for legislative changes which would allow clerks to begin processing mail ballots prior to Election Day. Stating, "It may well be if there's no change in the law that we will not get results of elections in Michigan...until well into the day after—or two days after—the election because it will take that much more time for clerks to process ballots."³¹⁴ The changes lack support in the state legislature and seem unlikely to come to pass before the November election.³¹⁵

State Timeline Requirements

Following the close of the polls, the board of inspectors at each precinct will canvass the vote.³¹⁶ Once completed, the board of inspectors will transmit the election returns to the board of county canvassers.³¹⁷

The county board of canvassers will meet at or before 9 a.m. on the Thursday after the election (November 5) to canvass the county election results.³¹⁸ The county canvass must be completed by the

³⁰⁸Gordan, V. (2019, October 31). Lawsuit Challenges Michigan's Matching Requirement for Absentee Ballots. *Michigan Radio*. Retrieved from <https://www.michiganradio.org/post/lawsuit-challenges-michigans-signature-matching-requirement-absentee-ballots>

³⁰⁹National Conference of State Legislatures. (2020, January 21). Verification of Absentee Ballots. Retrieved from <https://www.ncsl.org/research/elections-and-campaigns/verification-of-absentee-ballots.aspx>

³¹⁰Mich. Comp. Laws § 168.765

³¹¹Mich. Comp. Laws § 168.765a

³¹²Mich. Comp. Laws § 168.766

³¹³Mich. Comp. Laws § 168.767

³¹⁴Roth, A., Cohen, J., James, D., Donoho, K., Hunt, T., & Drain, B. (2020, January 11). Secretary of State Warns Michigan Could Be Last to Report 2020 Election. *Spartan News Room – Michigan State University*. Retrieved from <https://news.jrn.msu.edu/2020/01/secretary-of-state-warns-michigan-could-be-last-to-report-2020-election-results/>

³¹⁵Lawler, E. (2019, August 9). Secretary of State Jocelyn Benson, Clerks Call for More Time to Count Absentee Ballots. *MLive Media Group*. Retrieved from <https://www.mlive.com/news/2019/08/secretary-of-state-jocelyn-benson-clerks-call-for-more-time-to-count-absentee-ballots.html>

³¹⁶Mich. Comp. Laws § 168.801

³¹⁷Mich. Comp. Laws § 168.809

³¹⁸Mich. Comp. Laws § 168.821

14th day after the election (November 17). If the county board fails to certify the results by this deadline, the board will deliver all their records pertaining to the election to the secretary of state. After receiving all the records, the state board of canvassers will meet to make the necessary determinations and certify the county results within ten days following the receipt of the records.³¹⁹

The state board of canvassers will meet on or before the 20th day after the election (November 23) to canvass the statewide returns. The board may adjourn to wait receiving the returns or for other necessary purposes, but must complete their canvass by the 40th day after the election (December 13). If the unofficial election returns show the vote is determined by less than 25,000 votes, the secretary of state will direct the county canvassing boards to canvass at an expedited schedule, requiring the completion of their canvass by the seventh day after the election (November 10). The secretary of state may then appoint a day for the state board of canvassers to finish their expedited canvass for president, no later than twenty days after the election (November 23).³²⁰

As soon as possible after the state board of canvassers has ascertained the results of the election, the governor will certify the names of the presidential electors and transmit to each a certificate of election.³²¹

Presidential Elector Requirements

At any point before an elector receives their certificate of election until 48 hours after the receipt of such certificate, they may resign their office. Failure to resign signifies their consent to serve and cast their vote for the candidate of the political party which nominated them. Voting for any candidate other than the one from the party which nominated an elector constitutes a resignation from office and the vote will not be counted. If there are any vacancies among the presidential electors for whatever reason on the day of the presidential elector meeting, the electors present will vote on another individual to fill that vacancy.³²²

Emergency Powers

The governor may issue executive orders, proclamations, and directives having the force and effect of law. Any executive order, proclamation, or directive may be amended or rescinded by the governor.³²³ The governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control.³²⁴

Additional Information

Michigan voters approved Proposal 3 in 2018, which made significant changes to Michigan election law. Changes included: (1) automatically registering residents to vote when they receive or renew their driver's license; (2) allowing residents to register to vote up to and including on Election Day with proof of residency; (3) allowing voters to apply for a mail ballot without an excuse; and (4) reinstating the option of voting a straight-ticket vote for a particular party.³²⁵ The 2020 election will be the first presidential election in which Michigan voters are allowed to by mail without an excuse.

Four lawsuits are making their way through the courts. Three are from the Democratic super PAC, Priorities USA. The first suit challenges the law which allows mail ballots to be rejected if the signature

³¹⁹Mich. Comp. Laws § 168.822

³²⁰Mich. Comp. Laws § 168.842

³²¹Mich. Comp. Laws § 168.46

³²²Mich. Comp. Laws § 168.47

³²³Mich. Comp. Laws § 30.403

³²⁴Mich. Comp. Laws § 10.31

³²⁵Stafford, K. (2018, November 6). Voters Approve Proposal 3, Bringing Sweeping Changes to Michigan's Election Law. *Detroit Free Press*. Retrieved from <https://www.freep.com/story/news/politics/elections/2018/11/06/michigan-voting-proposal-3-results/1885266002>

³²⁶Mauger, C. (2019, October 30). Democratic Group Sues Michigan Over Checking Absentee Voters' Signatures. *The Detroit News*. Retrieved from <https://www.detroitnews.com/story/news/politics/2019/10/30/group-sues-michigan-over-checking-absentee-voter-signatures/4097771002/>

does not match other documents election officials have with the voters' signature, arguing that no uniform process for determining whether signatures match exists.³²⁶ The second suit challenges the law which bans organizers from driving voters to the polls and helping voters submit mail ballot applications, arguing that this law burdens seniors, voters with disabilities, and low income voters.³²⁷ The third suit challenges the law which requires people registering to vote to prove their Michigan residency, arguing that the documents necessary to prove residency are difficult for college-age voters to obtain.³²⁸ The fourth lawsuit, from the Michigan League of Women Voters rather than Priorities USA, argues that mail ballots which are mailed on Election Day and received within six days should not be rejected.³²⁹

Secretary of State Benson has said that all eligible Michigan voters will be sent mail ballot applications for the upcoming November election in response to the COVID-19 pandemic, as was done before the May 5 election. President Donald Trump has threatened to withhold federal funding due to the decision, falsely tweeting that Michigan was sending the ballots themselves to all voters.³³⁰ The tweet was later corrected to state "absentee ballot applications."³³¹ Two cases were filed against the secretary of state after the move to send out mail ballot applications preceding the May 5 election. Michigan Court of Claims panel heard arguments in these cases and denied that mass mailing of mail ballot applications was illegal, stating that the "plaintiffs were unable to demonstrate the existence of particularized irreparable harm."³³²

³²⁷Gordan, V. (2019, November 13). Suit Challenges Constitutionality of Parts of Michigan's Election Law. *Michigan Radio*. Retrieved from <https://www.michiganradio.org/post/suit-challenges-constitutionality-parts-michigans-election-law>

³²⁸Barrett, M. (2019, November 15). Democratic PAC Files Lawsuit Challenging Michigan Voting Laws. *MLive Media Group*. Retrieved from <https://www.mlive.com/public-interest/2019/11/democratic-pac-files-third-lawsuit-challenging-michigan-voting-laws.html>

³²⁹Eggert, D. (2020, May 22). Michigan Suit: Count Absentee Ballots If Mailed by Election Day. *Associated Press*. Retrieved from <https://www.uppermichiganssource.com/content/news/Michigan-suit-Count-absentee-ballots-if-mailed-by-election-day-570702331.html>

³³⁰Trump, D. [realDonaldTrump]. (2020, May 20). Breaking: Michigan sends absentee ballots to 7.7 million people ahead of Primaries and the General Election. This was done illegally and without authorization by a rogue Secretary of State. I will ask to hold up funding to Michigan if they want to go down this Voter Fraud path!..[Tweet]. Retrieved from <https://www.dailydot.com/wp-content/uploads/2020/05/Donald-Trump-Michigan-Tweet-Absentee-Ballots.jpg.webp>

³³¹Trump, D. [realDonaldTrump]. (2020, May 20). Michigan sends absentee ballot applications to 7.7 million people ahead of Primaries and the General Election. This was done illegally and without authorization by a rogue Secretary of State. I will ask to hold up funding to Michigan if they want to go down this Voter Fraud path! [Tweet]. Retrieved from <https://twitter.com/realDonaldTrump/status/1263170880298942464>

³³²Newschannel 3 & Mid-Michigan NOW. (2020, June 16). Michigan Court of Claims Hears Arguments Over State Mailing Absentee Ballot Applications. WWMT. Retrieved from <https://wwmt.com/news/state/michigan-court-of-claims-hears-arguments-over-state-mailing-absentee-ballot-applications>

MINNESOTA



Electoral College Votes: 10

Cook Report Rating: Leans Democrat

Governor: Tim Walz, Democrat (DFL)

Secretary of State: Steve Simon, Democrat (DFL)

House of Representatives Delegation: 5 Democrats, 3 Republicans

State Senate: 32 Democrats, 35 Republicans

State House: 75 Democrats, 59 Republicans

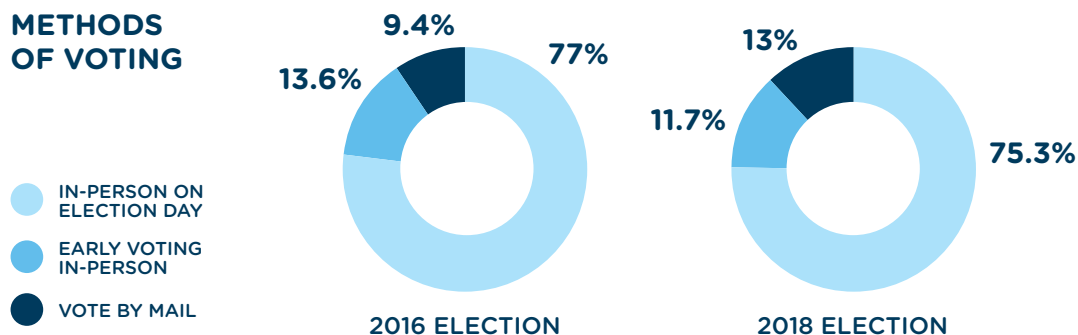
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state oversees the elections in Minnesota, including providing the necessary materials to conduct elections and promulgating all state election laws to local election officials.³³³ The State Canvassing Board, of which the secretary of state is a member, also plays a role in statewide elections. The board is responsible for canvassing statewide election returns and preparing the statement of these results, after which the governor will transmit such certificates of election (signed by the governor and secretary of state) to all the individuals duly elected to serve as a presidential electors.³³⁴ The State Canvassing Board is composed of the secretary of state, two judges of the state supreme court, and two judges of a district court; all members are selected from their respective courts by the

³³³ Minn. Stat. Ann. § 204B.27

³³⁴ Minn. Stat. Ann. § 208.05

secretary of state.³³⁵

2020 Primaries

The 2020 presidential preference primary took place on Super Tuesday, March 3, 2020. The primary for other elected offices is scheduled to take place on August 11, 2020.

A bill supported by Secretary of State Simon sought to modify the upcoming primary and general elections to all-mail elections, but the Republicans in the state House opposed it, alleging the change would result in voter fraud.³³⁶ The bill was significantly amended before it was passed in May, a compromise between the parties. Democratic legislators eliminated their proposal for an all-mail election, while Republican legislators supported the bill despite its exclusion of voter ID regulations and a new provisional balloting system.³³⁷ The bill primarily focuses on opening more polls and encouraging voters to apply for mail ballots, as well as giving local election offices two weeks before the election to start processing what may likely be an influx of mail ballots.³³⁸

Under a settlement of two lawsuits, Minnesota will allow mail ballots for the primary election to be accepted if they do not contain a witness signature and all ballots which are postmarked by Election Day and received within two days following the election will be accepted.³³⁹

Vote by Mail

Today, any Minnesota voter may vote by mail – the first presidential election in which all Minnesotans could vote by mail without an excuse was 2016.³⁴⁰ However, in order to do so a voter must submit a paper or electronic application anytime up to one day preceding the election. If the application is returned by someone other than the voter, it must be received no later than 6 days before the election. All applications must include a voter's name, signature, date, address, date of birth and one of the following: (1) driver's license number, (2) Minnesota identification number, (3) last four digits of their social security number, or (4) a statement that the applicant does not have any of these. Voters may apply to automatically receive a mail ballot application before each election. This status as a permanent mail voter will end on (1) their death, (2) their request, (3) the return of a mail ballot as undeliverable, or (4) if their voting status changes to 'inactive'.³⁴¹

After completing their ballot, voters must return their ballot in person or by mail themselves or by giving it to another person they designate to do so. In order to be counted, ballots must be received by 3 p.m. on Election Day, if delivered in person, or by 8 p.m. on Election Day if delivered by mail.³⁴²

Within 5 days after receiving a ballot, the clerk or auditor will deliver the ballot to the ballot board and during the 14 day period preceding an election, the speed of delivery will increase to 3 days after receipt.³⁴³ Once the board has received a mail ballot, two or more members of the board of different political parties will check the envelope to see if it has been properly submitted. Specially, they will

³³⁵Minn. Stat. Ann. § 204C.31

³³⁶Callaghan, P. (2020, April 9). Minnesota Secretary of State Steve Simon Wants to Have All Minnesotans Vote by Mail. GOP Lawmakers Are Having None of It. *MinnPost*. Retrieved from <https://www.minnpost.com/state-government/2020/04/minnesota-secretary-of-state-steve-simon-wants-to-let-minnesotans-vote-by-mail-gop-lawmakers-are-having-none-of-it/>

³³⁷Callaghan, P. (2020, May 8). Minnesota Senate Passes 2020 Election Bill: More Money for No-Excuse Absentee Balloting, but No All Vote-by-Mail. *MinnPost*. Retrieved from <https://www.minnpost.com/state-government/2020/05/minnesota-senate-passes-2020-election-bill-more-money-for-no-excuse-absentee-balloting-but-no-all-vote-by-mail/>

³³⁸Callaghan, P. (2020, April 27). A DFL Push to Move Minnesota to Entirely Vote-by-Mail Is Complicating Bipartisan Efforts Around Other COVID-Related Election Changes. *MinnPost*. Retrieved from <https://www.minnpost.com/state-government/2020/04/a-dfl-push-to-move-minnesota-to-entirely-vote-by-mail-is-complicating-bipartisan-efforts-around-other-covid-related-election-changes/>

³³⁹Karnowski, S. & Orrick, D. (2020, June 17). MN Election Lawsuit Settled: Absentee Ballot Witness Signature Not Required for Primary. *Pioneer Press*. Retrieved from <https://www.twincities.com/2020/06/17/minnesota-waives-absentee-ballot-witness-signature-mandate/>

³⁴⁰Minn. Stat. Ann. § 203B.02

³⁴¹Minn. Stat. Ann. § 203B.04

³⁴²Minn. Stat. Ann. § 203B.08

³⁴³*Ibid.*

examine if (1) the voter's name and address match the information in their application, (2) the voter signed the envelope, (3) the driver's license, MN state identification number, or the last 4 digits of the SSN are the same as on the application (if the numbers don't match the judges will compare the signatures to see if it was actually the voter who completed the ballot), (4) the certificate of eligibility³⁴⁴ is signed by another Minnesota voter (as a witness) or a notary public.³⁴⁵

If the majority of the ballot board determines that a mail voter has failed to meet the requirements, they will mark the envelope as "rejected." If an envelope has been rejected at least 5 days before the election, the ballot board will provide the voter with a replacement mail ballot and the ballot board will contact the voter by telephone or e-mail to notify the voter that their ballot was rejected.³⁴⁶

Starting on the seventh day before the election, those envelopes which have been accepted may be opened and deposited in the appropriate ballot box. Not until the polls have closed on Election Day will the board begin counting votes. Once completed, the ballot board will submit a summary statement to the county auditor or municipal clerk.³⁴⁷

State Timeline Requirements

Precinct election judges will deliver summary statements of the vote count and all ballots directly to the municipal clerk, who will transmit them to the county auditor. This delivery must be completed within 24 hours after the polls close.³⁴⁸

The county canvassing board will meet at the county auditor's office between the third and tenth day following the election (November 6 – November 13) to canvass the election returns. The State Canvassing Board will meet on the third Tuesday after the election (November 24) to canvass the county canvassing board results. The board will declare the result within three days after completing the canvass.³⁴⁹

The State Canvassing Board will prepare certificates of election, which will be signed by the governor and the secretary of state and transmitted by the governor to the individuals elected to serve as presidential electors.³⁵⁰ No certificate of election will be issued until seven days after the canvassing board has declared the results. If a recount is underway by the canvassing board, no certificates of election will be delivered until after the recount is completed. If there is a contest, the court may invalidate and revoke the certificates sent out.³⁵¹

Presidential Elector Requirements

All presidential elector nominees and alternate nominees must make the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for president and vice president for the nominees for those offices of the party that nominated me."³⁵²

If there is a vacancy among the electors at the presidential elector meeting, the secretary of state will appoint the alternate elector to fill the vacancy. If the alternate elector is not present, or if the number of alternate electors present is insufficient to fill all vacant positions, then an individual will be appointed by the vote of the electors present. If all presidential electors and alternates are absent from the meeting, the secretary of state will appoint one person as an elector and they will fill the remaining positions. All newly appointed presidential electors will also make the pledge to vote for the

³⁴⁴Minn. Stat. Ann. § 203B.07

³⁴⁵Minn. Stat. Ann. § 203B.121

³⁴⁶Ibid.

³⁴⁷Ibid.

³⁴⁸Minn. Stat. Ann. § 204C.27

³⁴⁹Minn. Stat. Ann. § 204C.33

³⁵⁰Minn. Stat. Ann. § 208.05

³⁵¹Minn. Stat. Ann. § 204C.40

³⁵²Minn. Stat. Ann. § 208.43

candidates consistent with the pledge of the elector they are replacing.³⁵³

If a presidential elector does not vote, or votes for a candidate in violation of their pledge, they, by doing so, vacate their office as a presidential elector.³⁵⁴

In 2016, presidential elector Muhammad Abdurrahman voted for Bernie Sanders rather than Hillary Clinton who had won Minnesota's popular vote. After his vote, he was disqualified for breaking his pledge and was removed as an elector. The alternate elected was appointed and voted for Clinton.³⁵⁵

In 2004, nine of Minnesota's 10 electors voted for John Kerry, who won the state's popular vote. One elector voted for John Edwards, Kerry's vice presidential running mate. After the meeting, none of the electors stepped forward as the Edwards vote, leaving no way of knowing who voted for Edwards.³⁵⁶ The law stating that a presidential elector would be removed for violating their pledge was enacted in 2015, so this faithless elector instance stood while the 2016 instance was reversed.³⁵⁷

Emergency Powers

The secretary of state, in consult with the Minnesota Director of the Department of Public Safety, develops a state elections emergency plan.³⁵⁸

The governor has the authority to issue orders and create rules during an emergency. The governor may also suspend regulations created by administrative agencies.³⁵⁹

Additional Information

Even after signing the bipartisan election bill into law, Governor Walz has not ruled out the possibility of imposing an all-mail election in the August primary or November election by executive order.³⁶⁰

Along the same lines, Secretary of State Simon has said he is considering mailing absentee ballot applications to all registered voters, a move taken by Michigan that came with significant pushback.³⁶¹ A poll conducted by KARE, MPR News, and the Minneapolis Star Tribune found that 59 percent of Minnesotans support allowing all registered voters to be sent a mail ballot for the November election. There was a significant party split with 97% of Democrats supporting the move, 49% of Independents, and 23% of Republicans.³⁶²

Under a settlement earlier in the year, the requirement of a witness for mail ballots was suspended for the August primary, but another lawsuit seeks even more changes. The American Civil Liberties Union has sued the secretary of state, arguing for the state department to send mail ballots to all registered voters.³⁶³

³⁵³Minn. Stat. Ann. § 208.4

³⁵⁴Minn. Stat. Ann. § 208.46

³⁵⁵Salisbury, B. (2016, December 19). Minnesota Electors Vote for Hillary Clinton, After One Goes Rogue. *Pioneer Press*. Retrieved from <https://www.twincities.com/2016/12/19/minnesota-electoral-college-bittersweet-votes-hillary-clinton-donald-trump/>

³⁵⁶Associated Press. (2004, December 13). Minnesota Elector Gives Edwards a Vote; Kerry Gets Other Nine. *Minnesota Public Radio*. Retrieved from http://news.minnesota.publicradio.org/features/2004/12/13_ap_electors/

³⁵⁷SF 455 (Minn. 2015). Retrieved from <https://www.revisor.mn.gov/bills/bill.php?b=Senate&f=SF0455&ssn=0&y=2015>

³⁵⁸Minn. Stat. Ann. § 204B.181

³⁵⁹Minn. Stat. Ann. § 12.32

³⁶⁰Callaghan, P. (2020, May 12). Walz Not Ruling Out Imposing Universal Vote-by-Mail for 2020 Elections. *MinnPost*. Retrieved from <https://www.minnpost.com/state-government/2020/05/walz-not-ruling-out-imposing-universal-vote-by-mail-for-2020-elections/>

³⁶¹Montemayor, S. (2020, May 14). Gov. Tim Walz Considers 'Next Steps' to Increase Mail-In Voting. *StarTribune*. Retrieved from <https://www.startribune.com/walz-considers-next-steps-to-increase-mail-in-voting-in-minnesota/570415312/>

³⁶²Croman, J. (2020, May 25). Poll Shows Minnesotans Support Mail-In Voting. *KARE-TV*. Retrieved from <https://www.kare11.com/article/news/politics/poll-shows-minnesotans-support-for-mail-in-voting/89-156e24cc-5024-4923-a1c4-ac284176510c>

³⁶³Marohn, K. (2020, June 5). ACLU, NAACP Lawsuit: Amid Pandemic, Mail Absentee Ballots to All Minnesota Voters. *Minnesota Public Radio News*. Retrieved from <https://www.mprnews.org/story/2020/06/05/aclu-naacp-lawsuit-amid-pandemic-mail-absentee-ballots-to-all-minnesota-voters>

NEBRASKA



Electoral College Votes: 5

Nebraska appoints two electors based on the winner of the statewide popular vote and one elector based on the vote in each of its three congressional districts.

Cook Report Rating: Solid Republican (statewide, NE-01, NE-03)

Leans Democrat (NE-02)

Governor: Pete Ricketts, Republican

Secretary of State: Robert Evnen, Republican

House of Representatives Delegation: 3 Republicans

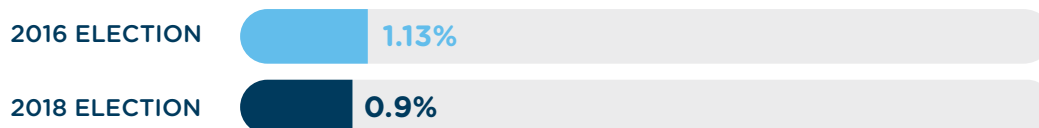
State Senate: 18 Democrats, 30 Republicans, 1 Independent

Nebraska's unicameral legislature is officially nonpartisan.

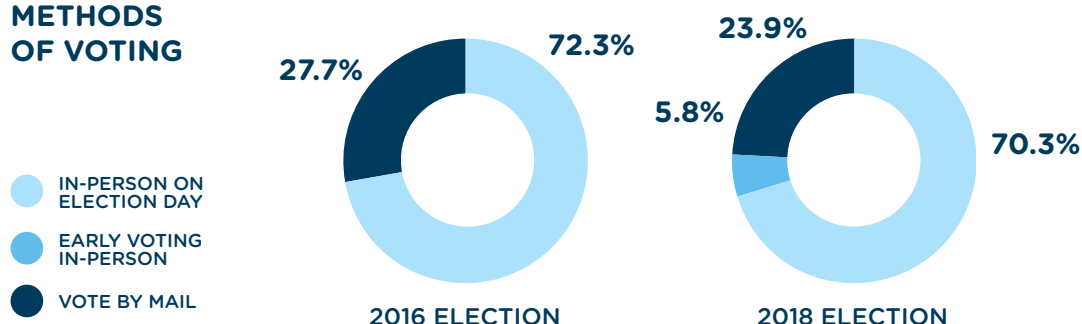
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state oversees the elections in Nebraska, including supervising the conduct of elections, promulgating state election laws to local officials, and providing all materials necessary to carry out an election.³⁶⁴ The board of state canvassers, of which the secretary of state is a member, is responsible for canvassing statewide election returns. Upon completion of the canvass, the secretary of state will prepare certificates of election (signed by the governor and secretary of state), and the governor will deliver the completed certificates³⁶⁵ to all the individuals duly elected to serve as

³⁶⁵Neb. Rev. Stat. § 32-713

presidential electors.³⁶⁶ The board of state canvassers is composed of the secretary of state, governor, state auditor of public accounts, state treasurer, and attorney general.³⁶⁷

2020 Primaries

The Nebraska Democratic Party pushed for the state to move to an all-mail election for the May 12 primary and others pushed for rescheduling the election. However, Secretary of State Bob Evnen rejected these proposals, saying, “We’re going forward on May 12, unless, I don’t know, perhaps an asteroid the size of Mars strikes the earth, in which case there might be a delay.”³⁶⁸

The primary took place on May 12 as scheduled. State officials encouraged citizens to vote by mail and mail ballot applications were sent to all registered voters in the state.³⁶⁹ More than 492,000 ballots were cast in the primary, a record in Nebraska primary elections. Of these, 414,000 were mail ballots, surpassing the previous record of 413,000 total ballots cast during a primary, from 1972.³⁷⁰

Vote by Mail

Any Nebraska voter may vote by mail.³⁷¹ However, in order to do so, a voter must request a mail ballot by the second Friday preceding the election. Applications must include the voter’s address, signature, date of birth, and phone number (if available). If a voter requests a mail ballot and has never before voted in Nebraska, they must also provide photo identification or a utility bill, bank statement, government check, paycheck or other government document that shows their residence address.³⁷² Completed applications may be submitted in person, by mail, or by e-mail. A voter must submit a request for each election in which they wish to vote by mail.³⁷³

After completing their ballot, voters must return their ballot in person or by mail themselves or by giving it to another person to do so.³⁷⁴ In order to be counted, ballots must be delivered to the election commissioner or county clerk before the polls close on Election Day.³⁷⁵

The election commissioner or county clerk will transmit the received ballots to the counting board. The board may begin processing mail ballots no earlier than the second Monday before the election and will meet as directed by the election commissioner or county clerk. The counting board is responsible for determining whether the name, address, and signature on the mail ballot have been accurately recorded. If the voter’s name, address, and signature match the information listed in their voter file or on their mail ballot application, the ballot will be accepted. Otherwise the ballot will be rejected, and the board will write “rejected” on envelope and list the reason for such rejection. At the discretion of the election commissioner or county clerk, the counting board may begin counting mail ballots 24 hours prior to the opening of the polls on Election Day.³⁷⁶

State Timeline Requirements

Votes cast on Election Day will either be counted at a centralized location or at the precinct in

³⁶⁶Neb. Rev. Stat. § 32-1040

³⁶⁷Neb. Rev. Stat. § 32-1037

³⁶⁸Costello, B. (2020, April 28). Election Officials Confident, Workers Concerned About Virus at Polling Sites May 12. *NET*. Retrieved from <http://netnebraska.org/article/news/1217415/election-officials-confident-workers-concerned-about-virus-polling-sites-may-12>

³⁶⁹Ibid.

³⁷⁰Evnen, B. (2020, June 11). Here’s How Nebraska Achieved Election Success Amid the Virus Threat. *Omaha World-Herald*. Retrieved from https://www.omaha.com/opinion/midlands-voices-heres-how-nebraska-achieved-election-success-amid-the-virus-threat/article_bb10f210-872b-5ab7-918d-8722e465ff0e.html

³⁷¹Neb. Rev. Stat. § 32-938

³⁷²Neb. Rev. Stat. § 32-318.01

³⁷³Neb. Rev. Stat. § 32-941

³⁷⁴Neb. Rev. Stat. § 32-949

³⁷⁵Neb. Rev. Stat. § 32-950

³⁷⁶Neb. Rev. Stat. § 32-1027

which they were cast.³⁷⁷ After the count is completed the ballots will be transmitted to the election commissioner or county clerk.³⁷⁸

The county canvassing board will canvass the results received from all the county precincts. Upon completion, the board will transmit the results to the election commissioner or county clerk.³⁷⁹ The election commissioner or county clerk will prepare an abstract of the votes cast and deliver it to the secretary of state.³⁸⁰ If this abstract has not been received by the third Monday after the election (November 23), the secretary of state may send a messenger to retrieve the abstract.³⁸¹

The board of state canvassers will meet on the fourth Monday after the election (November 30) to canvass the statewide election results. The board may adjourn from day to day until they receive all the returns from the counties. An extraordinary session of the board of canvassers may also be called by the governor.³⁸² Once the statewide canvass is complete, the governor will issue certificates of election,³⁸³ signed by both the secretary of state and governor, to the individuals duly elected to the office of presidential elector.³⁸⁴

Presidential Elector Requirements

Each presidential elector shall execute the following pledge: As a presidential elector duly selected (or appointed) for this position, I agree to serve and to mark my ballots for president and vice president for the presidential and vice-presidential candidates who received the highest number of votes in the state if I am an at-large presidential elector or the highest number of votes in my congressional district if I am a congressional district presidential elector.³⁸⁵

If there is a vacancy among the presidential electors on the day of the meeting, the electors present will vote on and elect an individual to fill the vacancy. If the presidential electors fail to fill the vacancy by 3 p.m. on the day of the meeting the governor may appoint an individual to fill the vacancy.³⁸⁶

The secretary of state will only accept ballots cast by electors who vote in line with their pledge. A presidential elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of his or her pledge vacates the office of presidential elector. If a vacancy is created by an elector in this manner, the governor has the authority to fill the vacancy.³⁸⁷ All newly chosen electors must affirm the presidential elector pledge.

Emergency Powers

During a state of emergency, the governor may suspend the provisions of any statute regarding the procedures for conduct of state business or the regulations of any state agency, if strict compliance with the provisions of any statute or regulation would prevent or delay necessary action in coping with the emergency.³⁸⁸

Additional Information

Secretary of State Evnen sent mail ballot applications to all voters before the May primary, but has stated he does not intend to do so for the November general election.³⁸⁹ He has also shown strong

³⁷⁷Neb. Rev. Stat. § 32-1010

³⁷⁸Neb. Rev. Stat. § 32-1012

³⁷⁹Neb. Rev. Stat. § 32-1031

³⁸⁰Neb. Rev. Stat. § 32-1034

³⁸¹Neb. Rev. Stat. § 32-1035

³⁸²Neb. Rev. Stat. § 32-1037

³⁸³Neb. Rev. Stat. § 32-713

³⁸⁴Neb. Rev. Stat. § 32-1040

³⁸⁵Neb. Rev. Stat. § 32-713

³⁸⁶Neb. Rev. Stat. § 32-714 387 Ibid.

³⁸⁷Ibid.

³⁸⁸Neb. Rev. Stat. § 81-829.40

opposition to modifying how elections are conducted apart from state legislative action. He has stated, “You can’t have an all mail in election without a law change, and you know, the governor can’t just order this.”³⁹⁰

³⁸⁹ Evnen, B. (2020, June 11). Here’s How Nebraska Achieved Election Success Amid the Virus Threat. *Omaha World-Herald*. Retrieved from https://www.omaha.com/opinion/midlands-voices-heres-how-nebraska-achieved-election-success-amid-the-virus-threat/article_bb10f210-872b-5ab7-918d-8722e465ff0e.html

³⁹⁰ Costello, B. (2020, April 28). Election Officials Confident, Workers Concerned About Virus at Polling Sites May 12. *NET*. Retrieved from <http://netnebraska.org/article/news/1217415/election-officials-confident-workers-concerned-about-virus-polling-sites-may-12>

NEVADA



Electoral College Votes: 6

Cook Report Rating: Likely Democrat

Governor: Steve Sisolak, Democrat

Secretary of State: Barbara Cegavske, Republican

House of Representatives Delegation: 3 Democrats, 1 Republican

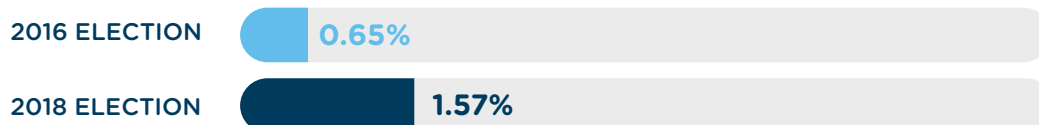
State Senate: 13 Democrats, 8 Republicans

State Assembly: 29 Democrats, 13 Republicans

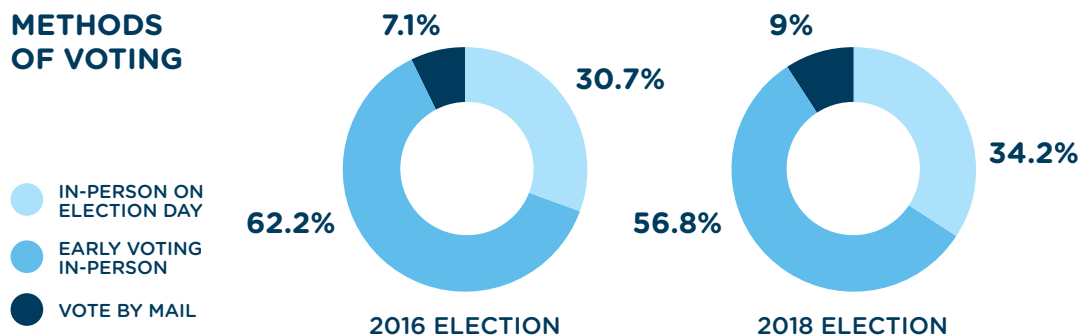
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state serves as the chief officer of elections³⁹¹ and oversees all elections in Nevada, including regulating the conduct of elections³⁹² and prescribing the format of ballots³⁹³. The justices of the Nevada Supreme Court also play a role in statewide elections. All seven justices, or a majority thereof, along with the secretary of state, canvass the statewide election results. After the completion of the statewide canvass, the governor is responsible for issuing certificates of election to those individuals duly elected to the office of presidential elector.³⁹⁴

2020 Primaries

The 2020 presidential preference caucus took place on Saturday, February 22, 2020. The primary for

³⁹¹Nev. Rev. Stat. § 293.124

³⁹²Nev. Rev. Stat. § 293.247

³⁹³Nev. Rev. Stat. § 293.250

³⁹⁴Nev. Rev. Stat. § 293.395

other elected offices took place on June 9. Secretary of State Barbara Cegavske ordered that the primary be conducted primarily by mail ballot. Ballots were mailed to all active voters, without requiring an application. Voters returned their ballots by mail or by dropping them off at designated locations. There was at least 1 in-person polling location per county on Election Day to process same-day registration.

The Democratic National Committee filed a lawsuit against Nevada for its vote-by-mail primary plan, which the committee alleged disenfranchised thousands of voters by mailing ballots only to active voters, not all registered voters.³⁹⁵ Democrats also wanted more than one polling location per county so that voters would not be disincentivized by long drives to cast their ballots. The lawsuit was dropped after Clark County election officials agreed to add two additional in-person voting sites and to send ballots to inactive voters.³⁹⁶

A separate lawsuit was filed by a conservative voting rights group, Voters' Rights Initiative.³⁹⁷ They argued that the change to mostly mail ballots was fraught with potential for voter fraud. This suit was rejected by U.S. District Court Judge Miranda Du, because the harm they argued the change would have was only speculative. Following the ruling, the group filed an amended complaint after the agreement between Clark County and the Democratic committee. This second suit was blocked from applying to the primary election by Judge Miranda Du;³⁹⁸ any further arguments on the mail-in election issue have been extended into July.³⁹⁹

More than 491,000 residents voted in the June 9 primary (an unusually high turnout), including 484,000 mail ballots.⁴⁰⁰ More than 6,700 ballots were rejected, largely due to voters' signatures not matching the ones on file.⁴⁰¹ Approximately 8,000 ballots were cast in person at few polling locations, resulting in long wait times (up to three hours)⁴⁰² and delayed election results. Final results for the primary were not released until more than a week after the election.⁴⁰³

Vote by Mail

Any voter in Nevada may vote by mail.⁴⁰⁴ In order to do so, a voter must submit an application for a mail ballot before 5 p.m. on the 14th day before the election. The form requires the voter's name, address, date of birth, telephone number, e-mail, and signature.⁴⁰⁵ AB 345, which passed in 2019, authorizes voters to request a mail ballot for all future elections.⁴⁰⁶

Once a voter has completed their ballot, it must be delivered in person to the county clerk before the

³⁹⁵Seeman, M. (2020, April 16). Democrats File Lawsuit Over Nevada Vote-by-Mail Primary Plan. *KSNV*. Retrieved from <https://news3lv.com/news/local/democrats-file-lawsuit-over-nevada-vote-by-mail-primary-plan>

³⁹⁶Snyder, R. (2020, May 5). Democrats Drop Lawsuit Against Planned All-Mail Primary Election After Clark County Agrees to More Voting Sites, Other Concessions. *The Nevada Independent*. Retrieved from <https://thenevadaindependent.com/article/clark-county-election-officials-to-expand-in-person-voting-for-primary-election-mail-ballots-to-inactive-voters>

³⁹⁷Sonner, S. (2020, April 30). U.S. Judge Refuses to Block Nevada's Mail-In Primary Election. *Las Vegas Sun*. Retrieved from <https://lasvegassun.com/news/2020/apr/30/us-judge-refuses-to-block-nevadas-mail-in-primary/>

³⁹⁸Snyder, R. (2020, June 4). Judge Again Blocks Conservative Group's Efforts to Stop Mail-Only Primary Election. *The Nevada Independent*. Retrieved from <https://thenevadaindependent.com/article/judge-again-blocks-conservative-groups-effort-to-block-mail-only-primary-election>

³⁹⁹Sonner, S. (2020, June 2). Judge in June 9 Nevada Primary Fight Won't Rule Until July. *The Associated Press*. Retrieved from <https://mynews4.com/news/local/judge-in-june-9-nevada-primary-fight-wont-rule-until-july>

⁴⁰⁰2020 Primary Election Turnout. (2020, June 19). Office of Nevada Secretary of State Barbara K. Cegavske. Retrieved June 30, 2020, from <https://www.nvsos.gov/sos/home/showdocument?id=8686>

⁴⁰¹Ahmad, S. (2020, July 1). Nevada Working to Improve Voting in November Amid Thousands of Uncounted Ballots. *News 4 & Fox 11*. Retrieved from <https://mynews4.com/news/local/officialsworkingtoimprovevotinginnovemberamidthousandsofuncanvoted-ballots>

⁴⁰²Leonard, K. (2020, June 12). Long Lines on Election Day Become Political Flashpoint. *The Nevada Independent*. Retrieved from <https://thenevadaindependent.com/article/long-lines-on-election-day-become-political-flashpoint>

⁴⁰³Robison, V. (2020, June 24). 2020 Nevada Primary Election Results Confirmed. *The Progress*. Retrieved from <http://mvprogress.com/2020/06/24/2020-nevada-primary-election-results-confirmed/>

⁴⁰⁴Nev. Rev. Stat. § 293.310

⁴⁰⁵Absent Ballot Request. (n.d.). Office of Nevada Secretary of State Barbara K. Cegavske. Retrieved May 13, 2020, from <https://www.nvsos.gov/sos/home/showdocument?id=8262>

⁴⁰⁶Nev. Rev. Stat. § 293.313

polls close on Election Day or mailed to the county clerk, postmarked on or before Election Day, and received within seven days following the election.⁴⁰⁷ All mail ballots must be delivered either by the voter themselves or a family member.⁴⁰⁸

Upon receiving a mail ballot, the county clerk will check the voter's signature on the envelope against all signatures available for that voter. If at least 2 employees of the county clerk's office believe there is a reasonable question of fact regarding whether the signature on the envelope matches the signatures on file, the county clerk will contact the voter and ask them to confirm whether it is their signature. If the voter did not sign the return envelope, but are otherwise entitled to vote, the county clerk will contact the voter and advise them on how to provide a signature.⁴⁰⁹ Voters have until the seventh day after the election to provide the necessary information to cure their rejected ballot.⁴¹⁰

State Timeline Requirements

The board of county commissioners will meet on or before the tenth business day following an election (November 17) to open the returns of the vote and make an abstract of the votes cast.⁴¹¹ The board, after making the abstract of votes, will deliver it to the secretary of state.⁴¹²

On the fourth Tuesday of November (November 24), the justices of the Supreme Court (or a majority thereof) will meet with the secretary of state and will canvass the vote for the presidential electors. After which the governor will issue certificates of election to those individuals elected to the office of presidential elector.⁴¹³ Certificate of election may not be withheld from an individual who was duly elected because of an ongoing election contest or due to any informality in the returns of the election, if it can be determined from the returns what office was intended and who is entitled to the certificate of election.⁴¹⁴

Presidential Elector Requirements

Nominees for presidential elector must sign the following pledge: If selected for the position of presidential elector, I agree to serve as such and to vote only for the nominees for president and vice president of the political party or the independent candidates who received the highest number of votes in this State at the general election.⁴¹⁵

The secretary of state will preside over the meeting of the presidential electors. If a presidential elector is not present at the meeting, the vacancy will be filled by an alternate elector. If there are more vacancies than alternates, the secretary of state will appoint as elector a person voted upon by the alternate electors present. If there are no alternates present, the secretary of state will appoint a person voted upon by the presidential electors who are present. If all presidential electors and alternates are absent from the meeting, the secretary of state will appoint one person as an elector and it will be their responsibility to fill the remaining positions.⁴¹⁶ All newly appointed presidential electors must sign the presidential elector pledge.

If a presidential elector does not vote, or votes for a candidate who did not receive the popular vote in the state, the secretary of state will refuse to accept either ballot and deem the presidential elector's position vacant and it will be filled in the manner described in the previous paragraph.⁴¹⁷

⁴⁰⁷Nev. Rev. Stat. § 293.317

⁴⁰⁸Nev. Rev. Stat. § 293.330

⁴⁰⁹Nev. Rev. Stat. § 293.325

⁴¹⁰Nev. Rev. Stat. § 293.333

⁴¹¹Nev. Rev. Stat. § 293.393

⁴¹²Nev. Rev. Stat. § 293.395

⁴¹³Ibid.

⁴¹⁴Nev. Rev. Stat. § 293.397

⁴¹⁵Nev. Rev. Stat. § 298.045

⁴¹⁶Nev. Rev. Stat. § 298.06

⁴¹⁷Nev. Rev. Stat. § 298.075

Emergency Powers

The governor may perform and exercise functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population.⁴¹⁸

Additional Information

Two election reform bills were signed into law in 2019. The first bill, AB 345, authorizes voters to request a mail ballot for all future elections, extends voter registration deadlines, allows same-day voter registration, and allows for the creation of vote centers where anyone registered in the county or city may vote.⁴¹⁹ These changes which took effect at the beginning of the year will remove hindrances for residents to vote, but will slow the process of certifying election results. The second bill, AB 431, which took effect last year, restored the voting rights of residents with criminal convictions who have been released from prison, eliminating the requirement that individuals with certain convictions wait two years for the restoration of their voting rights.⁴²⁰

⁴¹⁸Nev. Rev. Stat. § 414.070

⁴¹⁹Nevada Appeal. (2019, June 14). Voting Rights Bill Signed by Nevada Gov. Steve Sisolak. *Nevada Appeal*. Retrieved from <https://www.nevadaappeal.com/news/government/voting-rights-bill-signed-by-nevada-gov-steve-sisolak/>

⁴²⁰Brennan Center for Justice. (2019, May 30). Voting Rights Restoration Efforts in Nevada. Retrieved from <https://www.brennancenter.org/our-work/research-reports/voting-rights-restoration-efforts-nevada>

NEW HAMPSHIRE



Electoral College Votes: 4

Cook Report Rating: Leans Democrat

Governor: Chris Sununu, Republican

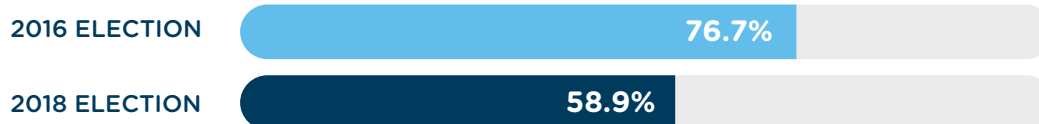
Secretary of State: Bill Gardner, Democrat

House of Representatives Delegation: 2 Democrats

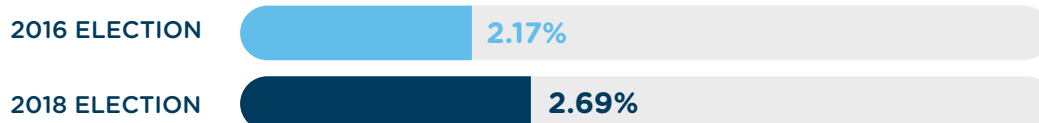
State Senate: 14 Democrats, 10 Republicans

State House: 231 Democrats, 158 Republicans, 1 Libertarian, 10 vacancies

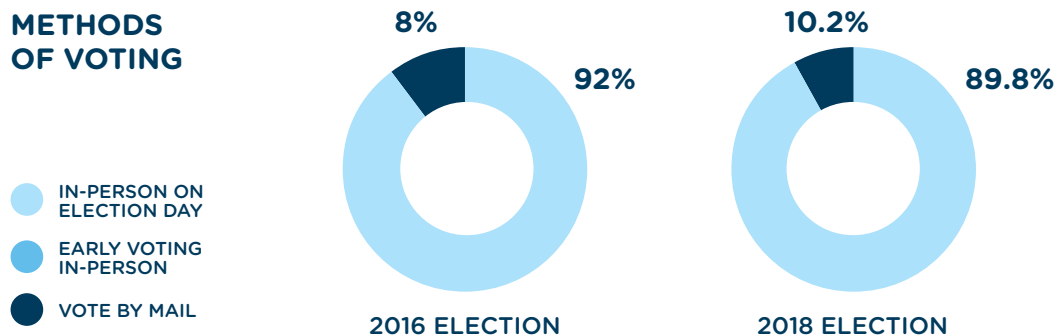
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state serves as the chief election officer⁴²¹ and oversees all elections in New Hampshire, including preparing ballots⁴²², resolving conflicting interpretations of election law⁴²³, canvassing the statewide election returns⁴²⁴, and preparing the certificates of election⁴²⁵. The governor is responsible for transmitting the completed certificates to the individuals duly elected to the office of presidential elector.⁴²⁶ Governor Sununu is running for a third term in 2020.

2020 Primaries

The 2020 presidential primary took place on Tuesday, February 11, 2020. The primary for other elected

⁴²¹N.H. Rev. Stat. § 652:23

⁴²²N.H. Rev. Stat. § 656:1

⁴²³N.H. Rev. Stat. § 659:9-a

⁴²⁴N.H. Rev. Stat. § 659:81

⁴²⁵N.H. Rev. Stat. § 659:83

⁴²⁶N.H. Rev. Stat. § 659:84

offices is scheduled to take place on September 8, 2020.

Secretary of State Bill Gardner released a memo on April 10, which stated that, “in light of the current public health state of emergency... all voters have a reasonable ground to conclude that a ‘physical disability’ exists” such that they “may request an absentee ballot on that basis.”⁴²⁷ This new allowance stands for both the September primary and November general election.

Vote by Mail

New Hampshire only allows voters with an excuse to request a mail ballot. However, during the 2020 election cycle, the secretary of state is allowing any voter to claim “physical disability” due to the coronavirus pandemic and thus qualify to apply for a mail ballot.

The typical criteria for a mail ballot include: (1) if a voter is absent from the city where they are registered to vote, (2) if the voter cannot appear in public due to the observance of a religious commitment, (3) if the voter is unable to vote in person due to a physical disability, (4) if the National Weather Service has issued a winter storm or ice storm warning on election day applicable to your city and you otherwise would have voted, but for your concern for your own safety while traveling in the storm,⁴²⁸ and (5) if the voter is eligible to vote under the Uniformed Overseas Citizens Absentee Voting Act (UOCAVA).⁴²⁹

Even though all voters are free to vote by mail this election cycle, they still must complete an application in order to do so. Applications include the reason for which they require a mail ballot, the date of the election, their name, address, phone number, e-mail address, date, and signature.⁴³⁰ Applications must be delivered to the town or city clerk.⁴³¹

Once a voter has completed their mail ballot, it must be delivered by the voter themselves, by a family member (specifically the voter’s spouse, parent, sibling, child, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild), or by the voter’s nursing home/residential care facility administrator (if the voter is a resident of a nursing home or residential care facility).⁴³² If the voter returns their mail ballot in person to the clerk’s office, they must show their photo identification.⁴³³ Anyone who delivers a ballot on a voter’s behalf must complete a form provide by the secretary of state and present photo identification.⁴³⁴ In order to be accepted, a mail ballot must be delivered by 5 p.m. on Election Day.⁴³⁵

Before the closing of the polls on Election Day, the clerk will deliver the mail ballots and list of mail voter applicants to the moderators in the voting precincts.⁴³⁶ Ballots received by moderators will begin being processed at 1 p.m. on Election Day. If 10 or more voters challenge the beginning of this process, this process will be postponed until after the polls close. Either way, no tabulation of votes will begin until after the polls close.⁴³⁷

For those mail ballots which were not returned in person, the election moderators will compare the signature on the affidavit with the signature on the mail ballot application to see if they match.⁴³⁸ If the moderator finds that the voter is not entitled to vote, the rejected mail ballot envelope will remain uncounted. The moderator marks the envelope with the reason for the rejection.⁴³⁹ Accepted mail ballots

⁴²⁷Gardner, W. & MacDonald, G. (2020, April 10). Elections Operations During the State of Emergency [Memorandum]. Retrieved from New Hampshire Public Radio, https://www.nhpr.org/sites/nhpr/files/202004/covid-19_elections_guidance.pdf

⁴²⁸N.H. Rev. Stat. § 657:1

⁴²⁹N.H. Rev. Stat. § 657:2

⁴³⁰N.H. Rev. Stat. § 657:4

⁴³¹N.H. Rev. Stat. § 657:6

⁴³²N.H. Rev. Stat. § 657:17

⁴³³N.H. Rev. Stat. § 657:17-a

⁴³⁴N.H. Rev. Stat. § 657:17

⁴³⁵N.H. Rev. Stat. § 657:22

⁴³⁶N.H. Rev. Stat. § 657:23

⁴³⁷N.H. Rev. Stat. § 659:49

⁴³⁸N.H. Rev. Stat. § 659:50

⁴³⁹N.H. Rev. Stat. § 659:53

will be opened, and the ballot deposited in the ballot box.⁴⁴⁰ Once all mail ballots are processed, the election officials will begin counting the votes cast.⁴⁴¹ If a mail ballot is found invalid, there is no specific process for the voter to cure the issue.

State Timeline Requirements

After all the mail ballots have been processed and counted, and after the polls have closed, the election officials will, under the supervision of the moderator, begin counting the votes cast in their precinct.⁴⁴² After the count is complete, the town or ward clerk will prepare the election returns in the presence of the other election officials⁴⁴³ and, when complete, send a copy to the secretary of state.⁴⁴⁴

If the town or ward's election returns have not been received by the secretary of state by 8 a.m. on the day following the election, the secretary of state will notify the attorney general, moderator, selectmen, and the clerk of the town or ward who will proceed to deliver the election returns.⁴⁴⁵

When the secretary of state has received the returns from all towns or wards in the state, they will canvass the statewide returns,⁴⁴⁶ while the governor is responsible for transmitting the completed certificates to the individuals duly elected to the office of presidential elector.⁴⁴⁷

Presidential Elector Requirements

The presidential electors will meet by noon on the meeting day and will inform the governor and the Governor's Council of the number of electors present who accept the office of presidential elector.⁴⁴⁸ If the number of electors present is less than four, due to absence, refusal to accept the office, or a tie vote, the electors present will vote to confirm new electors up to the requisite number.⁴⁴⁹ Once they have the correct number, the presidential electors will give their votes for president and vice president.⁴⁵⁰ New Hampshire state law does not constrain presidential electors' votes, allowing for the possibility of a faithless elector.

Emergency Powers

The governor has the power to declare a state of emergency by executive order if the governor finds that a natural, technological, or man-made disaster of major proportions is imminent or has occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section.

During the existence of a state of emergency, the governor has the power to perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population.⁴⁵¹ Including the power to make, amend, suspend and rescind necessary orders, rules and regulations.⁴⁵²

Additional Information

In July 2018, Governor Sununu signed House Bill 1264 into law. Previously, New Hampshire was the only state which did not require residency to vote; it only required that an individual was "domiciled" in the state. This new law sought to remove this distinction. Democrats argued that this bill would impede students from voting because becoming a resident required obtaining a New Hampshire driver's license.

⁴⁴⁰N.H. Rev. Stat. § 659:52

⁴⁴¹N.H. Rev. Stat. § 659:61

⁴⁴²Ibid.

⁴⁴³N.H. Rev. Stat. § 659:71

⁴⁴⁴N.H. Rev. Stat. § 659:75

⁴⁴⁵N.H. Rev. Stat. § 659:78

⁴⁴⁶N.H. Rev. Stat. § 659:81

⁴⁴⁷N.H. Rev. Stat. § 659:84

⁴⁴⁸N.H. Rev. Stat. § 660:27

⁴⁴⁹N.H. Rev. Stat. § 660:28

⁴⁵⁰N.H. Rev. Stat. § 660:29

⁴⁵¹N.H. Rev. Stat. § 4:45

⁴⁵²N.H. Rev. Stat. § 4:47

However, in May 2020, the New Hampshire Supreme Court clarified the law, stating “this technical state law decision does not change the fact that if you live in New Hampshire, you can vote in New Hampshire...It is also important to note that you do not need a New Hampshire driver’s license to vote in the state.”⁴⁵³

Another bill which was signed into law by Governor Sununu in July 2017, Senate Bill 3, requires those registering to vote within 30 days of an election to provide documentation proving they live where they are casting their ballot. In April 2020, a superior court judge struck down the law, stating that it is unconstitutional and unreasonably burdens the right to vote.⁴⁵⁴ The decision is expected to be appealed to the New Hampshire Supreme Court.

In September 2019, Governor Sununu vetoed a bill that would have allowed no-excuse mail voting in New Hampshire.⁴⁵⁵ However, a new bill passed by the state legislature in June would specifically address the COVID-19 pandemic.⁴⁵⁶ House Bill 1266 adds a specific checkbox to mail ballot applications for voters requesting a mail ballot due to “concern for the novel coronavirus.” The legislation also modifies how these ballots are processed, allowing moderators to open mail ballot envelopes as early as the Thursday preceding the election. The ballots may also be partially processed by examining the affidavit on one of the five days (except Sunday) before the election.

⁴⁵³DiStaso, J. (2020, May 22). Challenge to Constitutionality of Voter Residency Law Withdrawn After NH Supreme Court opinion. *WMUR*. Retrieved from <https://www.wmur.com/article/nh-supreme-court-says-voting-law-eliminates-distinction-between-domicile-and-residency-in-state/32646818#>

⁴⁵⁴Tuohy, D. (2017, September 11). Senate Bill 3 Gets Its First Test Tuesday: Here’s an Overview. *New Hampshire Public Radio*. Retrieved from <https://www.nhpr.org/post/senate-bill-3-gets-its-first-test-tuesday-heres-overview#stream/0>

⁴⁵⁵NHPR. (2019, September 6). Sununu Vetoes Bill to Expand Absentee Voting in N.H. *New Hampshire Public Radio*. Retrieved from <https://www.nhpr.org/post/sununu-vetoes-bill-expand-absentee-voting-nh#stream/0>

⁴⁵⁶HB 1266 (N.H. 2020). Retrieved from http://gencourt.state.nh.us/bill_status/bill_status.aspx?lsr=2650&sy=2020&sortoption=&txtsessionyear=2020&txt_billnumber=HB1266

NORTH CAROLINA



Electoral College Votes: 15

Cook Report Rating: Toss Up

Governor: Roy Cooper, Democrat

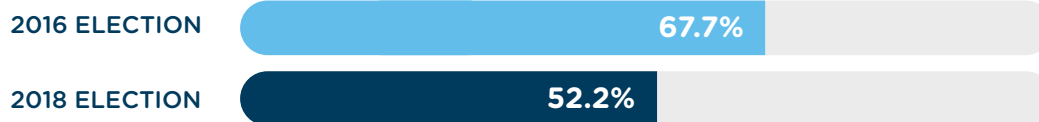
Secretary of State: Elaine Marshall, Democrat

House of Representatives Delegation: 3 Democrats, 9 Republicans, 1 vacancy

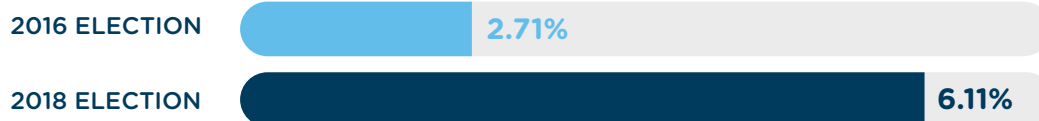
State Senate: 21 Democrats, 28 Republicans, 1 vacancy

State House: 54 Democrats, 65 Republicans, 1 vacancy

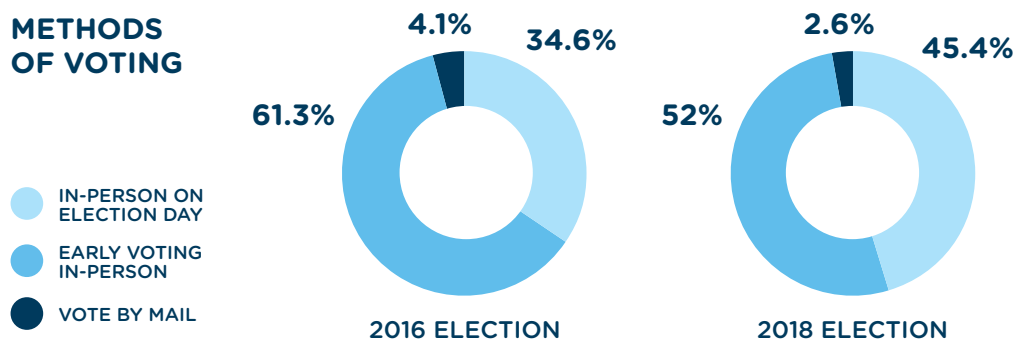
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The State Board of Elections oversees all elections in North Carolina, including providing all the necessary election materials, appointing county election board members, investigating election fraud, and canvassing the statewide election results.⁴⁵⁷ After completing the statewide canvass, the State Board of Elections will send a copy of the completed abstract of all votes cast to the secretary of state.⁴⁵⁸ For each presidential elector, the board will also prepare and transmit a certificate of election.⁴⁵⁹

The State Board of Elections is composed of five members, with no more than three members from the same political party. Each member is appointed by the governor from lists provided by the state chair of each of the two major political parties.⁴⁶⁰ The Executive Director of the Board, who is appointed by the State

⁴⁵⁷N.C. Gen. Stat. Ann. § 163-22

⁴⁵⁸N.C. Gen. Stat. Ann. § 163-182.6

⁴⁵⁹N.C. Gen. Stat. Ann. § 163-182.15

⁴⁶⁰N.C. Gen. Stat. Ann. § 163-19

Board of Elections, has the role of actually carrying out the decisions made by the State Board.⁴⁶¹

2020 Primaries

The 2020 presidential primary took place on Super Tuesday, March 3, 2020, including their primary for other elected offices.

Vote by Mail

Any voter in North Carolina may vote by mail.⁴⁶² In order to do so, voters must submit an application by mail or in person and it must be received by the county board of elections before 5 p.m. on the Tuesday before the election.⁴⁶³ However, for just the 2020 election, mail ballot applications may also be submitted by e-mail or fax.⁴⁶⁴ Applications require that a voter include their name, address, identification (driver's license number, non-operators identification number, or last four digits of their social security number), date of birth, and signature. Applications only apply to the election listed in the request, unless the voter has a sickness or disability that is expected to last the year, and then they may request a mail ballot for all elections held that calendar year.⁴⁶⁵

Once a voter has received their mail ballot, they must fill it out in the presence of two adults, who are required to sign the certificate and list their addresses as witnesses to the completion of the ballot. However, for just the 2020 election, the witness requirement has been lowered to require just one witness signature.⁴⁶⁶ Ballots must then be returned by mail, in person, or to a one-stop voting site by either the voter themselves, the voter's near relative, or the voter's legal guardian.⁴⁶⁷

Mail ballots must be received before 5 p.m. on Election Day. Ballots received after 5 p.m. may be accepted if they are postmarked on or before Election Day and received before 5 p.m. three days after the election. All ballots received will be delivered to the county board of elections office for processing.⁴⁶⁸

The county board of elections will determine whether returned mail ballots satisfy the requirements to be counted. The return envelopes must include the voter's certification of eligibility to vote by mail, the voter's signature, and a witness signature and address.⁴⁶⁹ Only ballots which are returned in a properly executed return envelope will be counted and the ballots may start being processed by the scanning machine during the board's meetings in which they approve mail ballot.⁴⁷⁰

The board may begin the process of actually counting votes cast by mail ballot at 9 a.m. on Election Day, provided they agreed (at least 2 weeks earlier) to do so and publicly provided the time and location of their meeting. Otherwise, the board will meet at 5 p.m. to begin counting the votes cast. The counting of ballots will not start until the majority of members of the board are present, including at least one member of each political party.⁴⁷¹

State Timeline Requirements

After the polls close on Election Day, election officials will count the votes cast at their precinct. As soon as possible, precinct officials will transmit a preliminary report of the votes cast to the county board of elections.⁴⁷²

The county board of elections will meet at 11 a.m. on the tenth day following the election to canvass the

⁴⁶¹N.C. Gen. Stat. Ann. § 163-26

⁴⁶²N.C. Gen. Stat. Ann. § 163-226

⁴⁶³N.C. Gen. Stat. Ann. § 163-230.1

⁴⁶⁴Bipartisan Elections Act of 2020, HB 1169 (N.C. 2019). Retrieved from <https://www.ncleg.gov/Sessions/2019/Bills/House/PDF/H1169v4.pdf>

⁴⁶⁵N.C. Gen. Stat. Ann. § 163-230.2; SB 683 (N.C. 2019). Retrieved from <https://www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S683v7.pdf>

⁴⁶⁶Bipartisan Elections Act of 2020, HB 1169 (N.C. 2019). Retrieved from <https://www.ncleg.gov/Sessions/2019/Bills/House/PDF/H1169v4.pdf>

⁴⁶⁷N.C. Gen. Stat. Ann. § 163-231

⁴⁶⁸Ibid.

⁴⁶⁹N.C. Gen. Stat. Ann. § 163-229

⁴⁷⁰N.C. Gen. Stat. Ann. § 163-234

⁴⁷¹Ibid.

⁴⁷²N.C. Gen. Stat. Ann. § 163-182.2

election returns from their county precincts.⁴⁷³ Upon completion, the board will prepare abstracts of the votes cast and deliver a copy to the State Board of Elections.⁴⁷⁴

The State Board of Elections will meet at 11 a.m. on the Tuesday three weeks after the election to canvass the statewide election returns. If, by the time the State Board of Elections is set to meet, the Board has not received all the county abstracts, the Board may adjourn for 10 days at most to secure the outstanding abstracts.⁴⁷⁵ As soon as the State Board of Elections is finished with their canvass, they will prepare a composite abstract and send a copy to the secretary of state.⁴⁷⁶

The board will also prepare a certificate of election for each presidential elector. These certificates will be transmitted to the individuals duly elected six days after the completion of the statewide canvass, unless there is a pending election protest. If there is an election protest, certificates will be issued 10 days after the decision of the State Board on the protest, unless the Superior Court of Wake County has instructed a stay on their issuance. If the protest is appealed to the Superior Court of Wake County, the certificates will be issued 5 days after the final order by the Court, unless another court orders otherwise.⁴⁷⁷

After the delivery of the certificates of election, the governor will issue a proclamation of the names of the electors duly elected and instruct them to be present at the presidential elector meeting.⁴⁷⁸ If, for whatever reason, the proclamation of elected presidential electors has not occurred before noon on the sixth day before the presidential elector meeting, the General Assembly may call an extra session to fill the position of any presidential electors whose election has not yet been proclaimed. If, for whatever reason, the proclamation of elected presidential electors has not occurred before noon on the sixth day before the presidential elector meeting and the General Assembly has not appointed electors by noon on the day before the presidential elector meeting, the governor can then appoint the electors. If either the General Assembly or governor appoints electors, they will select electors in accord with their best judgement of the will of the electorate, but their decisions are not subject to judicial review.⁴⁷⁹

Presidential Elector Requirements

At any time before receiving the certificate of election from the governor or within 48 hours after receipt, any presidential elector may resign their position. Failure to resign within 48 hours following the receipt of the certificate of election signifies consent to serve as a presidential elector.⁴⁸⁰

Any presidential elector who consented to serve, who fails to attend the presidential elector meeting and vote for the presidential candidate of the political party which nominated them (unless due to illness or some other unavoidable accident), will forfeit their office and be fined \$500.⁴⁸¹

If a vacancy occurs among the presidential electors, the first and second alternate electors will be appointed to the position of presidential elector. If more than two vacancies arise, the remaining presidential electors will elect a sufficient number of individuals to fill the vacancies.⁴⁸²

Only one instance of a “faithless elector” has occurred in North Carolina’s history. In 1968, Dr. Lloyd Bailey voted for George Wallace rather than Richard Nixon, who won the states’ popular vote. Sen. Edmund Muskie (D-ME) and Rep. James O’Hara (D-MI) argued that Bailey’s vote ought to be rejected by Congress since it had not been “regularly given”.⁴⁸³ The motion to reject the vote was defeated in congress.

⁴⁷³N.C. Gen. Stat. Ann. § 163-182.5

⁴⁷⁴N.C. Gen. Stat. Ann. § 163-182.6

⁴⁷⁵N.C. Gen. Stat. Ann. § 163-182.5

⁴⁷⁶N.C. Gen. Stat. Ann. § 163-182.6

⁴⁷⁷N.C. Gen. Stat. Ann. § 163-182.15

⁴⁷⁸N.C. Gen. Stat. Ann. § 163-210

⁴⁷⁹N.C. Gen. Stat. Ann. § 163-213

⁴⁸⁰N.C. Gen. Stat. Ann. § 163-210

⁴⁸¹N.C. Gen. Stat. Ann. § 163-212

⁴⁸²N.C. Gen. Stat. Ann. § 163-210

⁴⁸³3 U.S.C. § 15

Emergency Powers

The Executive Director may exercise emergency powers to conduct an election when the normal schedule for the election is disrupted by (1) a natural disaster, (2) extremely inclement weather, or (3) an armed conflict involving the Armed Forces of the United States.⁴⁸⁴

The governor may suspend state agency regulations and ordinances that restrict the “immediate relief of human suffering.” The governor may also exercise any function deemed necessary to promote the protection of the civilian population.⁴⁸⁵

Additional Information

In 2016, a federal appeals court struck down a 2013 North Carolina voter ID bill that the court ruled targeted “African-Americans with almost surgical precision.”⁴⁸⁶ In 2018, voters approved a constitutional amendment that would require voters to show photo ID.⁴⁸⁷ After the election, the legislature passed implementation legislation, which Governor Cooper vetoed before the outgoing supermajority overrode that veto.⁴⁸⁸ Immediately opponents of the law filed suit, and in 2020 the North Carolina Court of Appeals blocked the law from being implemented because such a law would likely “have a negative impact on African Americans because they lack acceptable IDs at a greater rate than white voters.”⁴⁸⁹

Since Governor Cooper’s election in 2016, the Democratic governor and Republican-controlled legislature have been at odds regarding the structure of the State Board of Elections. Over the last four years, a series of laws were passed constraining the governor’s authority over the state board. Each time, the governor responded by filing suit, culminating in a failed 2018 ballot measure. In the end, the State Board of Elections was returned to its pre-2017 structure. However, this series of events is evidence of a potential political flashpoint between the executive and legislative branches in a closely contested election.

In 2018, the 9th Congressional District race made national headlines when, after a months-long investigation into allegations of ballot tampering, the State Board of Elections voted unanimously to not certify the results of the race.⁴⁹⁰ Their decision was largely the result of scrutiny surrounding the winning candidate’s hiring of a political operative, who is alleged to have illegally collected, filled out, and delivered mail ballots.⁴⁹¹

In the fall of 2019, North Carolina passed Senate Bill 683 in response to the scandal.⁴⁹² The new law requires mail ballot applications to be returned only by the voter themselves, a relative, or someone authorized by the local board of elections. These mail ballot applications now require a photo ID, driver’s license number, or last four digits of a SSN. It also increases the penalties for the mail ballot “harvesting.” Advance Carolina, a group which works to get African Americans out to vote in the state, filed a lawsuit claiming that the new law unduly burdens marginalized voters, particularly the stringent requirements added to the process of applying for a mail ballot. They argued that these requirements go beyond the main issue in 2018, which

⁴⁸⁴N.C. Gen. Stat. Ann. § 163-27.1

⁴⁸⁵N.C. Gen. Stat. Ann. § 166A-19.30

⁴⁸⁶Domonoske, C. (2016, July 29). U.S. Appeals Court Strikes Down North Carolina’s Voter ID Law. *NPR*. Retrieved from <https://www.npr.org/sections/thetwo-way/2016/07/29/487935700/u-s-appeals-court-strikes-down-north-carolinas-voter-id-law>

⁴⁸⁷Gallagher, D. & Stracqualursi, V. (2019, December 27). Federal Court Says It Will Temporarily Block New NC Voter ID Law. *CNN Politics*. Retrieved from <https://www.cnn.com/2019/12/27/politics/north-carolina-voter-id-law/index.html>

⁴⁸⁸WTVD-AP. (2018, December 19). Voter ID Bill Becomes Law After House Overrides Cooper’s Veto. *WTVD*. Retrieved from <https://abc11.com/politics/voter-id-bill-becomes-law-after-house-overrides-coopers-veto/4930547/>

⁴⁸⁹Gallagher, D., Barajas, A., & Duster, C. (2020, February 19). North Carolina Appeals Court Blocks Voter ID Law. *CNN Politics*. Retrieved from <https://www.cnn.com/2020/02/18/politics/north-carolina-voter-id-law/index.html>

⁴⁹⁰Morris, K. & Perez, M. (2018, December 6). North Carolina’s Election Fiasco Is About Voter Suppression, Not Voter Fraud. *Brennan Center for Justice*. Retrieved from <https://www.brennancenter.org/our-work/analysis-opinion/north-carolinas-election-fiasco-about-voter-suppression-not-voter-fraud>

⁴⁹¹Gardner, A. (2019, February 21). N.C. Board Declares a New Election in Contested House Race After the GOP Candidate Admitted He Was Mistaken in His Testimony. *The Washington Post*. Retrieved from https://www.washingtonpost.com/politics/candidate-says-new-congressional-election-warranted-in-north-carolina/2019/02/21/acae4482-35e0-11e9-854a-7a14d7fec96a_story.html

⁴⁹²N.C. Elections Funding, Absentee Ballot Security, and Early Voting Additions Approved by General Assembly. (2019, October 29). Speaker Tim More, North Carolina House of Representatives. Retrieved from <https://speakermoore.com/n-c-elections-funding-absentee-ballot-security-early-voting-additions-approved-general-assembly/>

⁴⁹³Corriher, B. (2020, April 8). Lawsuit Seeks to Ease North Carolina’s New Limits on Voting by Mail. *Facing South*. Retrieved from <https://www.facingsouth.org/2020/04/lawsuit-seeks-ease-north-carolinas-new-limits-voting-mail>

was the illegal collection of mail ballots.⁴⁹³

In response to the COVID-19 pandemic, Brinson Bell, North Carolina's elections executive director, recommended eliminating the requirement of two witness signatures or a notary on mail ballots. In April, North Carolina Senate leader Phil Berger opposed the proposal.⁴⁹⁴ Berger said that he did not trust Governor Cooper and the state board of elections to not rig the election, saying, "There is zero trust that this process would be fair and transparent."⁴⁹⁵ Bell also proposed pre-paid postage for mail ballots, as well as an online portal where voters could submit applications for mail ballots.⁴⁹⁶

In May 2020, the North Carolina House overwhelmingly passed a bipartisan election bill, HB 1169. The bill temporarily lowered the number of witnesses required for mail ballots from two to one. The bill also allows mail ballot applications to be submitted by email and fax in addition to mail or in person, and allocates nearly half a million dollars to create an online portal for these requests. There would also be a unique code given to each mail voter that allows them to track when their ballot is mailed to them and when it is processed. Finally, the bill makes it a felony for any election official to send a mail ballot to any person who has not requested one and makes it illegal for the State Board of Elections to order an all-mail election.⁴⁹⁷

⁴⁹⁴Harrison, S. (2020, April 1). Top NC Republican Dismisses Ideas to Make Mail Voting Easier. *WFAE*. Retrieved from <https://www.wfae.org/post/top-nc-republican-dismisses-ideas-make-mail-voting-easier#stream/0>

⁴⁹⁵Editorial Board. (2020, April 10). NC's Top Republican Doesn't Trust the Governor to Run a Fair 2020 Mail-In Election. Really. *The Charlotte Observer*. Retrieved from <https://www.charlotteobserver.com/opinion/editorials/article241887126.html>

⁴⁹⁶Morrill, J. (2020, April 4). With New Federal Money, NC Elections Officials Prepare for Surge of Absentee Voting. *The Charlotte Observer*. Retrieved from <https://www.msn.com/en-us/news/politics/with-new-federal-money-nc-elections-officials-prepare-for-surge-of-absentee-voting/ar-BB1297bK>

⁴⁹⁷Wilkie, J. (2020, May 29). NC House Passes Bipartisan Election Bill to Fund COVID-19 Response. *Carolina Free Press*. Retrieved from <https://carolinapublicpress.org/30559/nc-house-passes-bipartisan-election-bill-to-fund-covid-19-response/>

OHIO



Electoral College Votes: 18

Cook Report Rating: Leans Republican

Governor: Mike DeWine, Republican

Secretary of State: Frank LaRose, Republican

House of Representatives Delegation: 4 Democrats, 12 Republicans

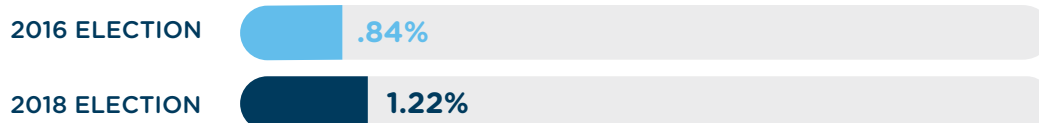
State Senate: 9 Democrats, 24 Republicans

State House: 38 Democrats, 61 Republicans

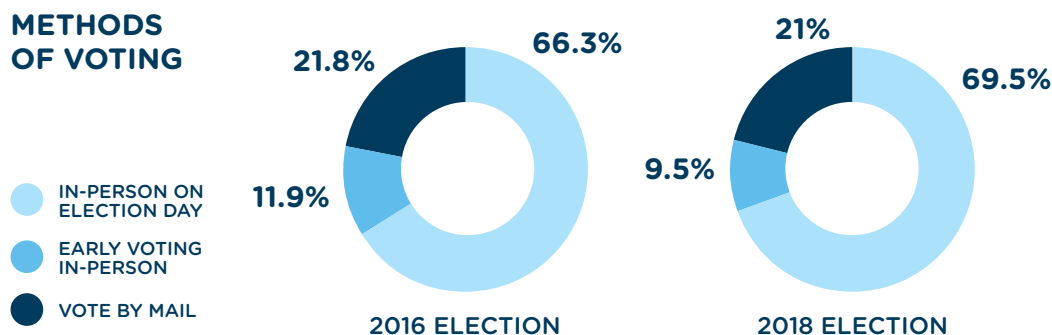
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state serves as the chief elections officer and oversees all elections in Ohio, including maintaining voter registration, supervising the conduct of elections,⁴⁹⁸ canvassing the statewide election returns,⁴⁹⁹ and transmitting certificates of election to each individual elected to the office of presidential elector.⁵⁰⁰

2020 Primaries

On March 16, the day before the scheduled primary in Ohio, Governor DeWine recommended that the state postpone the primary until June 2. State officials stated that the governor did not have the power to unilaterally delay the election. He responded by supporting a lawsuit which argued that having an

⁴⁹⁸Ohio Rev. Code § 3501.04

⁴⁹⁹Ohio Rev. Code § 3505.35

⁵⁰⁰Ohio Rev. Code § 3505.39

election on March 17 would disenfranchise voters who were unable to vote due to health concerns. Franklin County Judge Richard Frye rejected the request for the court to delay the election.⁵⁰¹

In response, Ohio Department of Health director Dr. Amy Acton announced that the polls would be closed due to a public health emergency. On the morning of March 17 the Ohio Supreme Court supported the move by Acton to close the polls and effectively delay the election.⁵⁰²

The Ohio State legislature passed a bill which set the primary date for April 28. The new law instructed the Ohio State Department to send a postcard to every voter notifying them of the methods to obtain a mail ballot, but did not send every voter a mail ballot. Ballots received by 7:30 p.m. on April 28 were counted.⁵⁰³ Tens of thousands of ballots arrived on the last day, leading the unofficial results to be delayed until well after midnight.⁵⁰⁴ The law did not set a time for polls to be open, so the primary was functionally an all-mail primary, except for in-person voting at county board of elections offices.

Approximately 1.8 million people voted by mail in the primary, which is four times the number of mail ballots in to the 2016 primary, but far less than the total 3.3 million residents who voted in that primary. Confusion in the electoral process and lack of presidential competition were both used to explain the drop in voter turnout.⁵⁰⁵

Vote by Mail

Any voter in Ohio may vote by mail.⁵⁰⁶ However, in order to do so, voters must complete a written application and deliver it in person before 6 p.m. on the Friday before Election Day or deliver it by mail before noon on the third day preceding the election. This deadline for postal delivery of applications may be pushed back to the seventh day preceding the election by legislation currently being considered in the state Senate. Applications must include the voter's name, signature, address, date of birth, and one of the following (1) driver's license number, (2) last four digits of SSN, or (3) a copy of the voter's current photo identification, current utility bill, bank statement, government check, or paycheck. Voters must apply to vote by mail for each election in which they wish to do so.⁵⁰⁷

Upon completing their mail ballot, voters must return it by mail or in person to the director from which it was sent. Ballots may be delivered by the voter themselves or by a family members (specifically their spouse, parent, father-in-law, mother-in-law, grandparent, sibling (full or half), child, adopted parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece). In order to be counted, mail ballots must be postmarked prior to Election Day and delivered before the 11th day after the election.⁵⁰⁸

The board of elections will decide whether mail ballots will be processed and counted at each precinct, at the office of the board, or at some other located designated by the board. If ballots are counted in each precinct, the director will deliver the mail ballot envelopes to the voting location manager after the close of the polls on Election Day and if the ballots are counted at the office of the board of elections, special election officials will be appointed to process the ballots.⁵⁰⁹

⁵⁰¹Lyons, K. (2020, March 16). Judge Denies Ohio Governor's Attempt to Postpone the State's Presidential Primary. *The Verge*. Retrieved from <https://www.theverge.com/2020/3/16/21182254/ohio-governor-postpone-presidential-primary-june-coronavirus>

⁵⁰²Ludlow, R. (2020, March 18). Coronavirus: Ohio Supreme Court Moving to Rule Quickly on Primary Election Dispute. *The Columbus Dispatch*. Retrieved from <https://www.dispatch.com/news/20200318/coronavirus-ohio-supreme-court-moving-to-rule-quickly-on-primary-election-dispute>

⁵⁰³The Clermont Sun. (2020, April 4). Ohio's Primary Election Moves to April 28 All-Mail Vote Amid COVID-19 Pandemic. *The Clermont Sun*. Retrieved from <https://www.clermontsun.com/2020/04/04/ohios-primary-election-moves-to-april-28-all-mail-vote-amid-covid-19-pandemic/>

⁵⁰⁴Tobias, A.J. (2020, April 29). Ohio's 2020 Never-Ending Primary Election: It Could Have Been Worse, but Fixes Needed, Election Officials Say. *Cleveland.com*. Retrieved from <https://www.cleveland.com/open/2020/04/ohios-2020-never-ending-primary-election-it-could-have-been-worse-but-fixes-needed-elections-officials-say.html>

⁵⁰⁵Ibid.

⁵⁰⁶Ohio Rev. Code § 3509.02

⁵⁰⁷Ohio Rev. Code § 3509.03

⁵⁰⁸Ohio Rev. Code § 3509.05

⁵⁰⁹Ohio Rev. Code § 3509.06

In either instance, the election officials will determine whether a ballot should be processed by comparing the voter's signature on the envelope containing their mail ballot with the signature of that voter on their voter registration. Mail ballots can be rejected if the statement accompanying the ballot is incomplete, if the voter is not qualified to vote, if the envelope contains more than one ballot, if Stub A is detached from the voter's ballot, or if the voter has not included the required copy of identification (if not already provided⁵¹⁰ in their mail ballot application).⁵¹¹

If the election officials determine that the voter's identification information is incomplete or that the information listed does not match what is in their voter registration file, they will contact the voter by phone or email, followed by mail, explaining the issue with their ballot.⁵¹² In order for their ballot to be counted, the voter must provide the necessary information to the board in writing no later than the seventh day after the election. The voter may deliver the prescribed form in person or by mail.⁵¹³ The board of elections may process mail ballots before the close of the polls on Election Day, but is not allowed to count the votes.

State Timeline Requirements

Precinct officials are required to stay until they count all the ballots on election night.⁵¹⁴ Once complete, the precinct officials will record the results and transmit them to the board of elections by noon on the day after the election.⁵¹⁵

No earlier than 11 days after the election and no later than 15 days after the election, the board of elections will begin to canvass the election returns received from the precincts. The board must complete the canvass within 21 days after the election.⁵¹⁶ When finished, the board of elections will certify the abstracts and send a copy to the secretary of state.⁵¹⁷

After the secretary of state receives the abstracts from all the counties, they will decide upon a time for the statewide canvass. This canvass must take place no later than 10 days after they receive all the abstracts. The secretary of state will notify the governor, state auditor, attorney general, and chair of the state central committee of each political party as to when and where the canvass will take place. If they choose to attend, the secretary of state will canvass the abstracts in their presence and declare the results of the presidential race.⁵¹⁸ The secretary of state will mail to each individual duly elected to the office of presidential elector a certificate of their election.⁵¹⁹

Presidential Elector Requirements

Ten days before the presidential elector meeting, the secretary of state will remind all presidential electors of the meeting date. Each elector must give notice to the secretary of state before 9 a.m. on the day of the meeting that they will or will not be present. If there are any vacancies at noon, when the meeting begins, the electors who are present will vote to appoint individuals of the same political party to fill the vacancies.⁵²⁰ Presidential electors will then proceed to cast their electoral votes for the presidential candidate of the political party which nominated them as a candidate for presidential elector, however, no statute enforces this oath and electors' votes are counted as cast.⁵²¹

⁵¹⁰Ohio Rev. Code § 3509.05

⁵¹¹Ohio Rev. Code § 3509.07

⁵¹²LaRose, F. (2020, July 6). 2020 Coronavirus Aid, Relief, and Economic Security ("CARES") Act Funds – Election Administration Preparedness for November 3, 2020 Presidential General Election. Retrieved from <https://files.constantcontact.com/b01249ec501/79c078e7-d355-4def-8b53-fce46e55931a.pdf>

⁵¹³Ohio Rev. Code § 3509.06

⁵¹⁴Ohio Rev. Code § 3505.29

⁵¹⁵Ohio Rev. Code § 3505.30

⁵¹⁶Ohio Rev. Code § 3505.32

⁵¹⁷Ohio Rev. Code § 3505.33

⁵¹⁸Ohio Rev. Code § 3505.35

⁵¹⁹Ohio Rev. Code § 3505.39

⁵²⁰Ibid.

⁵²¹Ohio Rev. Code § 3505.40

Emergency Powers

The director of public safety will adopt and enforce rules with respect to the emergency management of the state for the purpose of providing protection for its people against any hazard.⁵²² An emergency management agency will be established to work directly with the governor in a state of emergency.⁵²³

Local boards of health may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease. In cases of emergency caused by epidemics of contagious or infectious diseases, or conditions or events endangering the public health, the board may declare such orders and regulations to be emergency measures, and such orders and regulations shall become effective immediately without such certifying.⁵²⁴

Additional Information

In January 2019, Ohio conducted a voter registration cleanup, removing about 267,000 voters from the rolls. Secretary of State LaRose was sworn into office following this purge and instated a new rule: counties would have to submit the names of the voters they were removing to his office before removing them. In the lead up to another voter registration cleanup in September 2019, with the new list of names in hand, around 2,700 voters were identified as erroneously added to the list. The renewed focus on the voter purge led to a reduction in number of voters removed from an initial list of 235,000 to 194,000. However, since listing the voters' names was a newly implemented rule, the same correction could not be done for the voters purged from the rolls in January. In a report conducted by USA TODAY Network and The Columbus Dispatch, it was found that nearly 1 out of 3 purged voters was between the ages of 25 and 34 and Democrats outnumbered Republicans almost 2 to 1.⁵²⁵

An elections bill which was passed by the state House in June 2020 may modify how elections will be conducted in November. House Bill 680 moves the deadline for voters to apply to receive mail ballots back from three days to seven days before the election, in light of the increased number of mail ballots and likely slowdown in processing applications.⁵²⁶ Voters may still apply in-person to receive a mail ballot until 6 p.m. on the Friday before the election. All voters will be sent mail ballot applications before the November election, but without prepaid postage. The passage of the bill was condemned by some Democrats, who argue the bill made it harder for early voting to take place.⁵²⁷ The Ohio Senate has yet to act on the bill.

⁵²²Ohio Rev. Code § 5502.25

⁵²³Ohio Rev. Code § 5502.22

⁵²⁴Ohio Rev. Code § 3709.21

⁵²⁵Rouan, R. (2020, January 24). Ohio's Voter Registration Purge Targeted Thousands in Error. Now, a Call for Change. *USA TODAY Network*. Retrieved from <https://www.usatoday.com/in-depth/news/investigations/2020/01/22/errors-ohio-voter-registration-purge-prompt-call-change/4490821002/>

⁵²⁶HB 680 (Ohio 2020). Retrieved from <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-680>

⁵²⁷Shillcock, G. (2020, June 16). Ohio Democrats Criticize GOP Lawmakers, Call on LaRose to Make Voting Easier. *Akron Beacon Journal*. Retrieved from <https://www.beaconjournal.com/news/20200616/ohio-democrats-criticize-gop-lawmakers-call-on-larose-to-make-voting-easier>

PENNSYLVANIA



Electoral College Votes: 20

Cook Report Rating: Leans Democrat

Governor: Tom Wolf, Democrat

Secretary of the Commonwealth: Kathy Boockvar, Democrat

House of Representatives Delegation: 9 Democrats, 9 Republicans

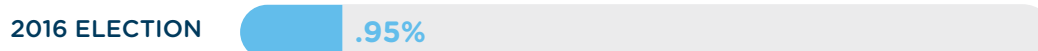
State Senate: 21 Democrats, 28 Republicans, 1 Independent

State House: 93 Democrats, 109 Republicans, 1 vacancy

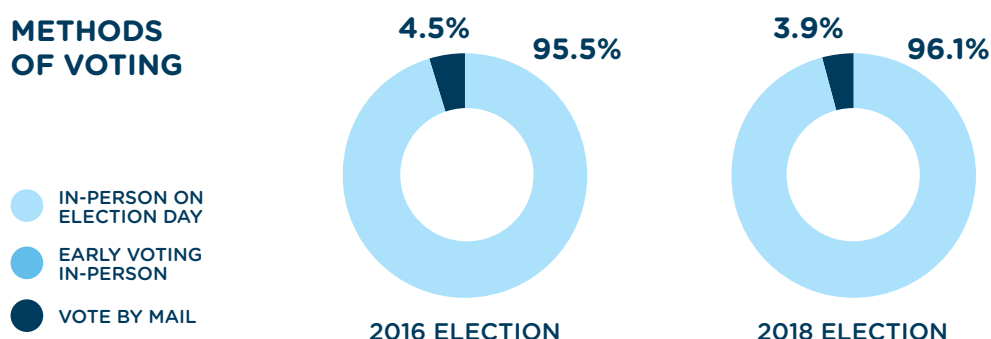
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of the commonwealth oversees all elections in Pennsylvania, including approving the methods by which an election is conducted, remedying and investigating complaints regarding the conduct of elections,⁵²⁸ and canvassing the statewide election returns.⁵²⁹ After the completion of the statewide canvass, the governor will certify the canvass and transmit a certificate of election to each individual duly elected as a presidential elector.⁵³⁰

2020 Primaries

On March 27, 2020, Governor Wolf signed a bill into law which rescheduled the state's primary from its

⁵²⁸25 P.S. § 2621

⁵²⁹25 P.S. § 3159

⁵³⁰25 P.S. § 3166

original date of April 28 to June 2 due to the COVID-19 pandemic.

On the Monday before the primary, Governor Wolf issued an executive order allowing mail ballots from six counties to be accepted if they were postmarked by 8 p.m. on June 2, even if they are not received by the time the polls closed.⁵³¹ Due to this executive order and the shift to more mail-in ballots the results in competitive races were delayed, with Philadelphia not even beginning to count mail ballots until the day after the election⁵³² and taking more than two weeks to complete tallying the votes from mail voters.⁵³³

Approximately 1.5 million voters cast their ballots by mail in the primary election, more than 17 times as many mail voters than in the 2016 primary. Turnout was even higher than in 2012, the last year with an uncontested presidential primary for both parties.⁵³⁴

Vote by Mail

Any Pennsylvania voter may vote by mail.⁵³⁵ However, in order to do so, voters must submit an application to receive a mail ballot. The application must include the voter's name, date of birth, the length of time they have been a resident of the voting district, their voting district, political party, address, and signature. A voter must submit a request for a mail ballot for each calendar year in which they wish vote by mail, but they may request to receive a mail ballot application each before each election.⁵³⁶

Once a voter has completed their ballot, they may deliver it by mail or in person to the county board of electors. In order to be accepted, ballots must be received by 8 p.m. on Election Day.⁵³⁷

The county board of elections retains the received ballots and will not begin to process them until 7 a.m. on Election Day at the earliest.⁵³⁸ The board will examine the declaration on the envelope and compare it to the information contained on the voter's registration file, including the voter's signature, qualifications, and whether the voter has already voted in-person.⁵³⁹ The board will decide whether the identifying information required is satisfactorily provided. For mail ballots that are received without the proper proof of identification, voters have until the sixth day following the election to provide proof of identification.⁵⁴⁰

After processing all the mail ballots, the county board of elections will meet, no earlier than the close of the polls on Election Day and no later than the third day following the election, to canvass and tabulate the votes cast by mail.⁵⁴¹

State Timeline Requirements

Each county board of elections will remain open until all ballot boxes have been received from the precincts.⁵⁴² The county board will meet at 9 a.m. on the third day after the election to canvass the

⁵³¹Southwick, R. (2020, June 2). Gov. Tom Wolf Extends Deadline for Mail-In Ballots for Pa. Primary Election in 6 Counties. *Pennsylvania Real-Time News*. Retrieved from <https://www.pennlive.com/news/2020/06/gov-tom-wolf-says-hes-extending-time-to-count-mail-in-ballots-for-pa-primary.html>

⁵³²Lai, J. (2020, June 2). Pennsylvania Held an Election. We Won't Know the Results for Days. Here's What That Means for November. *The Philadelphia Inquirer*. Retrieved from <https://www.inquirer.com/politics/election/pa-2020-primary-election-results-mail-ballots-20200602.html>

⁵³³Garrison, J. (2020, June 28). No Presidential Winner on Election Night? Mail-In Ballots Could Put Outcome in Doubt for Weeks. *USA Today*. Retrieved from <https://www.milforddailynews.com/news/20200628/no-presidential-winner-on-election-night-mail-in-ballots-could-put-outcome-in-doubt-for-weeks>

⁵³⁴Boockvar, K. (2020, June 22). Historic Primary Paves Way for Successful General Election in Pennsylvania. *Brookings Institute*. Retrieved from <https://www.brookings.edu/blog/fixgov/2020/06/22/historic-primary-paves-way-for-successful-general-election-in-pennsylvania/>

⁵³⁵25 P.S. § 3150.11

⁵³⁶25 P.S. § 3150.12

⁵³⁷25 P.S. § 3150.16

⁵³⁸25 P.S. § 3146.8

⁵³⁹25 P.S. § 3164.4

⁵⁴⁰25 P.S. § 3146.8

⁵⁴¹Ibid.

⁵⁴²25 P.S. § 3151

election returns.⁵⁴³ Once completed, the board will transmit a copy of the certified returns to the secretary of the commonwealth.⁵⁴⁴

When the secretary of the commonwealth receives the returns from all the county boards, they will canvass and certify the statewide results.⁵⁴⁵ The secretary of the commonwealth will lay the results of the canvass before the governor, who will ascertain the number of votes for each candidate and then deliver a certificate of election to each individual duly elected to serve as a presidential elector.⁵⁴⁶

Presidential Elector Requirements

The elected presidential electors will meet at noon on the day of the presidential elector meeting and perform the duties enjoined upon them by the Constitution.⁵⁴⁷ If there are any vacancies among the presidential electors, the electors present at the meeting will vote on and choose a person of the same political party to fill the vacancy.⁵⁴⁸

Emergency Powers

In a state emergency, the governor may issue, amend and rescind executive orders, proclamations and regulations which shall have the force and effect of law. The governor may suspend the provisions of any regulatory statute which outlines procedures for conduct of state business or the rules of any state agency, if compliance with any statute would prevent or delay necessary action in coping with the emergency.⁵⁴⁹

Additional Information

In October 2019, Pennsylvania passed Act 77, which Governor Wolf called “the most significant improvement to Pennsylvania’s elections in more than 80 years.”⁵⁵⁰ The new law allows no-excuse voting by mail for residents (including allowing ballots to be returned up to 50 days before the election, the longest period in the country), allows voters to be designated as permanent mail voters, extends cutoff for voter registration from 30 days before the election to 15 days, and eliminates straight-party ticket voting. The bill passed with bipartisan support and was lauded by Republicans.

Following the June primary, Secretary of State Boockvar called for further legislation to be enacted which would allow mail ballots to be processed before Election Day, stating, “We supported pre-canvassing those ballots weeks before election day but whether it’s weeks before or days before, any amount more that we can give the counties helps them spread out that time period for them to do what’s a very, very challenging job.”⁵⁵¹ Additionally, Governor Wolf signed into law Act 35, which requires the state department to complete a report on the primary election identifying any changes necessary before the November general election.⁵⁵²

The Pennsylvania NAACP has filed a lawsuit arguing that the current system is not equally accessible to black and Hispanic voters. The changes sought include: a limitation on the number of precincts that can be closed, better notice around changes in precinct locations, an option of in-person early voting, and automatically sending out mail ballot applications.⁵⁵³

⁵⁴³25 P.S. § 3154

⁵⁴⁴25 P.S. § 3158

⁵⁴⁵25 P.S. § 3159

⁵⁴⁶25 P.S. § 3166

⁵⁴⁷25 P.S. § 3192

⁵⁴⁸25 P.S. § 3193

⁵⁴⁹35 Pa. Cons. Stat. § 7301

⁵⁵⁰Seymour, K. (2019, October 31). 7 Big Changes To Voting In PA Just Signed Into Law. *Patch Network*. Retrieved from <https://patch.com/pennsylvania/newtown-pa/7-big-changes-voting-pa-just-signed-law>

⁵⁵¹Murphy, J. (2020, June 2). Pa. Primary Election ‘Went Remarkably Smoothly’ Despite Many Challenges. *Pennsylvania Real-Time News*. Retrieved from <https://www.pennlive.com/news/2020/06/pa-primary-election-went-remarkably-smoothly-despite-many-challenges.html>

⁵⁵²Governor Wolf Signs Law to Help Prepare for the General Election. (2020, June 18). Governor Tom Wolf. Retrieved from <https://www.governor.pa.gov/newsroom/governor-wolf-signs-law-to-help-prepare-for-the-general-election/>

⁵⁵³Lai, J. (2020, June 18). Pa. NAACP Sues State for Changes to Election Law Before November Election. *The Philadelphia Inquirer*. Retrieved from <https://www.inquirer.com/politics/election/pennsylvania-naacp-lawsuit-2020-election-coronavirus-20200618.html>

Another lawsuit, filed by Trump's reelection campaign and the Republican National Committee, argues that Pennsylvania's use of mail ballot drop boxes during the June primary was unconstitutional and that election law requires mail ballots to be delivered to county election officials. The suit seeks to eliminate ballot drop boxes before the November election.⁵⁵⁴

⁵⁵⁴Suzuki, Z. (2020, July 5). Trump Campaign Sues Pennsylvania Count Elections Boards Over Mail-In Ballot Drop Boxes. *The Daily Pennsylvanian*. Retrieved from <https://www.thedp.com/article/2020/07/philadelphia-election-trump-campaign-mail-in-voting>

TEXAS



Electoral College Votes: 38

Cook Report Rating: Leans Republican

Governor: Greg Abbott, Republican

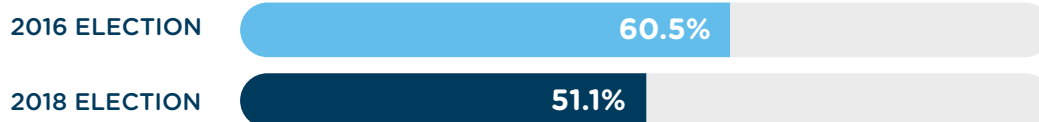
Secretary of State: Ruth R. Hughs, Republican

House of Representatives Delegation: 13 Democrats, 22 Republicans, 1 vacancy

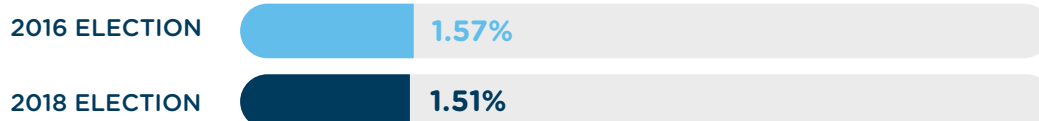
State Senate: 11 Democrats, 19 Republicans, 1 vacancy

State House: 67 Democrats, 83 Republicans

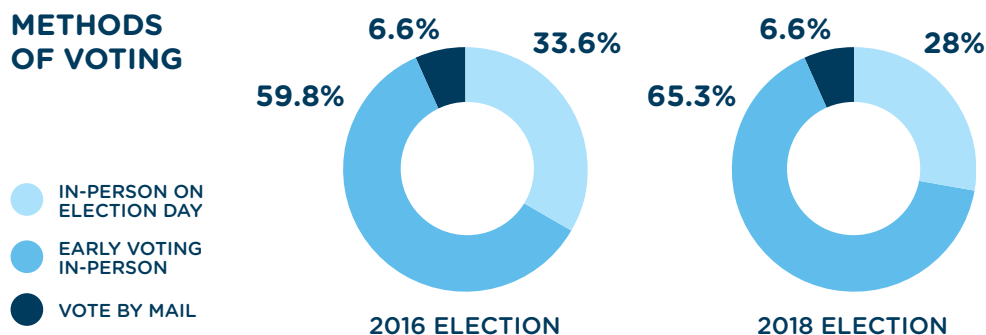
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The secretary of state serves as the chief election officer and oversees all elections in Texas,⁵⁵⁵ including providing the necessary forms for the conduct of elections,⁵⁵⁶ maintaining uniformity in the application of election law,⁵⁵⁷ and receiving the election returns from each county.⁵⁵⁸ However, the governor is responsible for canvassing the statewide election returns for the presidential race.⁵⁵⁹ After the canvass, the secretary of state will prepare certificates of election and transmit them to the individuals duly elected to serve as presidential electors.⁵⁶⁰

⁵⁵⁵Tex. Elec. Code § 31.001

⁵⁵⁶Tex. Elec. Code § 31.002

⁵⁵⁷Tex. Elec. Code § 31.003

⁵⁵⁸Tex. Elec. Code § 67.007

⁵⁵⁹Tex. Elec. Code § 67.010

⁵⁶⁰Tex. Elec. Code § 67.016

2020 Primaries

The Texas presidential primary took place on Super Tuesday, March 3, 2020 as well as the primary for other elected offices. A runoff election took place on July 14, 2020, delayed from the original date of May 26. There has been no action taken to alter election processes to account for COVID-19.

Vote by Mail

Only voters who meet at least one of the following criteria may vote by mail: (1) they cannot make it to the polls on Election Day because they will be away from the county on Election Day and during early voting,⁵⁶¹ (2) they are sick or disabled,⁵⁶² (3) they are 65 years of age or older,⁵⁶³ (4) they are confined in jail.⁵⁶⁴

In addition to meeting one of the criteria, a voter must submit an application to receive a mail ballot. Applications must include a voter's name, address, specific election, and the grounds upon which the voter is eligible to vote by mail.⁵⁶⁵ Applications must be submitted by mail or in person and received by the early voting clerk by the noon on the 11th day before the election (or the first preceding business day if that day is a weekend or holiday).⁵⁶⁶ Exceptions to this deadline are permitted in cases of sickness, injury, or a death in the family, allowing voters to request a late mail ballot until 5 p.m. on Election Day.⁵⁶⁷

After completing their ballot, either the voter themselves or another person must mail the ballot back to the early voting clerk. If delivered by another person, that other person must provide their name, address, and signature on the envelope, except if they live with or are related to the voter.⁵⁶⁸ Voters may also deliver their ballot in person, but only on Election Day while the polls are open and with an acceptable form of identification.⁵⁶⁹ In order to be counted, ballots must be delivered to the early voting ballot board by the time the polls close on Election Day, or no later than 5 p.m. on the day after the election if the envelope was mailed before the election and has a cancellation mark indicating a time before 7 p.m. on Election Day.⁵⁷⁰

Sometime while the polls are open on Election Day, or as soon after as possible,⁵⁷¹ the early voting clerk will deliver to the early voting ballot board the mail ballots they received.⁵⁷² The early voting ballot board will only accept a mail ballot if the envelope certificate is properly executed and the voter's envelope signature is the same as the signature on their application.⁵⁷³ If a ballot is rejected by the early voting ballot board, they will write 'rejected' on the envelope.⁵⁷⁴ A written notice describing the reason the ballot was rejected will be delivered to the voter no later than ten days after the election.⁵⁷⁵

After opening and verifying the mail ballots, the early voting ballot board will begin counting the votes cast⁵⁷⁶ or will deliver the ballots to the central counting station to be counted by the automatic tabulating equipment.⁵⁷⁷

⁵⁶¹Tex. Elec. Code § 82.001

⁵⁶²Tex. Elec. Code § 82.002

⁵⁶³Tex. Elec. Code § 82.003

⁵⁶⁴Tex. Elec. Code § 82.004

⁵⁶⁵Tex. Elec. Code § 84.001

⁵⁶⁶Tex. Elec. Code § 84.007

⁵⁶⁷Tex. Elec. Code § 102.001; Tex. Elec. Code § 103.001

⁵⁶⁸Tex. Elec. Code § 86.0051

⁵⁶⁹Tex. Elec. Code § 86.006

⁵⁷⁰Tex. Elec. Code § 86.007

⁵⁷¹Tex. Elec. Code § 87.022

⁵⁷²Tex. Elec. Code § 87.021

⁵⁷³Tex. Elec. Code § 87.041

⁵⁷⁴Tex. Elec. Code § 87.041

⁵⁷⁵Tex. Elec. Code § 87.0431

⁵⁷⁶Tex. Elec. Code § 87.062

⁵⁷⁷Tex. Elec. Code § 87.101

State Timeline Requirements

Counting votes will begin after the polls close or the last voter has voted and will continue continuously until completed.⁵⁷⁸ The presiding judge will prepare the election returns and deliver them to the county's commissioner's court.⁵⁷⁹

The commissioners court of the county⁵⁸⁰ must conduct the local canvass no later than the 11th day after the election and no earlier than (1) the third day after the election, (2) the date on which the early voting ballot board has verified and counted all provisional ballots, or (3) the date on which all ballots cast from outside the U.S. are received.⁵⁸¹ No later than 24 hours after the completion of the local canvass, the county clerk must deliver the county returns to the secretary of state.⁵⁸²

The governor will perform the statewide canvass.⁵⁸³ The statewide canvass will take place at a time set by the secretary of state sometime between the 18th day after the election (November 21, 2020) and the 33rd day after the election (December 6, 2020). The date, hour, and location will be posted online at least 72 hours prior to the canvass.⁵⁸⁴ The secretary of state will then prepare and deliver the certificate of election for each individual elected to serve as a presidential elector.⁵⁸⁵

If an election contest is filed before the canvass of the election is completed, this does not affect the canvassing process, and the result of the election will be decided and certified as if the contest had not been filed.⁵⁸⁶ If a contest changes the election result, the contestee is entitled to occupy the office.⁵⁸⁷

Presidential Elector Requirements

If there are any vacancies among the electors at the meeting of presidential electors, those electors present will, by majority vote, choose a new elector to fill the vacancy.⁵⁸⁸

Candidates for presidential electors file an oath to support their parties' presidential and vice presidential candidates.⁵⁸⁹ However, no statute binds electors to the presidential and vice presidential nominees of their respective parties.⁵⁹⁰

In 2016, Chris Suprun and Bill Greene did not vote for Donald Trump, who won the states' popular vote, but instead for John Kasich and Ron Paul respectively. Their votes were counted, so rather than receiving 306 electoral votes, Trump received just 304. In frustration at the move by the 'faithless' electors, Governor Abbott tweeted "this charade is over. A bill is already filed to make these commitments binding. I look forward to signing it & ending this circus." Multiple bills were introduced which sought to bind presidential electors' votes, but none ever made it to Governor Abbott's desk.⁵⁹¹

Emergency Powers

The governor may suspend regulatory statutes prescribing the conduct of state business and issue orders if compliance with the provisions would in any way prevent or delay necessary action in coping

⁵⁷⁸Tex. Elec. Code § 65.002

⁵⁷⁹Tex. Elec. Code § 65.014

⁵⁸⁰Tex. Elec. Code § 67.002

⁵⁸¹Tex. Elec. Code § 67.003

⁵⁸²Tex. Elec. Code § 67.007

⁵⁸³Tex. Elec. Code § 67.010

⁵⁸⁴Tex. Elec. Code § 67.012

⁵⁸⁵Tex. Elec. Code § 67.016

⁵⁸⁶Tex. Elec. Code § 221.006

⁵⁸⁷Tex. Elec. Code § 221.015

⁵⁸⁸Tex. Elec. Code § 192.007

⁵⁸⁹Texas Democrats. (2019, June 8). *The Rules of the Texas Democratic Party* (p. 25). Retrieved from <https://www.texasdemocrats.org/wp-content/uploads/2019/07/rules1906.pdf>; Republican Party of Texas. (2020, May 16). General Rules for All Conventions and Meetings. Retrieved from <https://www.texasgop.org/rules/>

⁵⁹⁰Tex. Elec. Code § 192.005

⁵⁹¹Svitek, P. (2017, June 9). Why Bills to Bind Texas' Electoral College Never Reached Gov. Abbott. *The Texas Tribune*. Retrieved from <https://www.texastribune.org/2017/06/09/texas-electoral-college-bills-abbott/>

with a disaster.⁵⁹²

Additional Information

In March, Texas Democrats filed a lawsuit arguing that any Texan should be able to request a mail ballot due to concerns surrounding the COVID-19 pandemic.⁵⁹³ On April 14, Attorney General Ken Paxton stated in a letter that the “fear of contracting COVID-19 unaccompanied by a qualifying sickness... does not constitute a disability under the Election Code for purposes of receiving a ballot by mail.”⁵⁹⁴ The following day, Travis County District Court Judge Tim Sulak issued a temporary injunction allowing voters in the state to request a mail ballot citing the disability excuse.⁵⁹⁵ A panel of the 14th Court of Appeals of Texas upheld this decision, reaffirming that susceptibility to COVID-19 was a valid reason for voters to request a mail ballot.⁵⁹⁶ Paxton appealed this decision to the Texas Supreme Court where the move to expand mail-in voting was blocked. The opinion stated, “We agree with the State that a voter’s lack of immunity to COVID-19, without more, is not a ‘disability’ as defined by the Election Code.”⁵⁹⁷

A separate lawsuit, which sought to expand mail voting, centered on the state’s eligibility rules that limit mail voting based on age. The lawsuit argued that this rule violated the Constitution because it imposed additional burdens on voters less than 65 years old. U.S. Federal judge Fred Biery agreed with this argument, ruling that voters who would not ordinarily qualify for a mail ballot could now request one.⁵⁹⁸ However, this ruling was put on hold the next day by the 5th Circuit Court of Appeals.⁵⁹⁹ Democrats appealed this decision to the U.S. Supreme Court, but the court refused to reinstate the federal judge’s initial ruling and mail voting to all Texans.⁶⁰⁰ The case now heads back to the 5th Circuit Court of Appeals for a final decision.⁶⁰¹

⁵⁹²Tex. Elec. Code § 418.016

⁵⁹³Ura, A. (2020, March 20). Citing Coronavirus Threat, Texas Democrats Sue to Expand Mail-In Voting. *The Texas Tribune*. Retrieved from <https://www.texastribune.org/2020/03/20/citing-coronavirus-threat-texas-democrats-sue-expand-mail-voting/>

⁵⁹⁴Vassar, R. (2020, April 14). [Letter]. Retrieved from Ken Paxton Attorney General of Texas, <https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/4.14.20%20Letter%20to%20Rep.%20Klick.pdf>

⁵⁹⁵Autullo, R. (2020, April 15). Judge Clears Way for Texans to Vote by Mail Amid Pandemic; Appeal Expected. *Austin American-Statesman*. Retrieved from <https://www.statesman.com/news/20200415/judge-clears-way-for-texans-to-vote-by-mail-amid-pandemic-appeal-expected>

⁵⁹⁶Ura, A. (2020, May 14). Texas Appeals Court Allows Expansion of Voting by Mail During Ongoing Legal Fight. *The Texas Tribune*. Retrieved from <https://www.texastribune.org/2020/05/14/texas-appeals-court-allows-expansion-voting-mail/>

⁵⁹⁷Mena, K. (2020, May 27). Texas Supreme Court Blocks Vote-by-Mail Expansion to Those Lacking Immunity to the Coronavirus. *CNN*. Retrieved from <https://www.cnn.com/2020/05/27/politics/texas-supreme-court-blocks-vote-by-mail-expansion/index.html>

⁵⁹⁸Ura, A. (2020, May 19). Federal Judge Says All Texans Voters Can Apply to Vote by Mail During Pandemic. *The Texas Tribune*. Retrieved from <https://www.texastribune.org/2020/05/20/federal-appeals-court-temporarily-blocks-voting-mail-expansion-texas/>

⁵⁹⁹Ura, A. (2020, May 20). Federal Appeals Court Temporarily Blocks Voting-by-Mail Expansion in Texas. *The Texas Tribune*. Retrieved from <https://www.texastribune.org/2020/05/20/federal-appeals-court-temporarily-blocks-voting-mail-expansion-texas/>

⁶⁰⁰Ura, A. (2020, June 26). U.S. Supreme Court Declines Texas Democrats’ Request to Allow All Texans to Vote by Mail. *The Texas Tribune*. Retrieved from <https://www.texastribune.org/2020/06/26/us-supreme-court-rejects-texas-democrats-effort-expand-absentee-voting/>

⁶⁰¹Platoff, E. (2020, July 2). U.S. Supreme Court Won’t Fast-Track Texas Democrats’ Bid to Expand Mail-In Voting During Pandemic. *The Texas Tribune*. Retrieved from <https://www.texastribune.org/2020/07/02/us-supreme-court-texas-lawsuit-mail-in-voting/>

VIRGINIA



Electoral College Votes: 13

Cook Report Rating: Likely Democrat

Governor: Ralph Northam, Democrat

Secretary of State: Kelly Thomasson, Democrat

House of Representatives Delegation: 7 Democrats, 4 Republicans

State Senate: 21 Democrats, 19 Republicans

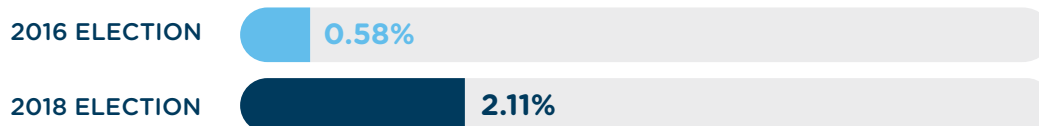
State House: 55 Democrats, 45 Republicans

Virginia legislative elections are held in odd-years.

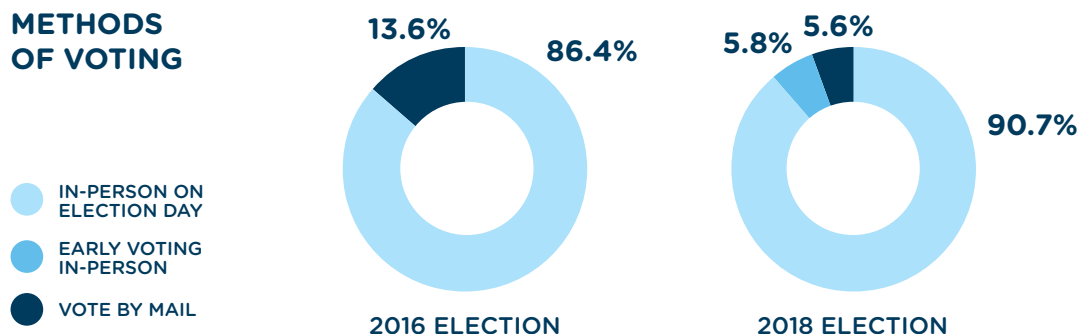
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The State Board oversees all elections in Virginia, including maintaining uniformity in the application of election law, training local election officials, and providing the necessary material for the conduct of elections.⁶⁰² While the State Board is the governing body over elections in Virginia, the Commissioner of Elections is the individual who carries out the decisions made by the Board.⁶⁰³ The State Board is additionally responsible for conducting the statewide canvass of election returns⁶⁰⁴ and preparing and transmitting the certificates of election to the individuals duly elected as presidential electors.⁶⁰⁵

⁶⁰²Va. Code Ann. § 24.2-103

⁶⁰³Va. Code Ann. § 24.2-102

⁶⁰⁴Va. Code Ann. § 24.2-679

⁶⁰⁵Va. Code Ann. § 24.2-680

The State Board is composed of three members, appointed by the governor, subject to confirmation from the General Assembly. Two members are from the governor's political party and the other member is from the minority party. Each political party that is entitled to a seat on the board may submit recommendations of three or more individuals to the governor; from these recommendations the governor appoints one individual. All decisions made by the board require a majority vote. The Commissioner of Elections is appointed by the governor.⁶⁰⁶

2020 Primaries

The 2020 presidential primary took place on Super Tuesday, March 3, 2020. The primary for other elected offices took place on June 23 after being delayed by Governor Northam from its original date of June 9.

State Attorney General Mark Herring announced in April that Virginia would waive the witness requirement for mail ballots in the June primaries.⁶⁰⁷ The Republican Party of Virginia fought the pronouncement in federal court, but U.S. District Court Judge Norman Moon upheld Herring's order.⁶⁰⁸

Earlier this year, the general assembly passed a law allowing no-excuse mail voting, but the law did not go into effect until after the primary. However, the State Board of Elections announced that voters may use the coronavirus pandemic as a justified excuse to receive a ballot. Some Virginia voters pushed back, filing a lawsuit to block this expansion of mail voting.⁶⁰⁹ A federal judge denied their request to block the expansion.⁶¹⁰

Vote by Mail

Any Virginia voter may vote by mail.⁶¹¹ However, in order to vote by mail, voters submit an application online, in person, or by mail. If an application is submitted in person, it must be completed at the general registrar's office and signed by the voter. The voter must show one form of identification when completing their application or, if they are unable to do so, they must sign a statement that they are the named voter they claim to be. All applications must include the voter's name, last four digits of their SSN (if not applying in person), a statement that the voter is registered to vote in the city of their residence, and their address. Voters must apply for mail ballots for each election in which they wish to vote by mail.⁶¹²

When completing their mail ballots, voters must do so in the presence of a witness, who must sign the outer envelope before they return their ballot. Once signed, mail ballots are delivered to the general register by mail or in person. Only the voter themselves is allowed to mail or return a mail ballot, with limited exceptions.⁶¹³ Persons incapacitated or hospitalized may designate a representative to return their ballots. The representative must be 18 or older and cannot be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.⁶¹⁴ In order to be counted, mail ballots must be received before the polls close on Election Day. Ballots cast under the

⁶⁰⁶Va. Code Ann. § 24.2-10

⁶⁰⁷Friedenberger, A. (2020, April 29). Virginia GOP Seeks to Keep Witness Requirement for Absentee Ballots. *The Roanoke Times*. Retrieved from https://www.roanoke.com/news/local/virginia-gop-seeks-to-keep-witness-requirement-for-absentee-ballots/article_7890207c-570b-54fd-be97-d75a1cdd6df0.html

⁶⁰⁸Mirshahi, D. (2020, May 5). Virginia Judge Approves Order Waiving Witness Requirement for Absentee Ballots. *WRIC*. Retrieved from <https://www.wric.com/news/politics/local-election-hq/virginia-judge-approves-order-waiving-witness-requirement-for-absentee-ballots/>

⁶⁰⁹Associated Press. (2020, May 21). Lawsuit Against Virginia Election Officials Says Absentee Voting Not Needed for Coronavirus. *Associated Press*. Retrieved from <https://www.fox5dc.com/news/lawsuit-against-virginia-election-officials-says-absentee-voting-not-needed-for-coronavirus>

⁶¹⁰Mattingly, J. (2020, June 1). Federal Judge Denies Complaint Against Virginia Officials Over Absentee Voting Rules. *Richmond Times-Dispatch*. Retrieved from https://www.roanoke.com/news/politics/federal-judge-denies-complaint-against-virginia-officials-over-absentee-voting-rules/article_c25d1229-11d7-59dc-8925-ecb2b3e09667.html

⁶¹¹Va. Code Ann. § 24.2-416.1; HB 1 (Va. 2020). Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB1&201+sum+HB1>

⁶¹²Va. Code Ann. § 24.2-701; HB 1 (Va. 2020). Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB1&201+sum+HB1>; HB 19 (Va. 2020). Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB19&201+sum+HB19>

⁶¹³Va. Code Ann. § 24.2-707

⁶¹⁴Va. Code Ann. § 24.2-705

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) may be received up until 5 p.m. on the second business day before the State Board meets.⁶¹⁵

The general registrar or electoral board who receives the ballots will hold onto them until Election Day.⁶¹⁶ The general registrar or electoral board may process mail ballots returned before Election Day to expedite the process, but will not begin the actual counting process. If they do begin processing the mail ballots, two election officials, one of each party must be present.⁶¹⁷ Processing includes examining the envelopes to verify that the voter affirmation is completed. Mail ballots will be rejected, if (1) the voter did not provide their full name, (2) the voter did not include their generational suffix (if one or more individuals are registered with the same name at the same address), (3) the voter did not provide their address, (4) the voter did not sign the envelope, or (5) the voter's witness did not sign the envelope.⁶¹⁸ The State Department has an online portal where voters can check to see if their application for a mail ballot has been received and whether it was accepted or rejected. Later, after returning a completed ballot, voters can also see the status of that ballot. If the electoral board rejects a mail ballot, they send a written explanation to that voter within 90 days.⁶¹⁹

Before the polls close on Election Day, the electoral board will deliver the mail ballots to the election officers at the appropriate precincts.⁶²⁰ After the polls close, the mail ballots will be opened and the election officials will go through each ballot and determine whether it was submitted according to the correct processes, as described above. As before, for a ballot to be rejected at least two officers, of differing political parties, must sign a statement of the cause for rejection.⁶²¹

If the municipality uses central mail voter precincts, the mail ballots are delivered here rather than to local precincts. The ballots may be processed by the mail voter precinct election officials prior to the close of the polls. The counting of the ballots still cannot take place until the polls close.⁶²²

State Timeline Requirements

Once the polls close on Election Day, election officers will count the vote and continue until finished.⁶²³ Once complete, the officers will send a copy of the election results either to the clerk of the county, the city's circuit court, or the office of the general registrar.⁶²⁴

County electoral boards will begin canvassing the countywide election results no later than 5 p.m. the day after the election. Boards may adjourn as needed, not to exceed 7 days after the election.⁶²⁵ If the precinct officials fail to provide their elections results to the selected county official by the time the electoral board meets, a law enforcement officer will be dispatched to retrieve them.⁶²⁶ Once the electoral board completes their canvass, they will make the abstract of the votes cast and transmit it to the State Board.⁶²⁷ The electoral boards must deliver their abstracts by the seventh day after the election or the State Board will dispatch a law enforcement officer to retrieve the abstract.⁶²⁸

The State Board will meet on the third Monday in November to ascertain the results. If a majority

⁶¹⁵Va. Code Ann. § 24.2-709

⁶¹⁶Va. Code Ann. § 24.2-710

⁶¹⁷Va. Code Ann. § 24.2-709.1

⁶¹⁸1 Va. Admin. Code 20-70-20

⁶¹⁹Va. Code Ann. § 24.2-711.1

⁶²⁰Va. Code Ann. § 24.2-710

⁶²¹Va. Code Ann. § 24.2-711

⁶²²Va. Code Ann. § 24.2-712

⁶²³Va. Code Ann. § 24.2-654

⁶²⁴Va. Code Ann. § 24.2-668

⁶²⁵Va. Code Ann. § 24.2-671

⁶²⁶Va. Code Ann. § 24.2-670

⁶²⁷Va. Code Ann. § 24.2-675

⁶²⁸Va. Code Ann. § 24.2-678

of the Board is not present, or if the Board is unable to ascertain the results on that day, the meeting may stand adjourned for not more than 3 days until their duties are fulfilled.⁶²⁹ After completing the statewide canvass, the State Board will complete and transmit a certificate of election to each individual elected to serve as a presidential elector.⁶³⁰

Presidential Elector Requirements

On the day of the presidential elector meeting, if there are any vacancies among the electors, those electors present will vote on new individuals to fill such vacancies. Electors are required to vote for the nominees of their party; however, no statute exists that penalizes faithless electors.⁶³¹

Emergency Powers

The commissioner of elections has the authority to designate alternate methods and procedures to handle both mail ballot applications and mail ballots. However, this does not extend to counting ballots received after the polls close on Election Day.⁶³²

The governor can also suspend rules and regulations and issue orders as deemed necessary during emergencies.⁶³³

Additional Information

On July 1, a new law took effect removing the requirement of photo identification in order to vote at the polls.⁶³⁴ Prior to this, a 2016 study ranked Virginia the second-hardest state to vote in, largely due to strict voter identification laws.⁶³⁵

A number of other recently passed election laws will apply to the November election. The new laws allow any voter to vote by mail without needing a qualifying excuse to do so,⁶³⁶ establish Election Day as a holiday in the Commonwealth,⁶³⁷ automatically register voters through the DMV, and extend the time in which in-person voting concludes from 7 p.m. to 8 p.m.⁶³⁸

⁶²⁹Va. Code Ann. § 24.2-679

⁶³⁰Va. Code Ann. § 24.2-680

⁶³¹Va. Code Ann. § 24.2-203

⁶³²Va. Code Ann. § 24.2-713

⁶³³Va. Code Ann. § 44-146.17

⁶³⁴HB 19 (Va. 2020). Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB19&201+sum+HB19>

⁶³⁵New Study Scrutinizes Time and Effort It Takes to Vote in Each State. (2018, September 25). Northern Illinois University Newsroom. Retrieved from <https://newsroom.niu.edu/2018/09/25/new-study-scrutinizes-time-and-effort-it-takes-to-vote-in-each-state/>

⁶³⁶HB 1 (Va. 2020). Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+HB1&201+sum+HB1>

⁶³⁷SB 601 (Va. 2020). Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?201+sum+SB601&201+sum+SB601>

⁶³⁸Hood, J. (2020, April 13). Gov. Northam Signs Laws He Says Will Help Expand Voting Accessibility. *WHSV*. Retrieved from <https://www.whsv.com/content/news/Gov-Northam-signs-bills-to-help-with-voter-turnout-569605261.html?ref=261>

WISCONSIN



Electoral College Votes: 10

Cook Report Rating: Leans Democrat

Governor: Tony Evers, Democrat

Secretary of State: Doug La Follette, Democrat

House of Representatives Delegation: 3 Democrats, 5 Republicans

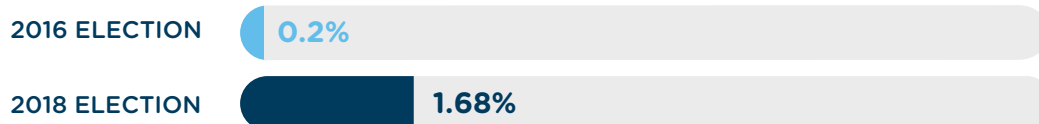
State Senate: 13 Democrats, 18 Republicans, 2 vacancies

State Assembly: 35 Democrats, 63 Republicans, 1 vacancy

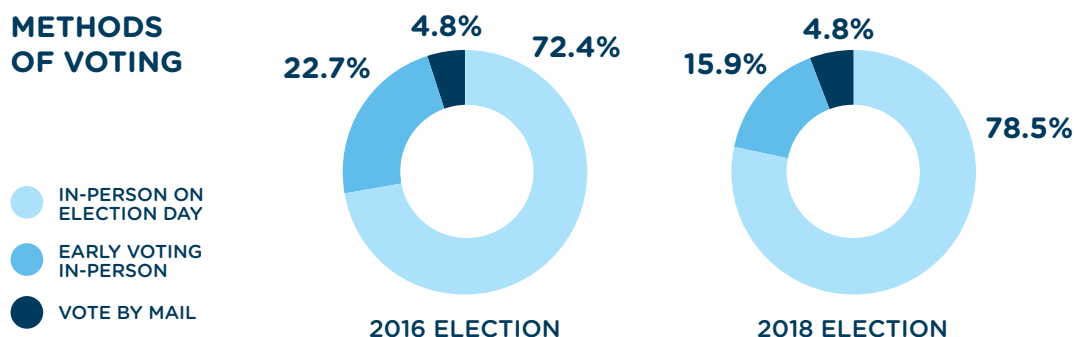
VOTER TURNOUT



ABSENTEE BALLOT REJECTION RATE



METHODS OF VOTING



State Election Officials

The Elections Commission oversees all elections in Wisconsin, including investigating violations of election law,⁶³⁹ canvassing statewide election returns, and preparing certificates of election.⁶⁴⁰ The governor is responsible for signing and transmitting the certificates of election to the individuals duly elected to serve as presidential electors.

The Elections Commission is composed of six members. Commissioners are appointed by state legislative leaders: one by the senate majority leader, one by the senate minority leader, one by the speaker of the assembly, one by the assembly minority leader, and two who were former county clerks,

⁶³⁹Wis. Stat. § 5.05

⁶⁴⁰Wis. Stat. § 7.70

recommended by one of the major political parties, nominated by the governor, and confirmed by a majority of the senate.⁶⁴¹ All decisions made by the commission require a two-thirds vote.⁶⁴²

2020 Primaries

Both the 2020 presidential preference and statewide primary election for other offices were scheduled to take place on April 7, 2020. On April 2, a U.S. District Judge refused to postpone the April 7 primary, but ruled that: mail ballots could be returned until April 13 (a week after in-person voting); the deadline to submit an application for a mail ballot could be extended; and the requirement for a witness signature on a completed mail ballot waived.⁶⁴³ Republicans appealed this decision to the 7th U.S. Circuit Court of Appeals, who, on April 3, restored the witness signature requirement, but kept the extended deadlines for mail ballots intact.⁶⁴⁴

Governor Evers called an emergency session of the state legislature on April 4, hoping they would join his effort to delay the election until May and convert to an all-mail election, but the Republican-controlled chambers met for only a few seconds before recessing.⁶⁴⁵ That same Saturday, the Republican National Committee, among others, appealed the Circuit Court's decision to keep the extended deadlines for mail ballots to the U.S. Supreme Court.

On Monday, April 6, the U.S. Supreme Court reversed the Circuit Courts' ruling that gave voters six additional days to return their mail ballots. However, the Supreme Court did allow the counting of mail ballots which were postmarked on, but not received by, Election Day.⁶⁴⁶ Allowing ballots received after Election Day kept more than 30,000 ballots from being rejected.⁶⁴⁷

The primary took place as originally scheduled on April 7. Many polling locations could not be staffed, which led to just five of 180 polling locations in Milwaukee being open. Likewise, in Green Bay, polling locations were reduced from 31 to just 2. Many voters also complained that they never received their mail ballots; official state records showed a shortfall of about 9,000 requested ballots had not been sent.⁶⁴⁸ Overall, 74.6% of voters cast their ballot by mail.⁶⁴⁹ Within two weeks after the election, more than 50 people who were at the polls on April 7 tested positive for COVID-19.⁶⁵⁰

Vote by Mail

Any Wisconsin voter may vote by mail.⁶⁵¹ However in order to do so, voters must submit an application in person, by mail, or by email before 5 p.m. on the fifth day before the election. Applications require a voter to list their name, date of birth, address, signature, and include a copy of their photo ID (not

⁶⁴¹Wis. Stat. § 15.61

⁶⁴²Wis. Stat. § 5.05

⁶⁴³Korecki, N. & Montellaro, Z. (2020, April 4). Wisconsin's Primary to Go Forward Tuesday Even as Coronavirus All but Shuttles the U.S. *Politico*. Retrieved from <https://www.politico.com/news/2020/04/04/wisconsin-republicans-reject-tuesday-primary-delay-164911>

⁶⁴⁴Democratic National Committee v. Bostelmann, No. 20-1538 (7th Cir. April 3, 2020)

⁶⁴⁵Glauber, B. & Marley, P. (2020, April 4). In Matter of Seconds, Republicans Stall Gov. Tony Evers' Move to Postpone Tuesday Election. *Milwaukee Journal Sentinel*. Retrieved from <https://www.jsonline.com/story/news/2020/04/04/wisconsin-legislature-adjourns-special-session-monday-voting-track-tuesday-election/2948444001/>

⁶⁴⁶Bradner, E. (2020, April 6). 'This Is Ridiculous': Wisconsin Holds Its Primary Election in the Middle of a Pandemic. *CNN*. Retrieved from <https://www.cnn.com/2020/04/07/politics/wisconsin-primary-coronavirus/index.html>

⁶⁴⁷Gardner, A. (2020, May 3). Unexpected Outcome in Wisconsin: Tens of Thousands of Ballots that Arrived After Election Day Were Counted, Thanks to Court Decisions. *The Washington Post*. Retrieved from https://www.washingtonpost.com/politics/unexpected-outcome-in-wisconsin-tens-of-thousands-of-ballots-that-arrived-after-voting-day-were-counted-thanks-to-court-decisions/2020/05/03/20c036f0-8a59-11ea-9dfd-990f9dcc71fc_story.html

⁶⁴⁸The New York Times. (2020, April 7). Wisconsin Primary Recap: Voters Forced to Choose Between Their Health and Their Civic Duty. *The New York Times*. Retrieved from <https://www.nytimes.com/2020/04/07/us/politics/wisconsin-primary-election.html>

⁶⁴⁹Pomplun, G. (2020, June 4). Clerks pulled off pandemic polling very well. *SWNews*. Retrieved from <https://www.swnews4u.com/local/government/clerks-pulled-pandemic-polling-very-well/>

⁶⁵⁰Bauer, S. (2020, April 29). 52 Who Worked or Voted in Wisconsin Election Have COVID-19. *Associated Press*. Retrieved from <https://apnews.com/6428674bc2668ebd2db3c482f7f703c1>

⁶⁵¹Wis. Stat. § 6.85

required if applying in person).⁶⁵² If a voter submits their application by email, they do not need to include a copy of their signature nor photo ID, but they must return with their ballot a hard copy of their application which does include their signature and photo ID.⁶⁵³ Indefinitely-confined voters (due to age, illness or disability) may request that a mail ballot be sent to them automatically until they are no longer confined or they fail to vote in an election.⁶⁵⁴

When completing a mail ballot, voters need one adult U.S. citizen to witness them doing so and provide their signature to that effect. Mail ballots must then be delivered to the municipal clerk by mail or in-person. In order to be accepted, mail ballots must be received by 8 p.m. on Election Day.⁶⁵⁵

Once received by the municipal clerk, mail ballots will be checked to see if the ballot certificate has been properly completed. If it has not been completed or it has been done so improperly, the clerk may return the ballot to the elector with a new envelope. Voters are still required to deliver the corrected ballot by the time the polls close on Election Day.⁶⁵⁶

If a mail ballot is cast within a municipality which does not have a board of mail ballot canvassers, then it will be processed by the election inspectors at the appropriate precinct at some time between the opening and closing of the polls on Election Day. After processing the ballot, the election officials will place the mail ballot in the ballot box as if the individual had voted in person and count them with the in-person ballots.⁶⁵⁷ If the mail ballot is cast within a municipality which has a board of mail ballot canvassers, it will be delivered to this board rather than to the precinct. The mail ballot canvassers will meet on Election Day, sometime between when the polls open and 10 p.m. to process and tally the mail ballots.⁶⁵⁸

In either instance, the inspectors will process mail ballots by again checking to see if the ballot certificate is properly completed, if the envelope is open or had been opened and resealed, or if the envelope contains more than one ballot. If any of these conditions apply, the ballot will be rejected and not counted.⁶⁵⁹

State Timeline Requirements

After the polls close, the election inspectors at each precinct will canvass all the votes received. Once finished, the election inspectors will deliver the returns to the county clerk.⁶⁶⁰

If the municipality only has one polling location, the canvass at the precinct level will operate as the county level canvass. If there is more than one polling location, the municipal board of canvassers will conduct the county level canvass.⁶⁶¹ No later than 9 a.m. on the Tuesday after the election (November 10, 2020), the county board of canvassers will conduct the canvass of the returns. If the returns have not been received from all the precincts, the board will send an individual to get them. The board may adjourn while waiting to receive all the returns for one day at a time and no longer than two days total. Following the completion of the canvass, the county clerk will transmit a certified copy of the returns to the elections commission.⁶⁶²

⁶⁵²Wisconsin Elections Commission. (n.d.). Wisconsin Application for Absentee Ballot. Retrieved from <https://elections.wi.gov/sites/elections.wi.gov/files/2020-03/EL-121%20Application%20for%20Absentee%20Ballot%20%282018-10%29.pdf>

⁶⁵³Wis. Stat. § 6.86

⁶⁵⁴Wisconsin Elections Commission. (n.d.). Wisconsin Application for Absentee Ballot. Retrieved from <https://elections.wi.gov/sites/elections.wi.gov/files/2020-03/EL-121%20Application%20for%20Absentee%20Ballot%20%282018-10%29.pdf>

⁶⁵⁵Wis. Stat. § 6.87

⁶⁵⁶Ibid.

⁶⁵⁷Wis. Stat. § 6.88

⁶⁵⁸Wis. Stat. § 7.52

⁶⁵⁹Wis. Stat. § 6.88

⁶⁶⁰Wis. Stat. § 7.51

⁶⁶¹Wis. Stat. § 7.53

⁶⁶²Wis. Stat. § 7.60

The county canvassing board must send along their certified results by the eleventh day after the election (November 14, 2020). If they are not received by the elections commission by this point, the commission may dispatch an individual to obtain them. The chair of the elections commission or their designee will canvass the statewide returns and make their determination by December 1. The chair will make a statement to the elections commission as soon as possible after the completion of their canvass. After the time allotted for filing a recount petition, the commission will make a certificate of election to each presidential elector and the governor will sign and transmit these certificates to the individuals elected to the office of presidential elector.⁶⁶³

Presidential Elector Requirements

If there is a vacancy among the presidential electors on the day of the meeting of the presidential electors, the electors present will vote to appoint another individual to fill the vacancy. When all presidential electors are present, they will perform their required duties under the Constitution. Electors must vote for the candidate who is of the political party which nominated them (unless deceased), however, no statute enforces this oath and elector's votes are counted as cast.⁶⁶⁴

Emergency Powers

During a state of emergency, the governor may issue such orders as they deem necessary for the people's security; suspend the provisions of any administrative rule if compliance with that rule would prevent or delay necessary actions to respond to the disaster; and has the general authority to order whatever is necessary and expedient for the health, safety, protection, and welfare of people in the state. This could be interpreted as allowing the governor to suspend any statutes in order to preserve safety.⁶⁶⁵

Additional Information

In May 2020, the Wisconsin Elections commission voted unanimously to send mail ballot applications to all voters who have not yet requested an application for the upcoming November election.⁶⁶⁶ The Commission is also sending out postcards to 200,000 unregistered voters in the state notifying them of the processes available to register to vote before the November election.⁶⁶⁷

The Wisconsin Supreme Court has agreed to look at resolving a lawsuit over voter registration. The ruling will determine whether 129,000 voters whose addresses are in doubt can stay on as registered voters. In October 2019, the state elections commission sent letters to 232,000 voters asking them to update their voter registration. Three voters sued the state, arguing that the law required removing voters from the rolls if they did not act within 30 days. Since the court case began more than half have responded, leaving about 129,000 voter's registration dependent on the court's ruling.⁶⁶⁸ However, recently the court has signaled it will not hear arguments until late September, which would likely delay a ruling until after the general election.⁶⁶⁹

In June, the 7th Circuit Court of Appeals released a unanimous decision impacting a number of election

⁶⁶³Wis. Stat. § 7.70

⁶⁶⁴Wis. Stat. § 7.75

⁶⁶⁵Wis. Stat. § 323.12; Wis. Stat. § 323.14

⁶⁶⁶Itkowitz, C. (2020, May 29). Wisconsin Election Officials Agree to Send Voters Ballot Applications. *The Washington Post*. Retrieved from https://www.washingtonpost.com/politics/wisconsin-election-officials-agree-to-send-voters-ballot-applications/2020/05/27/d77f8562-a07a-11ea-9590-1858a893bd59_story.html

⁶⁶⁷Yount, B. (2020, June 26). Wisconsin Election Commission to Mail Postcards to Nearly 200,000 Unregistered Voters. *The Center Square*. Retrieved from https://www.apg-wi.com/news/state/wisconsin-election-commission-to-mail-postcards-to-nearly-200-000-unregistered-voters/article_6aca6c80-6adf-5115-b220-68232713f96b.html

⁶⁶⁸Marley, P. (2020, June 1). Wisconsin Supreme Court to Decide Whether to Remove 129,000 Voters from the Rolls. *Milwaukee Journal Sentinel*. Retrieved from <https://www.jsonline.com/story/news/politics/2020/06/01/wisconsin-supreme-court-decide-removing-150-000-voter-rolls/5309596002/>

⁶⁶⁹Schmidt, M. (2020, July 1). Supreme Court Unlikely to Rule on Voter Purge Case Before November Election. *Wisconsin State Journal*. Retrieved from https://madison.com/wsj/news/local/govt-and-politics/supreme-court-unlikely-to-rule-on-voter-purge-case-before-november-election/article_67fa6880-29fe-5087-bed0-3aada6344ce8.html

laws which may have consequences in the upcoming election. The court had heard arguments in this case more than three years ago, but just now released their decision. Recently, Milwaukee and Madison have allowed for multiple weeks of early voting leading up to an election, but this ruling has reinstated a law which constrains early voting to the two weeks preceding an election. The ruling also reinstated a law which requires voters to be residents for 28 days before being able to cast a ballot in the state and restricted mail ballots from being distributed to voters by fax or e-mail. Finally, the decision also stated that expired student IDs could be used as voter ID when casting a ballot.⁶⁷⁰

⁶⁷⁰Marley, P. (2020, June 28). Appeals Court Limits Wisconsin Early Voting to 2 Weeks Before Election, Stops Voters from Receiving Ballots Via Email, Fax. *Milwaukee Journal Sentinel*. Retrieved from <https://www.jsonline.com/story/news/politics/2020/06/29/wisconsin-early-voting-limited-appeals-court-tightens-election-law/3283006001/>