
COMMONWEALTH OF MASSACHUSETTS
Supreme Judicial Court

SUFFOLK, SS.

No. SJC-12996

REBECCA GROSSMAN, ET AL.,
Petitioners/Appellants,

v.

WILLIAM FRANCIS GALVIN, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE
COMMONWEALTH OF MASSACHUSETTS,
Respondent/Appellee.

**ANSWER, RESPONSE, AND OPPOSITION TO EMERGENCY
PETITION FOR RELIEF**

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INTRODUCTION

As the Commonwealth's chief election official, Secretary William Francis Galvin places the utmost importance on ensuring the orderly administration of fair elections in the state. He and the Petitioners share the goal of an orderly, fair election in which all eligible voters may exercise their rights, make their voices heard, and have confidence in the outcome. But the Petitioners narrowly focus only on the primary election to choose candidates as party nominees, ignoring entirely the need to ascertain the results of that primary in time to permit voters, particularly overseas and military voters, to participate fully in the November general election, in which federal, state, and district officers will be elected and proposed laws will be put to the voters.

The Secretary does not have that same luxury. He faces a mandatory federal-law deadline of September 19 to send printed ballots for the November election to military personnel and other registered voters overseas, along with other intervening deadlines for recounts, objections, and winner certification. For that reason, he and local election officials across the Commonwealth must balance the need to count every

timely vote in the primary with the need to immediately turn to the immense work of preparing and distributing ballots for the general election in time for voters to exercise their franchise in that election. The Secretary's responsibility and focus is to ensure that votes in the September 1 primary election are counted in a way that complies with state law, such that he can then satisfy mandatory deadlines imposed by federal law for distribution of military and overseas ballots and ultimately ensure that the general election in November can proceed without delay or voter disenfranchisement.

The extraordinary relief that Petitioners seek - pushing back the deadline for accepting ballots for the primary election from September 1, 2020 to September 11, 2020 - would cause havoc in the ongoing preparation for the general election. The Petition ignores what must occur during the 64 days between the primary election and the general election in order to make sure that Election Day on November 3, 2020 goes off without a hitch. Election results must be certified by local election officials, recounts may be requested, ordered, and conducted, and State Ballot

Law Commission hearings may need to be convened, among other things.

These procedural steps must all be completed in short order, so the Secretary knows with certainty the primary results in time to prepare more than 500 ballot styles for November and distribute them to local election officials to send to tens-of-thousands of military and overseas voters by September 19, a date set by federal law and enforced strictly by the United States Department of Justice. The Secretary must also distribute vote-by-mail ballots, envelopes, early voting materials, and supplies to local election officials before October 9, so that ballots may be mailed to voters who have requested to vote by mail in the general election and provided to early voting locations for the in-person early voting that must begin by October 17, 2020. Simply put, Petitioners' proposal is infeasible because delaying the results of the primary election would in turn delay the preparation of the November ballots and would cause the Commonwealth to risk violating federal law and, more consequentially, disenfranchising other voters. In seeking expanded time for local mail-in votes to be received, Petitioners ask this Court to override a

specific directive of the Legislature in the recently-enacted mail-voting law that seeks to comply with federal law and ensure that military and overseas voters, who can only vote remotely, will have adequate time to do so.

The September 1, 2020 vote-receipt deadline for the primary - set by the Legislature just this July - ensures that all subsequent deadlines are met so that voters can vote in the general election. Primary-election voters still have multiple options available to them to vote in a safe manner for that election. Voters can, of course, vote by mail. Voters concerned about potential delays caused by the United States Postal Service can submit their early voting ballot via a secure, non-United States Postal Service drop box or at an early voting location. Voters (or others assisting them) can also deliver their ballots to local election offices, if they so choose. And the Centers for Disease Control has reported that in-person voting is safe, particularly where, as here, less-crowded early in-person voting options are available. See Centers for Disease Control, "Considerations for Election Polling Locations and Voters," [- 11 -](https://www.cdc.gov/coronavirus/2019-</p></div><div data-bbox=)

ncov/community/election-polling-locations.html (June 22, 2020).

Further, the Secretary has taken extraordinary steps to make personal protective equipment available to local election officials to help facilitate safe in-person voting. He has provided local election officials with guidelines developed with the input of the Massachusetts Department of Public Health, and incorporating recommendations from the Centers for Disease Control, to safeguard public health at early voting sites and polling locations. See Secretary's Election Advisory # 20-03, Regarding Health & Safety Guidelines for Conducting Voting in Person (Addendum at 190). And the Secretary has taken steps to inform voters about the expanded menu of options for voting this year during the pandemic. But no matter which safe and secure option a voter chooses, those ballots must be received no later than September 1, as required by state law.

As explained in detail below, the September 1 statutory deadline for ballot receipt is constitutional. Moreover, judicial adjustment of the deadline could compromise the ability of voters to exercise the franchise in the general election or

result in a violation of federal law, outcomes the Legislature sought to avoid. The Secretary therefore respectfully urges this Court to deny the Petition.

FACTUAL AND PROCEDURAL BACKGROUND

I. HISTORY OF ABSENTEE VOTING AND EARLY VOTING IN MASSACHUSETTS

A. Massachusetts's Two Methods for Casting Votes Before Election Day: Absentee Voting and Early Voting

Massachusetts has a long history of safely and securely accepting absentee ballots by mail. See Mass. Gen. Laws ch. 54, §§ 89-100. As provided by statute, a voter seeking to cast an absentee ballot can request one from the appropriate local election official. See Mass. Gen. Laws ch. 54, § 89. That local election official then sends an absentee ballot to the voter, who may then remit the completed ballot by mail or hand-deliver it to the local election official to be counted. See Mass. Gen. Laws ch. 54, § 92. Access to absentee ballots, however, is limited to those who had a valid excuse for being unable to vote in person at their polling place on Election Day, which includes voters who were away from their home city or town on Election Day, voters who have a physical disability that prevents them from voting at their polling place, and voters with a religious belief that prevents them

from voting at their polling place. See Mass. Gen. Laws ch. 54, § 86. Completed absentee ballots must be received by the close of polls on Election Day to be counted. See Mass. Gen. Laws ch. 54, § 93.

In 2014, the Legislature authorized “early voting” for biennial state elections (but not primary elections), beginning with the 2016 election. As initially enacted, this new early voting law allowed voters to cast their ballots before Election Day, without need for an excuse, at in-person designated early voting locations or by mail, during a specified early voting window, which was limited to 10 days before the biennial state election. See Mass. Gen. Laws ch. 54, § 25B.

B. Massachusetts Expands Early Voting in 2020 to Help Voters During the Coronavirus Pandemic

In July 2020, in response to the ongoing public health emergency caused by the coronavirus pandemic, the Legislature dramatically expanded the 2014 early voting program to permit citizens to vote by a variety of contactless means, without an excuse, for an extended period. The Legislature also provided additional opportunities for voting generally. The new law expanded early voting to include the primary,

mandating a 7-day early in-person voting period for the primary election, and expanded the in-person early voting period for the general election; both early voting periods include weekend hours. In addition to these changes, in-person polling places across Massachusetts will continue to be open on primary and general election day from 7:00 a.m. until 8:00 p.m. As a result, every citizen in Massachusetts has multiple options for voting, all of which are safe and secure. See Mass. Stat. 2020, c. 115 (Addendum at 58).

The new law also gave voters additional time to register or update their voter registration, moving the deadline from 20 days to 10 days before the election. Under the new law, the deadline to register to vote in the September 1 primary election is August 22, 2020. See Mass. Stat. 2020, c. 115, § 18. The deadline to register to vote in the November 3 general election is October 24. See Mass. Stat. 2020, c. 115, § 18. A voter can register online, by mail, or in person with local election officials. See Mass. Gen. Laws ch. 51, §§ 3, 26.

A registered voter seeking to vote early by mail (or by other contactless means, such as through use of a drop box) in this year's state elections must first

complete a timely application for a mail-in ballot.

See Mass. Stat. 2020, c. 115, § 6. The Secretary has mailed ballot applications to all registered voters in the Commonwealth at their registered addresses, unless the voter had a designated mailing address on file with their local election official, in which case the application was sent to that address as required by law. See Mass. Stat. 2020, c. 115, §6(d)(1); Tassinari Affidavit ¶ 3 (Addendum at 113). But registered voters need not wait for the mailed application; they can download or print an application for an early voting mail-in ballot from the Secretary's website. See 2020 Vote by Mail Application, <https://www.sec.state.ma.us/ele/elepdf/2020-Vote-by-Mail-Application.pdf>. Further, any form of written communication signed by the voter is acceptable as an application for a mail-in ballot, thus accommodating voters without computer access. In all events, a registered voter must submit a signed application for a mail-in ballot, whether on the pre-printed form or by individual voter communication, to his local election office. See Mass. Stat. 2020, c. 115, §§ 6(e)(1), 6(f)(1). In order to make a timely request for a mail-in ballot, the voter's application for a

ballot must be received by local election officials at least 4 business days before the relevant election.

See Mass. Stat. 2020, c. 115, §§ 6(e)(1), 6(f)(1).

Each registered voter who makes a request for a vote-by-mail ballot will be sent a ballot, by first class mail, along with instructions for completing and securely returning the ballot. See Mass. Gen. Laws ch. 54, § 91B; Mass. Stat. 2020, c. 115 § 6(g)(i). Once a voter receives a ballot, it can be completed and returned to local election officials through several contactless means: either by remitting the completed ballot to the local election office by using the postage-prepaid, pre-addressed, first-class mail envelope provided, or by placing it in a secure, non-United States Postal Service municipal drop box. See Mass. Stat. 2020, c. 115, § 6(h)(1) and (2). In accordance with the Secretary's Election Advisory # 20-01, voters may also hand-deliver their ballots to early voting locations during early voting hours. See Secretary's Election Advisory # 20-01, Regarding Return of Ballots via Secured Drop Box (Addendum at 186). A ballot can also be hand-delivered to local election officials at their office.

To be counted, the completed early voting ballot must be received by local election officials by a specified time. See Mass. Stat. 2020, c. 115, § 6(h). For the primary election on September 1, the ballot needs to be received by 8 p.m. EDT on September 1. See Mass. Stat. 2020, c. 115, § 6(h)(3) ("All early voting ballots submitted by mail, delivered in person to the office of the city or town clerk or returned to a secured municipal drop box as provided by this section shall be received by the city or town clerk before the hour fixed for closing the polls on the day of the primary election"). For the general election on November 3, a ballot, if mailed, must be postmarked by November 3 and must reach the local election office by November 6 to be counted. See Mass. Stat. 2020, c. 115, § 6(h)(3) ("an early voting ballot cast for the general election that is received not later than 5 P.M. on November 6, 2020 and mailed on or before November 3, 2020 shall be processed in accordance with the second paragraph of section 95 of chapter 54 of the General Laws"). (Hand-delivered ballots must be returned by 8 p.m. EST on November 3 for the general election.) See Mass. Stat. 2020, c. 115, § 6(h)(3).

II. 2020 ELECTION CALENDAR AND POST-PRIMARY DATES AND DEADLINES

This year, the primary election will be held on September 1, 2020, see Mass. Stat. 2019, c. 142, § 83,¹ and the general election will be held on November 3, 2020, see Mass. Gen. Laws ch. 54, § 62. There are only 64 days, inclusive, between these two elections, and much needs to happen during these 64 days to ensure that the general election can be held in an orderly fashion. Primary election results must be certified. See Mass. Gen. Laws ch. 53, § 52. Recounts, if necessary, must occur. See Mass. Gen. Laws ch. 54, § 135; Mass. Stat. 2019, c. 142, § 88. More than 500 ballot styles (to account for different districts and jurisdictions within the Commonwealth) must be prepared, printed, and distributed to local election officials in time for them to administer early voting, including mail-in early voting, once again. And critically, the state must comply with certain mandatory federal election requirements that require an incredibly fast turnaround on the part of the Secretary's office.

¹ A copy of all sections of this 2019 session law is furnished in the Addendum at 71.

A. Mandatory Federal Statutory Deadlines for Ballot Preparation

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) was enacted by Congress in 1986. See Uniformed and Overseas Citizens Absentee Voting Act, Pub. L. 99-410, 100 Stat. 924 (enacting UOCAVA). UOCAVA requires that the states and territories allow certain groups of citizens - so-called UOCAVA voters, including members of the United States Uniformed Services and merchant marine, their family members, and United States citizens residing outside the United States - to register and vote absentee in elections for Federal offices. UOCAVA was amended in 2010 by the federal Military and Overseas Voter Empowerment Act (MOVE) to establish new voter registration and absentee ballot procedures that states must follow in all federal elections. See Military and Overseas Voter Empowerment Act, Pub. L. 111-84, 123 Stat. 2190 (enacting MOVE). As relevant to this Petition, MOVE requires that general election ballots be sent by local election officials to UOCAVA voters at least 45 days before any federal election. See 52 U.S.C. § 20302(a)(8). For the 2020 general election, the UOCAVA deadline is September 19, 2020. Although there

is a process by which a state can seek a hardship waiver of the UOCAVA deadline, the required showing for a waiver is high and waivers are sparingly granted, because doing so jeopardizes the opportunity for military and overseas voters to receive, mark, and return their ballots on time. See 52 U.S.C. § 20302(g).

In order to comply with this federally-imposed deadline in 2020, the Secretary must prepare more than 500 distinct general election ballot styles for use by local election officials, who will, in turn, send them to the UOCAVA voters. Tassinari Affidavit ¶¶ 4-5. The Secretary must provide these ballots to local election officials at least three days in advance of the September 19 UOCAVA deadline to ensure that local election officials have adequate time to prepare the remaining paperwork and transmit the ballot and other material to the UOCAVA voters. Tassinari Affidavit ¶ 6.

This federal requirement applies to a substantial number of Massachusetts voters. By way of comparison, in 2016 - the last presidential election year - there were 23,479 UOCAVA voters from Massachusetts who were sent ballots. Tassinari Affidavit ¶ 7. In 2018, there

were 7,956 UOCAVA voters from Massachusetts who were sent ballots. Tassinari Affidavit ¶ 7. As of August 20, 2020, more than 12,000 UOCAVA voters have already applied for ballots for the November 3 election. Tassinari Affidavit ¶ 7. The Secretary expects that for this year's general election, more than 25,000 UOCAVA voters from the Commonwealth will request to be sent ballots. Tassinari Affidavit ¶ 7.

The United States Department of Justice closely monitors the state's compliance with these federal requirements. In 2014, for example, the Department of Justice expressed concerns to the Secretary when Massachusetts conducted a primary election on September 9, 2014 with a general election to be held on November 4, 2014. Tassinari Affidavit ¶ 8. The Secretary is required to report to the Department of Justice the number of UOCAVA voters who have requested ballots and to certify that Massachusetts has satisfied the requirements of MOVE by the Monday following the UOCAVA deadline - this year, September 21. See 52 U.S.C. § 20302(a)(11); Tassinari Affidavit ¶ 9.

B. Post-Primary Events to Comply with Federal and State Deadlines

The Secretary must act promptly after the September 1 primary election to prepare and transmit ballots to local election officials by September 16, 2020 so that they can, in turn, meet the mandatory federal September 19, 2020 deadline. Indeed, the 2020 post-primary deadlines set by Mass. Stat. 2019, c. 142, §§ 83-92 were chosen to ensure compliance with federal law.² In addition to the time required to prepare and distribute the more than 500 different ballot styles, the following requirements set by state statute must be completed during this tight timeframe. See Mass. Stat. 2019, c. 142, §§ 83-92. The relevant deadlines are as follows:

General deadlines

September 3	Last day for write-in or sticker
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² In fact, this 2019 law was necessitated by the federal requirement. Ordinarily, the primary is held on the seventh Tuesday preceding the biennial state election. Mass. Gen. Laws ch. 53, § 28. This year, however, that day fell later than usual, on September 15, and the general election day fell early, on November 3. Because holding the primary on September 15 would make compliance with the federal deadline impossible, the primary was rescheduled by special legislation to September 1, with the post-primary dates re-set accordingly. Mass. Stat. 2019, c. 142. Since MOVE's enactment, the Legislature has moved the primary date to a date earlier in September several other times. See, e.g., Mass. Stat. 2013, c. 164; Mass. Stat. 2015, c. 119.

	candidates who won at the primary election to file a written acceptance of nomination and a receipt from the state ethics commission with the Secretary.
September 5	Last day for local election officials to certify election results from primary election pursuant to Mass. Gen. Laws ch. 53, § 52.
September 16	Last day for Secretary to get ballots to local election officials for UOCAVA and MOVE compliance.
September 19	Federal UOCAVA and MOVE deadline for transmission of ballots to military and others overseas.
October 9	Last day for Secretary to send local election officials printed ballots and other supplies for early voting by mail for general election.

Objections and withdrawals

September 4	Last day to file withdrawals or objections to nominations at the primary election.
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September 4	Last day for State Ballot Law Commission to notify candidates of challenges to nominations made at the primary election.
September 8	Last day to fill vacancies caused by withdrawals at the primary election.
September 9	State Ballot Law Commission to begin to hear challenges to objections to nominations made at the primary election.
September 14	Last day for State Ballot Law Commission to render decisions on objections to nominations made at the primary election.

Precinct-level recounts

September 4	Last day to file precinct-level recount petitions with local election officials.
September 12	Last day for local election officials to complete precinct-level recounts.

District-wide or Statewide recounts

September 4	Last day to file petitions for district-wide or statewide recounts with local election officials.
September 8	Last day for local election officials to complete certification of district-wide or statewide recount petitions; last day to file district-wide or statewide recount petitions with Secretary.
September 12	Last day for local election officials to complete district-wide or statewide recount and notify the Secretary of the results.

The turnaround time for UOCAVA compliance is always tight, which is why the post-primary dates were carefully crafted by the Legislature in 2019 to allow compliance. While it may seem as though there is a generous amount of time after the date of the primary to prepare the ballots to send to UOCAVA voters - in this case, 18 days - that is not actually the case. That same time period must be used to resolve any post-primary disputes before the Secretary knows with certainty which candidates' names should be printed on

the general election ballot. The post-primary dates must provide time for withdrawals, filling vacancies caused by withdrawals, objections and hearings before the state ballot law commission and recounts.

Tassinari Affidavit ¶ 10.

In 2018, for example, the state primary was held on September 4, 2018 and the deadline to transmit UOCAVA ballots was on September 22, 2018, which, but for the post-primary procedures, would appear to give the Commonwealth 18 days to prepare and send the ballots for most of the state. That year, however, there was a district-wide recount in the 3rd Congressional District Democratic Primary, which was ordered on September 10, 2018, and was not completed by the cities and town in the district until 5:00 p.m. on September 17, 2018. At that point, there were only 5 days remaining before the UOCAVA deadline. During that narrow time frame, the Secretary had to prepare and distribute ballots to local election officials and in turn the local election officials had even less time to transmit to UOCAVA voters. Tassinari Affidavit ¶ 11.

In 2020, the Commonwealth has just 18 days complete all post-primary requirements, including

resolving any objections and recounts, and to prepare and send the ballots to local election officials for UOCAVA voters. If, for example, a district- or state-wide recount is filed, which must be completed by September 12 under the existing statutory scheme, the Secretary will be left with only 4 days in which to get ballots to local election officials and the Commonwealth will have a total of 7 days to meet the MOVE deadline; if the State Ballot Law Commission has to adjudicate an objection by September 14, the Commonwealth's overall time for compliance dwindles to 5 days and the Secretary will have just 2 days to get ballots to local election officials. Tassinari Affidavit ¶ 12.

The Secretary not only must prepare ballots to comply with this federal deadline and ensure the enfranchisement of UOCAVA voters, but he must also comply with state law requirements for the delivery of ballots to local election officials so that they can be mailed out to all other voters for the general election. Under state law, the Secretary must send printed ballots to local election officials no later than October 9, 2020 so that they can be timely mailed to early voters in the general election. Mass. Stat.

2020, c. 115, § 8(b). Printing these ballots for circulation is an enormous undertaking.

III. PETITIONERS AND PROCEDURAL HISTORY

Against the backdrop of these statutory deadlines, which are designed to accomplish an orderly preparation for the general election and meet federal requirements that permit UOCAVA voters to participate in the election, the Petitioners ask this Court to push back the deadline for the receipt and counting of ballots for the primary election by 10 days, from September 1, 2020 to September 11, 2020. Pet. at 38.

The Petitioners are Rebecca Grossman, a Newton City Council member who is seeking the Democratic Party's nomination for the Fourth Massachusetts Congressional District, her campaign, and several individual registered voters. Pet. at 9-10. All of the individual Petitioners assert that they experienced problems with obtaining a mail-in ballot.

Councilor Grossman and her husband requested an early voting ballot by mail from Newton election officials, and report that they have not yet received their ballots. According to Newton election officials, their applications were received by Newton on August 11, 2020, and ballots were sent to them on August 15,

2020. Pet. at 10; Tassinari Affidavit ¶ 13. Petitioner Shirley Grossman also avers that she has not received the early voting ballot she requested from local election officials, but her ballot was likewise mailed to her on August 15, 2020. Pet. at 10; Tassinari Affidavit ¶ 14. Petitioner Sophia Kripp sent an application for an absentee ballot - not an early ballot - to her local election officials, but it was returned by the Postal Service to her local election officials as undeliverable because she requested that her ballot be mailed to her college, which is now closed. She has since applied for an early voting ballot by mail to be sent to the address at which she is registered, and the local election official has already honored that request and mailed her a second ballot. Pet. at 10-11; Tassinari Affidavit ¶ 15. Petitioner Jonathan Levenfeld alleges that he has not received his application to request a ballot from the Secretary at his address in Cambridge. Mr. Levenfeld, however, has a registered mailing address in Washington, D.C., an address he provided to the Cambridge Election Commission, and his application was sent there by the Secretary as required by law. Pet. at 11; Tassinari Affidavit ¶ 16. Mr. Levenfeld does

not explain in the petition why he could not obtain an application online or mail a request to the Secretary that is not on a pre-printed form.

The Petitioners further assert that they have concerns about their ability - and the ability of all Massachusetts voters - to have their votes counted in the primary election. This concern, Petitioners allege, is heightened because of well-reported warnings given by the United States Postal Service that it may be unable to process and deliver ballots in a timely fashion. Pet. at 3-4. Petitioners believe that if these delays come to pass, then voters who wish to vote by mail - instead of using other options available for early voting - may not have their votes counted in the primary election. Pet. at 3-4.

Indeed, the Secretary shares many of Petitioners' concerns, and he has taken steps to ensure that these potential issues are addressed without compromising any of the statutory deadlines he must follow. Significantly, at the Secretary's direction, and consistent with guidance from the Postal Service, all ballot applications and all ballots sent to voters are sent via first-class mail; these ballots, too, are sent with first-class return mail envelopes that are

pre-addressed and with postage prepaid back to the appropriate local election official. Tassinari Affidavit ¶ 17. The Commonwealth, therefore, is already following the Postal Service's guidance to minimize the possibility of mail-related delays.³

To avoid any problems with the mailing of ballots, the Secretary has - as he has in the past on the cusp of elections - encouraged voters to hand deliver their ballots, including by using drop boxes. See Boston.com, "Bill Galvin is urging Massachusetts voters to hand-deliver their mail-in ballots. Here's why - and how," <https://www.boston.com/news/local-news/2020/08/21/massachusetts-mail-in-ballot-drop-box> (Aug. 21, 2020). This avenue is available to voters in the primary election and would obviate any potential issues concerning the Post Office.

In addition, the Commonwealth, with the support of the Secretary, has joined several other states in a suit in federal court in Pennsylvania to compel the Postmaster General to take steps to ensure that

³ And in fact, the Postal Service's letter cited in the Petition concludes by emphasizing that it is "not recommending that such [state election] laws be changed to accommodate the Postal Service's delivery standards."

Massachusetts can “protect” its “constitutional authority to conduct [its] elections in the manner [its] legislature[] ha[s] chosen.” See Pennsylvania v. DeJoy, Dkt. No. 2:20-cv-04096 (E.D. Pa.), Complaint ¶ 1 (Addendum at 118).

The Petitioners now ask this Court to push back the state’s deadline for counting votes cast at the September 1 primary, without regard to the other state or federal statutory deadlines that fall shortly after the primary election. Specifically, Petitioners ask this Court to order that any ballots postmarked by September 1, 2020 but received before the end of the day on September 11, 2020 be counted, whereas under current state law, only ballots received by September 1, 2020 can be counted. See Mass. Stat. 2020, c. 115, § 6(h).

ARGUMENT

The Commonwealth’s election law, which requires that ballots must be received by local election officials by 8:00 p.m. on September 1, 2020 to be counted in the primary election, see Mass. Stat. 2020, c. 115, § 6(h), is subject to rational-basis review, and it easily meets that standard. The deadline is rational and necessary for ensuring that the

Commonwealth can quickly ascertain the winners of primary elections and resolve any post-primary disputes so election officials can begin the process of preparing for the general election while simultaneously ensuring that general election voters, particularly UOCAVA voters, have their franchise-related rights protected.

In light of the ongoing public health emergency caused by the coronavirus pandemic the Legislature enacted a law to make it easier for people to vote amidst the pandemic. See Mass. Stat. 2020, c. 115. The Secretary has strongly supported this expansion of voter access. In short, the Legislature and the Secretary have acted to minimize the disruption and risk that the pandemic presents by increasing voting options and opportunities while maintaining an orderly and fair election. As part of this effort, the Legislature significantly expanded mail-in voting, but decided that, for the primary election, only ballots received by September 1 will be counted so that the Secretary can, in short order, prepare for the general election with its fast-coming deadlines. This statutory deadline, viewed in the context of voters' multiple means of casting a ballot, is more than

rational, and the legislative scheme, viewed as whole, fully safeguards voters' rights and safety during the pandemic. Accordingly, and for the ensuing reasons, the Court should deny the Petition.

I. THE SEPTEMBER 1 DEADLINE IS SUBJECT TO RATIONAL BASIS REVIEW, NOT STRICT SCRUTINY

The statutory rule that that voters' ballots must be received by local election officials no later than 8:00 p.m. on the day of the State Primary Election to be counted, see Mass. Stat. 2020, c. 115, § 6(h), should be reviewed using a rational basis standard, not under strict scrutiny, as Petitioners contend. Especially in view of all the available means of voting, this particular deadline, which is essential for conducting the general election in November, does not severely burden voters in the September primary.

The expanded voting options in the 2020 legislation provide multiple alternatives for voting safely. The Legislature has dramatically expanded no-excuse mail-in voting, extended periods of voter registration, mailed ballot applications to all registered voters, and lengthened the window for early voting. The Secretary has supported this expansion of voter access during the pandemic by furnishing

personal protective equipment to local poll workers, assisting local election officials in creating safe, socially-distanced polling locations, providing information to voters to assist them with registration and voting, and helping local election officials establish contactless drop boxes for ballot delivery.

By these actions, the Legislature has adapted the Commonwealth's election laws to minimize the disruptions of the pandemic on voters' ability to exercise the franchise while maintaining an orderly and fair election. The September 1 statutory deadline for receipt of mailed-in ballots must therefore be viewed in the context of all the efforts that the Commonwealth has made to safeguard voters' rights and safety during the pandemic.

"[V]oting has long been recognized as a fundamental political right and indeed the 'preservative of all rights.'" Mass. Pub. Int. Research Grp. v. Sec'y, 375 Mass. 85, 94 (1978) (quoting Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886)). Yet, "as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes."

Storer v. Brown, 415 U.S. 724, 730 (1974); Goldstein v. Sec'y of Commonwealth, 484 Mass. 516, 524 (2020) (noting that as "with many fundamental rights, the court has sustained statutes which reasonably regulate elections and access to a place on the ballot") (citation and internal quotation omitted). And courts have recognized that regulations to achieve the "necessary objectives" of fairness, honesty, and order will "inevitably affect[] - at least to some degree - the individual's right to vote." Anderson v. Celebrezze, 460 U.S. 780, 788 (1983). The policy choices needed to achieve those objectives are for the Legislature to make, and it has done so. The question then is whether the Legislature had a rational basis for the specific statutory deadline challenged here, which it plainly did.

When the Court evaluates the constitutionality of a restriction on the exercise of the franchise, it applies a "sliding scale approach," under which it will "weigh the character and magnitude of the burden the State's rule imposes on the plaintiffs' rights against the interests the State contends justify that burden, and consider the extent to which the State's concerns make the burden necessary." Libertarian Ass'n

of Mass. v. Sec'y of the Commonwealth, 462 Mass. 538, 560 (2012) ("LAM") (quotations, citations, and alterations omitted). As a matter of federal constitutional law, restrictions "imposing severe burdens on plaintiffs' rights must be narrowly tailored and advance a compelling state interest." Id. By contrast, "[l]esser burdens . . . trigger less exacting review, and a State's 'important regulatory interests' will usually be enough to justify reasonable, nondiscriminatory restrictions." Id. (citation omitted).

In considering the constitutionality of election provisions under the Massachusetts Constitution, this Court has similarly followed a "sliding scale" test, guided by the foregoing standards. See Chelsea Collaborative v. Sec'y of the Commonwealth, 480 Mass 27, 35 (2018) ("In general, this 'sliding scale' analytical framework [discussed in LAM] is appropriate for cases that involve voting rights under the Massachusetts Constitution"). More recently, "recognizing that the Massachusetts Declaration of Rights may be more protective of voting rights than the Federal Constitution," this Court has declared that it does not use the "phrase 'severe burden,'

which arises from Federal constitutional jurisprudence, in determining whether strict scrutiny applies but instead applies strict scrutiny to a voting requirement that 'significantly interfere[s]' with the fundamental right to vote. See Goldstein, 484 Mass. at 524. But as in Goldstein, this Court need not determine whether to apply a "severe burden" analysis or a "significant interference" evaluation here because the result is the same either way; Petitioners have not demonstrated that the September 1, 2020 vote-receipt deadline imposes a severe burden on voters or significantly interferes with the right to vote. As such, it should be reviewed under a deferential rational basis standard. Cf. Chelsea Collaborative, 480 Mass. at 37-40 (rational basis review applied apply where a statutory deadline itself did not disenfranchise any voter, the Secretary took "sufficient actions to inform the public" about the relevant deadline, and the Commonwealth took steps to ensure ease of the voting-related function).

As in Chelsea Collaborative, the Secretary and the media generally have publicized information about the deadline to apply for a ballot by mail for the primary (August 26, 2020), and the instructions

included with the ballot sent by local election officials prominently display the September 1 deadline. In addition, the Secretary's website contains information concerning this deadline. This deadline is well-known because it has been in place since July, without complaint from Petitioners or others.

Critically, as part of the July legislation the Commonwealth has also taken substantial efforts to make voting before this deadline both safe and simple: it has mailed ballot applications to all registered voters, it has expanded the period for early voting, it has made several contactless voting options available for voters, including some that do not rely on the United States Postal Service, and it has provided equipment and guidelines to local election officials to ensure safe in-person voting. And, voters who elect to vote by mail may request a ballot by downloading an application from the Secretary's website or by returning the application they receive from the Secretary in the mail; indeed, voters need not use a pre-printed application at all, and may simply mail their local election officials a short letter requesting a ballot. The net effect of this

comprehensive ballot access program is to ensure that voters are not disenfranchised. All a voter needs to do to ensure his vote is counted is to get a ballot to the relevant local election official by 8 p.m. on September 1. Under the totality of these circumstances, this receipt deadline cannot be said to impose a severe burden on voters or significantly interfere with the exercise of the franchise.

In calibrating the sliding scale for determining the standard of review, the Court must also consider the government's need for this deadline. LAM, 462 Mass. at 560. In this regard, the Court should defer to the Legislature's determination that the September 1 deadline was necessary for the orderly administration of the primary and general elections, and specifically to ensure that voters can vote in the general election without disruption. This restriction, therefore, is necessary to secure the franchise, particularly for military voters and voters overseas who are protected by federal law and who have no alternative avenue to participate in the election. Any delay to the September 1 deadline will undermine the Commonwealth's ability to timely meet deadlines for

general election and to comply with federal safeguards for voters.

Considering these facts, the sliding scale analysis points to the application of rational basis review here. But as set forth below, regardless of what level of review is appropriate here – rational basis, strict scrutiny, or something in between – the September 1 deadline passes constitutional muster.

II. THE SEPTEMBER 1 DEADLINE SATISFIES RATIONAL BASIS REVIEW AND REFLECTS THE LEGISLATURE’S JUDGMENT IN BALANCING COMPETING ELECTION DEMANDS

The Legislature redesigned this year’s voting procedures and deadlines to accommodate the constraints of the coronavirus pandemic while still permitting the orderly administration of the September and November elections. In the context of these changes, and the Commonwealth’s voting laws generally, the September 1 deadline for receipt of mailed ballots readily satisfies rational basis review.

A. Standard for Rational Basis Review

As this Court explained in Chelsea Collaborative, rational basis review only requires that the Court ask whether the statute is reasonable. 480 Mass. at 40. In other words, as a matter of due process, the rational basis analysis requires only that statutes “bear[] a

real and substantial relation to the public health, safety, morals, or some other phase of the general welfare." Commonwealth v. Wilbur W., 479 Mass. 397, 403 (2018). As a matter of equal protection, the rational basis test "includes a requirement that an impartial lawmaker could logically believe that the classification would serve a legitimate public purpose that transcends the harm" to the members of the supposedly disadvantaged class. Chelsea Collaborative, 480 Mass. at 40.

B. The September 1 Deadline is Reasonable and Serves a Legitimate Public Purpose

The September 1 deadline imposed by Mass. Stat. 2020, c. 115, § 6(h) is reasonable and furthers the legitimate aim of a fair and orderly election that protects the rights of all voters to participate in the November general election and satisfies the particular federal-law requirements for overseas voters.

As an initial matter, there can be no doubt that "the legislative objective of conducting orderly and legitimate elections" is a legitimate public purpose. Chelsea Collaborative, 480 Mass. at 40. The Commonwealth also has a legitimate interest in

ensuring that the fundamental rights of all its citizens to vote in the November general election are protected. Attorney Gen. v. Suffolk County Apportionment Comm'rs, 224 Mass. 598, 601 (1916) ("The right to vote is a fundamental personal and political right" protected under arts. 1 through 9 of Declaration of Rights). Finally, the Commonwealth has a strong interest in complying with mandatory federal election law, particularly laws that permit "thousands of service members" to "shar[e] in the most basic of democratic rights." See United States v. Alabama, 778 F.3d 926, 928 (11th Cir. 2015) ("The obligation that Congress has placed on the states is unambiguous: they must transmit absentee ballots to service members who validly request them forty-five days before 'an election for Federal office.'").

The September 1 vote receipt deadline, which was set in existing state law and reiterated as part of a larger legislative overhaul in July, more than satisfies rational basis review. As explained above, this deadline permits the Secretary to (1) ensure that post-primary deadlines are satisfied, (2) prepare for the general election, and safeguard the rights of all voters (including military and overseas voters) to

participate in the general election. And, at the same time it set this deadline, the Legislature also expanded voting options to maximize opportunities for voters to participate safely in the election. For example, the July 2020 legislation extended the deadline for voter registration from 20 days before the election to 10 days; expanded in-person early voting to the primary election and to a longer, two-week period before the general election both including weekend hours; expanded early voting to include no-excuse mail-in early voting for both the primary and general elections, and mandating that applications for mail-in ballots be mailed to every registered Massachusetts voter twice - once before the primary and again before the general election; and required local election officials to accept ballots submitted via designated non-USPS drop boxes.

In short, the Legislature has timely acted in response to the ongoing public health emergency and made significant adjustments to the relevant statutory requirements to enable greater and safer voter participation while simultaneously ensuring that the state can complete an orderly and fair primary and general election cycle. This action is entitled to a

strong presumption that it was not arbitrary, and it plainly was not. See Carleton v. Framingham, 418 Mass. 623, 631 (1994) ("In any evaluation of reasonableness, the plaintiffs have a heavy burden to meet, and we will recognize every rational presumption in favor of the legislation"). Just as this Court in Chelsea Collaborative deferred to reasonable legislative determinations about voter registration deadlines that could potentially prevent qualified voters from registering, so too must the Court defer to the Legislature here. 480 Mass. at 43-44. And in fact, Courts have upheld many similar regulations as reasonable. See, e.g., Opinion of the Justices, 368 Mass. 819, 821 (1975) ("The court has sustained statutes which reasonably regulate elections and access to a place on the ballot."); O'Brien v. Bd. of Elec. Comm'rs of Boston, 257 Mass. 332, 338 (1926) ("[T]he Legislature is clothed with power to enact appropriate laws to regulate the orderly conduct of elections and to facilitate the counting of votes. Where reasonable statutes have been enacted to this end, the voters must observe their terms and exercise the franchise under the law.").

That one particular component of that Legislative action - requiring receipt of mailed primary ballots by September 1 - is unsatisfactory to the Petitioners does not mean that the Legislature's considered action fails to pass constitutional muster. The legitimate public health concerns that the petitioners raise have been reasonably addressed by the July 2020 legislation, which provides an array of safe voting options. In this context, the petitioners cannot demonstrate they are disenfranchised by a reasonable deadline (Election Day) for receipt of mailed-in ballots. And there is no constitutional violation where the Legislature reasonably sought to avoid any violation of federal law or disruption of the general election.

The Legislature acted reasonably in service of legitimate governmental purposes. There is no basis for the deadline to now be second-guessed on the eve of the September primary. The Petition should be denied on this basis.

**C. The September 1 Deadline Survives
Intermediate or Strict Scrutiny as Well**

Even if Petitioners were right that some form of heightened scrutiny - either strict scrutiny or some

intermediate scrutiny - applied here, the September 1 vote receipt deadline nonetheless should be upheld. Although this Court has never - absent agreement of the parties, as was the case in Goldstein, 484 Mass. at 516 - applied strict scrutiny to evaluate an election-related regulation, the September 1 deadline serves important (or necessary) governmental interests and it is substantially related to (or narrowly tailored to meeting) these interests. No matter where on the "sliding scale" of scrutiny this Court lands, the result must be the same: the need for the Commonwealth to hold an orderly general election while protecting the rights of all voters and meeting federal requirements for military and overseas voters, to participate in that election is paramount. The September 1 deadline, as part of the larger package of expanded options for voters to participate in the electoral process, meets these governmental needs and is narrowly tailored because a later date would be infeasible. In fact, as discussed in the ensuing section, Petitioners' proposal for a 10-day delay proves exactly how unworkable another solution would be.

**III. PETITIONERS' REQUESTED RELIEF WOULD SUBSTANTIALLY
DISRUPT THE ORDERLY ADMINISTRATION OF THE
NOVEMBER GENERAL ELECTION, RESULTING IN A
VIOLATION OF FEDERAL LAW AND DISENFRANCHISING
VOTERS**

In all elections, the Secretary must meet all requirements of the election laws and may not prefer the rights of some voters - here those who vote by mail in the September 1 primary election - over the rights of voters, including military and overseas voters, in the November 3 general election. The Secretary has no less desire than the Petitioners to ensure that all timely votes are counted in the primary election, but the Petitioners' exclusive focus on the primary ignores the inevitable effect of the relief they seek: a violation of the federal law that protects military and overseas voters' ability to vote.

Understandably, the September 1 primary is a focal point for Councilor Grossman, a candidate in a crowded and hotly-contested Democratic primary.⁴ It

⁴ Petitioners frequently note that the September primary has occurred later in the calendar in past years to suggest that any vote-receipt deadline can be feasibly pushed back. What Petitioners ignore, however, is that in those years, the general election was later in November. The 2020 calendar has an early general election day. The first Tuesday in November

cannot, however, be the sole focal point for the Secretary or for this Court.⁵ The purpose of the primary election is to identify which candidates will appear on the general election ballot, and that exercise cannot come at the expense of giving voters a fair and equal chance to vote in the general election. The Secretary's work as the Commonwealth's chief election officer only intensifies after September 1, when he must provide an opportunity for chosen candidates to withdraw; an opportunity for successful write-in candidates to accept their nomination; an

falls on November 3 this year; by contrast, in 2016, it fell on November 8. In addition, Labor Day falls late in the calendar this year. This is why the Legislature set the 2020 primary for September 1, see Mass. Stat. 2019, c. 142, § 83, so as to ensure sufficient time for general election preparation and federal MOVE compliance. In any event, since MOVE was enacted, the time between primary elections and general elections has been fairly consistent.

⁵ Petitioners make much of the fact that for the general election, the Legislature permitted ballots postmarked by Election Day and received after Election Day to be counted. Petitioners are correct that in the general election ballots postmarked by Election Day and received within 3 days may be counted; this deadline is extended to 10 days for overseas and military voters. But this fact alone does not support Petitioners' supposition that the September 1 receipt deadline can be extended easily in a similar fashion. Petitioners' argument ignores the essential point that there are important post-primary deadlines that exist to ensure that the general election can happen; no such comparable deadlines exist after the general election.

opportunity for candidates to seek recounts or challenge ballots cast; and ultimately, must have certainty as to which candidates' names to print on the more than 500 versions of the November ballot that must be prepared in order to transmit to UOCAVA voters by September 19 and distributed to local election officials by October 9, so that they can turn around and mail those ballots to those who have requested them, as well as supply polling locations for the two-week early voting period as well as Election Day.

The domino effect of the relief the Petitioners seek inexorably decreases opportunities for voters to participate in the November 3 general election. If the primary election results cannot be tabulated until September 11 and then certified four days thereafter by local election officials, and the deadlines for resolving any objections at the State Ballot Law Commission and any recounts are correspondingly pushed out 10 days, to September 24 and 22, respectively, the Secretary cannot transmit ballots for the general election to military and overseas voters by September 19, risking the ability of those voters to receive, mark, and return their ballots on time. In addition to potentially disenfranchising military and overseas

voters, missing the September 19 deadline also risks legal action from the Department of Justice, which could sue the Commonwealth for failure to comply with its federal obligations. The extension the Petitioners request would reduce the already short period of time in which the Secretary must prepare and print paper ballots for local election officials to mail to voters who request them, risking the ability to get ballots to those voters with sufficient time for them to vote and return them.

If, alternatively, the time periods for making and resolving objections before the State Ballot Law Commission or for requesting and completing recounts were reduced from their current duration, candidates and individuals pursuing that relief would be prejudiced and the ability to resolve those disputes fairly and accurately would be compromised.⁶ And

⁶ As an illustration of the complexities of these procedures, as set forth in Mass. Gen. Laws ch. 54, § 135, in a recount, all party ballots for that race are hand counted. The recounts are scheduled individually by each city and town in the district. Ballots are counted by teams of two—one person reading the vote from the ballot and the other recording that vote onto a tally sheet. Each candidate in that race can have an observer or agent for each recount worker. They can protest how the ballot was read or how the vote was recorded. In the 2018 recount in the

reducing the time period for that relief significantly enough to still allow even a few days for the Secretary to finalize ballots before the September 19 transmission deadline - for example, requiring that recount requests and/or State Ballot Law Commission objections be made and resolved between September 12 and 17 - would render those remedies virtually impossible to be fairly resolved.⁷ Regardless of how Petitioners might propose to "make up" their proposed ten-day delay in finalizing primary election results,

Democratic primary for the 3rd Congressional District, the City of Lowell had to hand count 12,000 Democratic ballots. It took approximately 8 hours to just put the ballots into the packs of 50 for counting. The actual recount took approximately 10 hours, using approximately 15 teams that were set up in a high school cafeteria. Social distancing protocols would likely prevent that many people from counting in the same space in 2020 and using fewer teams will prolong how long the count takes. This year, the Secretary anticipates that Newton and Brookline will each have over 20,000 ballots cast in the contested Democratic primary for the 4th Congressional District, and if a recount is requested in those municipalities, it would take substantially more time to count than the 12,000 Lowell votes took in 2018 without social distancing requirements. Tassinari Affidavit ¶¶ 18-19.

⁷ The Secretary offers these dates by way of illustration only and does not concede that they would otherwise be workable. For example, the September 19 deadline for transmission of ballots to military and overseas voters requires the Secretary to in fact provide the ballots to local election officials in advance of that date, so that local election officials can timely transmit the ballots.

it is almost certain to create significant disruption for the fair and orderly administration of the general election.⁸

Petitioners also suggest in their request for relief that ballots should be accepted until September 11 not just by mail, but also by hand delivery. That suggestion creates an additional risk: that voters who initially opted not to vote in the primary are then pressured by trailing candidates (who will have the benefit of primary-day polling or preliminary results to know they are losing) to change their mind and submit a ballot for that candidate. That additional risk is not justified where the existing deadline satisfies rational basis review.

⁸ Petitioners seem to imply that, as an alternative to a 10-day extension to the ballot-receipt deadline, they could instead be amenable to a 3-day extension. But even a 3-day extension would have the same cascading effects. By way of example, candidates need at least preliminary election results to request a recount, and a recount cannot be ordered until certified results are in, so there is no feasible way to offer even a 3 day extension without also delaying the recount deadline and thus the recount outcome.

CONCLUSION

For the foregoing reasons, the Secretary requests
that the Court deny this Petition.

Respectfully submitted,
WILLIAM FRANCIS GALVIN, in his
official capacity as Secretary of
the Commonwealth

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Dated: August 23, 2020

CERTIFICATE OF SERVICE

I certify under penalty of perjury that on this day, August 23, 2020, I caused this brief to be served on the counsel of record listed below by email.

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Acts (2020)

Chapter 115

AN ACT RELATIVE TO VOTING OPTIONS IN RESPONSE TO COVID-19.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide for increased voting options in response to COVID-19, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Subsection (b) of section 25B of chapter 54 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- No application shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters before 5 P.M. on the fourth business day preceding the election.

SECTION 2. Said section 25B of said chapter 54, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The voting period for in person early voting shall run from the eleventh business day preceding the general election until the close of business on the business day preceding the business day before the election; provided, however, that if the eleventh business day before the election falls on a legal holiday the early voting period shall begin on the first business day prior to the legal holiday. The voting period for early voting by mail shall begin as soon as all necessary early voting materials have been received by the local election official pursuant to subsection (h).

SECTION 3. Section 89 of said chapter 54, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any form of written communication evidencing a desire to have an absent voting ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the state secretary. No application for an absent

voting ballot to be sent by mail shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters on or before the fourth business day preceding the election for which the ballot is being requested. No application for an absent voting ballot to be voted in person shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters on or before noon on the day preceding the election for which such absent voting ballot is requested; provided, however, that if the day preceding such election is a Sunday or legal holiday, then it shall be received by such clerk or registrars before 5 P.M. on the last previous day on which such office is open. An application by a voter admitted to a health care facility after noon of the seventh day before the relevant election, as provided in subsection (c) of section 91B, may be received up until the time the polls close.

SECTION 4. Section 91B of said chapter 54, as so appearing, is hereby amended by striking out, in line 21, the words “after noon of the fifth” and inserting in place thereof the following words:- on or after the seventh.

SECTION 5. Section 92 of said chapter 54, as so appearing, is hereby amended by striking out, in line 11, the words “eighty-seven, or” and inserting in place thereof the following words:- 87; via a secured municipal drop box, where provided; or.

SECTION 6. (a) As used in sections 6 to 14, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Application”, an application to vote early by mail.

“Central registry”, the central registry of voters established pursuant to section 47C of chapter 51 of the General Laws.

“General election” or “election”, the general election scheduled for November 3, 2020.

“Primary election” or “primary”, the primary election scheduled for September 1, 2020.

“Qualified voter” or “voter”, a voter qualified pursuant to section 1 of chapter 51 of the General Laws.

“State secretary,” the secretary of the commonwealth.

(b) Notwithstanding section 25B of chapter 54 of the General Laws or any other general or special law to the contrary, there shall be early voting by mail for the primary election and general election.

(c) The election officers and registrars of every city or town shall allow any qualified voter to cast an early ballot by mail for the primary election and general election and any city or town election held at the same time.

(d)(1) The state secretary shall, not later than July 15, 2020, mail to all registered voters who registered to vote before July 1 at their residential addresses or mailing addresses if different from their residential addresses listed in the central registry an application for said voter to be permitted to vote early by mail for the primary election; provided, however, that the state secretary shall not send an application to any voter whose previous application for an absent or early ballot for the primary election or for all elections in calendar year 2020 has been accepted.

(2) The state secretary shall, not later than September 14, 2020, mail to all registered voters who registered to vote before September 1 at their residential addresses or mailing addresses if different from their residential addresses listed in the central registry an application for said voter to be permitted to vote early by mail in the general election; provided, however, that the state secretary shall not be required to send an application to any voter whose previous application for an absent or early ballot for the general election or for all elections in calendar year 2020 has been accepted.

(3) The election officers and registrars of every city or town shall include an application for a voter to be permitted to vote early by mail with the acknowledgement notice sent to any person registering to vote or changing their voter registration address: (i) on or after July 1, 2020 and on or before August 22, 2020 for the primary election; and (ii) on or after September 1, 2020 and on or before October 24, 2020 for the general election.

(4) The applications required pursuant to this subsection shall be in a form prescribed by the state secretary in accordance with state and federal law; provided, however, that said applications shall: (i) include clear instructions for completing and returning the application; (ii) allow a voter to designate the mailing address to which the ballot shall be sent; and (iii) be pre-addressed to the local election official with postage guaranteed.

(5)(i) Each application mailed pursuant to this subsection shall be provided in any language required by the bilingual election requirements of the federal Voting Rights Act, 52 U.S.C. § 10503.

(ii) Each application mailed to a voter in the city of Boston pursuant to this subsection shall include an option, which shall appear prominently on the application, to request a ballot printed in any language available at the voter's polling location pursuant to chapter 166 of the acts of 2014.

(6) The applications required pursuant to this subsection shall be made available on the websites of the state secretary and the election officers and registrars of every city or town.

(e)(1) A voter wishing to vote early by mail in the primary election shall complete the application to vote early by mail and shall return said application to the appropriate city or town clerk. Any form of written communication evidencing a desire to have an early voting ballot be sent for use for voting for the primary election shall be given the same effect as an application made in the form prescribed by the state secretary. Applications to vote early by mail for the primary election shall be acceptable if they are signed or submitted electronically; provided, however, that any electronic signature shall be written in substantially the same manner as a handwritten signature.

(2) No application to vote early by mail in the primary election shall be deemed to be seasonably filed unless it is received in the office of the local election official before 5 P.M. on Wednesday, August 26, 2020.

(f)(1) A voter wishing to vote early by mail in the general election shall complete the application and shall return said application to the appropriate city or town clerk. Applications to vote early by mail for the general election shall be acceptable if they are signed or submitted electronically; provided, however, that any electronic signature shall be written in substantially the same manner as a handwritten signature.

(2) No application to vote early by mail in the general election shall be deemed to be seasonably filed unless it is received in the office of the local election official before 5 P.M. on Wednesday, October 28, 2020.

(g)(1) Early voting ballots authorized pursuant to this section shall be mailed by the city or town clerk to voters as soon as such materials are available; provided, however, that said mailing shall include: (i) instructions for early voting; (ii) instructions for completing the ballot; (iii) an inner envelope where the ballot is placed after voting which contains an affidavit of compliance to be filled out by the voter; and (iv) an outer envelope that is pre-addressed to the local election official with postage guaranteed; provided, however, that a voter who has seasonably filed an application may receive an early voting ballot in person at the office of the city or town clerk. The state secretary shall seek to have included on the outer envelope with postage guaranteed required by this section a system which generates a postmark for determining the date upon which the envelope was mailed and, if such a postmark system cannot be implemented, the state secretary shall inform the clerks of the senate and house of representatives of efforts undertaken and impediments to developing such a system.

(2) Each early voting ballot authorized pursuant to this section shall be provided to the voter in the language required pursuant to paragraph (5) of subsection (d).

(h)(1) A voter in receipt of an early voting ballot for the primary election pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.

(2) A voter in receipt of an early voting ballot for the general election pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.

(3) All early voting ballots submitted by mail, delivered in person to the office of the city or town clerk or returned to a secured municipal drop box as provided by this section shall be received by the city or town clerk before the hour fixed for closing the polls on the day of the primary election or general election; provided, however, that an early voting ballot cast for the general election that is received not later than 5 P.M. on November 6, 2020 and mailed on or before November 3, 2020 shall be processed in accordance with the second paragraph of section 95 of chapter 54 of the General Laws. A postmark, if legible, shall be evidence of the time of mailing.

(i) A voter wishing to apply to vote early by mail in the primary or general election and who needs accommodation by reason of disability may request such accommodation from the state secretary. Upon receiving information from the voter pursuant to the application in this section either by phone or electronically, the state secretary shall grant accommodations to the voter. Accommodations shall include, but not be limited to: (i) clear and electronic accessible instructions for completion, printing and returning of the ballot; (ii) an authorized accessible blank electronic ballot that can be filled out electronically, printed and signed; provided, however, that the accessible electronic ballot marking system the voter utilizes to access their blank electronic ballot shall not collect or store any personally identifying information obtained in the process of filling out the ballot; (iii) an envelope to return the ballot to the voter's town or city clerk; and (iv) hole punched markers in place of a wet signature required for certification. The electronic instructions and accommodations in this section shall comply with requirements contained in Title II of the federal Americans with Disabilities Act and shall conform to the Web Content Accessibility Guidelines (WCAG) 2.1 AA and the National Institute of Standards and Technology report titled "Principles and guidelines for remote ballot marking systems." Upon printing the ballot, the voter shall place the ballot in the envelope provided

by the state secretary. A voter with accommodations in receipt of an early voting ballot for the primary or general election pursuant to this section may complete and return the ballot by: (i) delivering it in person to the office of the appropriate city or town clerk; (ii) dropping it in a secured municipal drop box; or (iii) mailing it to the appropriate city or town clerk.

SECTION 7. (a) Notwithstanding section 25B of chapter 54 of the General Laws or any other general or special law to the contrary, there shall be early voting in person for the primary election and the general election.

(b)(1) The election officers and registrars of every city or town shall allow any qualified voter to cast an early ballot in person for the primary election during the early voting period, which shall begin on Saturday, August 22, 2020 and end on Friday, August 28, 2020. Early voting in person shall also apply to any city or town election held at the same time.

(2) The election officers and registrars of every city or town shall allow any qualified voter to cast a ballot in person for the general election during the early voting period, which shall begin on Saturday, October 17, 2020 and end on Friday, October 30, 2020. Early voting in person shall also apply to any city or town election held at the same time.

(3) Any qualified voter wishing to vote early in person in the primary or general election may do so at the time, manner and location prescribed in this section.

(c)(1) Early voting in person for the primary election shall be conducted on Saturday, August 22, 2020 and Sunday, August 23, 2020, as follows: (i) for municipalities with fewer than 5,000 registered voters, for a period of a minimum of 2 hours each day; (ii) for municipalities with 5,000 or more registered voters but fewer than 20,000 registered voters, for a period of a minimum of 4 hours each day; (iii) for municipalities with 20,000 or more registered voters but fewer than 40,000 registered voters, for a period of a minimum of 5 hours each day; (iv) for municipalities with 40,000 or more registered voters but fewer than 75,000 registered voters, for a period of a minimum of 6 hours each day; and (v) for municipalities with 75,000 or more registered voters, for a period of a minimum of 8 hours each day. For each other day during the early voting period, early voting shall be conducted during the usual business hours of each city or town clerk. A city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this paragraph.

(2) Early voting for the general election shall be conducted on Saturday, October 17, 2020, Sunday, October 18, 2020, Saturday, October 24, 2020 and Sunday, October 25, 2020 as follows: (i) for municipalities with fewer than 5,000 registered voters, for a period of a minimum of 2 hours each day; (ii) for municipalities with 5,000 or more registered voters but fewer than 20,000 registered voters, for a period of a minimum of 4 hours each day; (iii) for municipalities with 20,000 or more registered voters but fewer than 40,000 registered voters, for a period of a minimum of 5 hours each day; (iv) for municipalities with 40,000 or more registered voters but fewer than 75,000 registered voters, for a period of a minimum of 6 hours each day; and (v) for municipalities with 75,000 or more registered voters, for a period of a minimum of 8 hours each day. For each other day during the early voting period, early voting shall be conducted during the usual business hours of each city or town clerk. A city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this paragraph.

(d)(1) Each city and town shall establish an early voting site for the primary election and an early voting site for the general election that shall include the election office for the city or town; provided, however, that if the city or town determines that the office is unavailable or unsuitable for early voting in either the primary election or general election, the registrars of each city or town shall identify and provide for an alternative centrally-located, suitable and convenient public building within that city or town as an early voting site. A city or town may also provide for additional early voting sites for the primary election or general election at the discretion of the registrars for that city or town. Each early voting site shall be accessible to persons with disabilities in accordance with federal law.

(2) The designation of early voting sites for the primary election shall be made not later than August 7, 2020. Not later than August 14, 2020, and at least once during the voting period, the registrars for each city or town shall post the location of the early voting sites as well as the applicable dates and hours. Notice shall be conspicuously posted: (i) in the office of the city or town clerk or on the principal official bulletin board of each city or town; (ii) on any other public building considered necessary; (iii) on the city or town's website, if any; and (iv) on the website of the state secretary.

(3) The designation of early voting sites for the general election shall be made not later than October 2, 2020. Not later than October 9, 2020, and at least once during the voting period, the registrars for each city or town shall post the location of the early voting sites as well as the applicable dates and hours. Notice shall be conspicuously posted: (i) in

the office of the city or town clerk or on the principal official bulletin board of each city or town; (ii) on any other public building considered necessary; (iii) on the city or town's website, if any; and (iv) on the website of the state secretary.

(e) A qualified voter voting early in person shall be provided with a ballot and an envelope where the ballot is placed after voting which contains an affidavit of compliance to be filled out by the voter. A qualified voter voting early in person shall complete an affidavit under the regulations promulgated pursuant to this act, which shall include a notice of penalties under section 26 of chapter 56 of the General Laws.

(f) Prior to the beginning of early voting, the registrars for each city or town shall prepare a list for the early voting sites, containing the names and residences of all persons qualified to vote at each voting site, as the names and residences appear upon the annual register, and shall reasonably transmit the applicable list to the election officers at each early voting site designated by the registrars.

(g) The registrar or presiding official at the early voting site shall cause to be placed on the voting lists opposite the name of a qualified voter who participates in early voting the letters "EV" designating an early voter.

(h) The registrars shall prepare lists of all voters casting ballots pursuant to this section or section 6 during the early voting period and update the voter list in a manner prescribed by the state secretary.

(i) A city or town may opt to detail a sufficient number of police officers or constables for each early voting site for the primary election at the expense of the city or town to preserve order, protect the election officers and supervisors from any interference with their duties and aid in enforcing the laws relating to elections.

(j)(1) The absentee or early ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote by reason by death after casting the ballot. For the purposes of this section, the term "cast" shall mean that the voter has: (i) deposited the absentee or early ballot in the mail for ballots mailed; (ii) returned the absentee or early ballot to the appropriate election official either by hand or by depositing in the municipal drop box, where available; or (iii) completed voting in person at the clerk's office or an early voting location.

(2) Section 100 of chapter 54 of the General Laws shall not apply to the primary election or general election or any other municipal election held at the same time.

(k) Notwithstanding any general or special law to the contrary, any absent ballot cast pursuant to section 86 of chapter 54 of the General Laws or any early voting ballot cast pursuant to this section or section 6 may be deposited into a tabulator or a ballot box in a municipality or precinct that uses paper ballots, in advance of the date of the primary or the general election. All ballots received pursuant to this section or section 6 may be opened in advance of the date of the primary or the general election, in accordance with regulations promulgated by the state secretary; provided, however, that such ballots shall be kept secured, locked and unexamined, and that no results shall be determined or announced until after the time polls close on the date of the primary or the general election. Disclosing any such result before such time shall be punished as a violation of section 14 of chapter 56 of the General Laws. Not later than August 1, 2020, the state secretary shall promulgate emergency regulations regarding the advance depositing of ballots.

SECTION 8. (a) Not later than August 3, 2020, the state secretary shall deliver to each city or town, in quantities as the state secretary determines necessary, the following papers: (i) official absentee and early voting ballots for the primary election, similar to the official ballot to be used at the primary election; provided, however, that a sufficient quantity of such ballots are printed in the languages necessary to accommodate the selection of a bilingual ballot by voters pursuant to paragraph 5 of subsection (d) of section 6; (ii) envelopes of sufficient size to contain the ballots specified in clause (i) bearing on their reverse the voter's affidavit in compliance with the requirements of subsection (j) of section 25B of chapter 54 of the General Laws; (iii) return envelopes for any ballot requested for voting by mail pre-addressed to the local election official with postage guaranteed; and (iv) instructions for voting by mail to be sent to each voter who requests to cast a ballot by mail.

(b) Not later than October 9, 2020, the state secretary shall deliver to each city or town, in quantities as the state secretary determines necessary, the following papers: (i) official absentee and early voting ballots, for the general election, similar to the official ballot to be used at the general election; provided, however, that a sufficient quantity of such ballots are printed in the languages necessary to accommodate the selection of a bilingual ballot by voters pursuant to paragraph 5 of subsection (d) of section 6; (ii) envelopes of sufficient size to contain the ballots specified in clause (i) bearing on their reverse the voter's affidavit in compliance with the requirements of subsection (j) of said section 25B of said chapter 54; (iii) return envelopes for any ballot requested for voting by

mail pre-addressed to the local election official with postage guaranteed; and (iv) instructions for voting by mail to be sent to each voter who requests to cast a ballot by mail.

SECTION 9. (a) Sections 37 and 38 of chapter 53 of the General Laws shall apply to unenrolled voters and voters enrolled in political designations voting early in the primary election. The registrar or presiding official at the early voting site shall cause the name of the party of the ballot being voted to be recorded on the voting list. Once the party selection has been recorded on the voting list, a voter cannot request or vote on the ballot of another party.

(b) The counting of early voting ballots including, but not limited to, informing election officers and any challengers present under section 85A of chapter 54 of the General Laws shall be set by 950 C.M.R. § 47.00, so far as applicable. All envelopes referred to in this section shall be retained with the ballots cast at the primary election and shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

(c) The provisions of 950 C.M.R. § 47.00 shall apply to early voting at the primary election to the extent feasible; provided, however, that the state secretary shall promulgate rules to accommodate the dates set forth herein.

SECTION 10. Notwithstanding section 25B of chapter 54 of the General Laws or any other general or special law to the contrary, the election officers and registrars of every city or town shall allow any qualified voter to vote early by mail for any city or town election held on or before December 31, 2020.

SECTION 11. Notwithstanding section 24 of chapter 54 of the General Laws or any other general or special law to the contrary, the select board, board of selectmen, town council or city council may, by recorded and public vote, change any polling place to be used at the primary election or the general election at least 20 days prior to the date of the primary election or general election if it is determined that the public convenience or public health would be better served. If the select board, board of selectmen or town council determines that the public convenience or public health would be better served, they may house all polling places in a single building within the municipality, if such building is suitably equipped; provided, however, that alcoholic beverages shall not be served or consumed in that portion of a building used as a polling place, during voting hours or while ballots are being counted therein. In cities, the city council may designate polling places in non-adjacent precincts if they determine the public convenience or public health would be better served. In making a decision to change a polling place, the select

board, board of selectmen, town council or city council shall evaluate and report on whether such change would have a disparate adverse impact on access to the polls on the basis of race, national origin, disability, income or age, and not later than 3 days prior to changing a polling place, shall make publicly available on its website and at the office of the town or city clerk a report on its evaluation. When the polling places have been designated pursuant to this section, the board of registrars shall post on the municipal website and at other such places as it may determine, a description of the polling places and shall notify voters by using an electronic means, to the extent available, such as via email or reverse 911 call.

SECTION 12. Notwithstanding section 29 of chapter 53 of the General Laws and sections 11, 11B, 12 and 13 of chapter 54 of the General Laws or any other general or special law to the contrary, for the primary election and general election, if the city or town clerk determines in writing that there is a deficiency in the number of required election officers, then the appointing authority may appoint election officers without regard to political party membership, voter status, residence in the city or town or inclusion on a list filed by a political party committee pursuant to said sections 11B and 12 of said chapter 54. If the position of the warden, clerk or inspector, or the deputy of any such officer, if any, is vacant within the 3 weeks preceding the primary or general election, the city or town clerk may fill the vacancy by appointing a competent person willing to serve, without regard to political party membership, voter status, residence in the city or town or inclusion on a list filed by a political party committee pursuant to said sections 11B and 12 of said chapter 54.

SECTION 13. Notwithstanding sections 67 and 83 of chapter 54 of the General Laws or any other general or special law to the contrary, for the primary election and general election, the city or town clerk may eliminate the requirement that a voter provide their name or residence to an election officer at the ballot box and that the election officer mark the name off a voting list before the voter may deposit the ballot in the ballot box.

SECTION 14. Notwithstanding any general or special law to the contrary, the state secretary shall implement a system to allow a qualified voter to request an early or absentee ballot on the state secretary's website, to be mailed to the qualified voter's home address or a different mailing address as designated by the voter. The system shall not require the voter's signature. The system shall apply to the November 3, 2020 general election, and, if feasible, to the September 1, 2020 state primaries, and shall in any event be operational not later than October 1, 2020.

SECTION 15. For an election held on or before December 31, 2020, any person taking precaution related to COVID-19 in response to a declared state of emergency or from guidance from a medical professional, local or state health official or any civil authority shall be deemed to be unable by reason of physical disability to cast their vote in person at a polling location.

SECTION 16. Notwithstanding sections 25B and 89 of chapter 54 of the General Laws or any other general or special law to the contrary, applications for early and absentee ballots for all elections held on or before December 31, 2020 shall be acceptable if they are signed or submitted electronically; provided, however, that any electronic signature shall be written in substantially the same manner as a handwritten signature.

SECTION 17. Notwithstanding any other general or special law to the contrary, subsection (c) of section 91B of chapter 54 of the General Laws shall apply to voters who have been instructed by a medical professional or a local or state health official to self-quarantine in their home beginning after noon on the seventh day before the any election held on or before December 31, 2020.

SECTION 18. Notwithstanding sections 26 and 28 of chapter 51 of the General Laws or any other general or special law to the contrary, the last day to register to vote for any election taking place on or before December 31, 2020 shall be 10 days before the date of such election; provided, however, that the board of registrars shall hold a registration session on that date not less than from 2:00 P.M. to 4:00 P.M. and from 7:00 P.M. to 8:00 P.M. The voting list to be used for any such election shall include all eligible voters registered as of that date.

SECTION 19. The state secretary shall promulgate emergency regulations for the administration and enforcement of this act including, after consulting with the commissioner of the department of public health, regulations requiring public health safeguards at early voting sites and polling places, including required distancing of voters and election officers, frequent use of sanitizers, personal protective equipment and use of marking pens.

SECTION 20. Not later than July 15, 2020, the state secretary shall: (i) promulgate regulations for electronic poll books required by section 33I of chapter 54 of the General Laws; and (ii) certify 1 or more types of electronic poll books in time to be used in the 2020 state primary and the general elections, and all future elections, under said section 33I of said chapter 54.

SECTION 21. The state secretary shall report to the house and senate committees on ways and means and the joint committee on election laws not later than July 1, 2021 on the costs to implement this act, including, but not limited to: (i) the number of ballot applications with postage guaranteed mailed to voters; (ii) the number of ballot applications with postage guaranteed returned requesting a ballot; (iii) the total number of ballots cast by mail; and (iv) total cost and amounts paid for using federal funds.

SECTION 22. The state secretary shall report to the house and senate committees on ways and means and the joint committee on election laws not later than 12 months after the enactment of this act on how the state secretary can make voting more accessible for voters with disabilities, specifically through online voting options.

SECTION 23. Section 109A of chapter 54 of the General Laws shall apply to ballots cast in the November 3, 2020 general election.

SECTION 24. The state secretary shall conduct a public awareness campaign to inform voters throughout the commonwealth of the provisions of this act, including, but not limited to, measures to promote public awareness of expanded early voting options in the 2020 primary and general elections and the requirements and procedures for early voting by mail, including, but not limited to, information related to the ability of a voter who requests but does not return an early voting by mail ballot to vote in person on election day.

Approved, July 6, 2020.

Acts (2019)

Chapter 142

AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2019 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purposes, which are forthwith to make supplemental appropriations for fiscal year 2019 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2019, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2019. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items. These sums shall be made available until June 30, 2020.

SECTION 2.

JUDICIARY

Committee for Public Counsel Services

0321-1500..... \$750,000

0321-1510..... \$1,985,825

DISTRICT ATTORNEYS

Northwestern District Attorney

0340-0600..... \$100,000

SECRETARY OF THE COMMONWEALTH

0511-0271.....	\$400,000
0540-1200.....	\$100,000
COMMISSION ON THE STATUS OF WOMEN	
0950-0000.....	\$25,000
COMMISSION ON THE STATUS OF GRANDPARENTS RAISING GRANDCHILDREN	
0950-0030.....	\$40,000
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE	
Department of Veterans Services	
1410-1616.....	\$100,000
Reserves	
1599-0026.....	\$1,170,000
1599-6903.....	\$20,500,000
1599-8910.....	\$7,800,000
Group Insurance Commission	
1108-5500.....	\$100,000
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS	
Department of Agricultural Resources	
2511-0100.....	\$5,100,000
Department of Conservation and Recreation	
2810-0122.....	\$1,000,000
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES	
Office of the Secretary	
1595-1070.....	\$4,000,000
4000-0005.....	\$250,000
4000-0641.....	\$9,858,217
4000-0700.....	\$296,500,000
Office for Refugees and Immigrants	
4003-0122.....	\$200,000
Massachusetts Rehabilitation Commission	
4120-4000.....	\$630,000
Department of Youth Service	
4200-0010.....	\$300,000
Department of Public Health	

4510-0110..... \$350,000
 4512-0205..... \$1,050,000
 4513-1130..... \$50,000
 4590-1504..... \$10,000,000

Department of Mental Health

5046-0000..... \$50,000

Department of Children and Families

4800-0200..... \$1,000,000

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

Department of Transportation

1595-6368..... \$7,951,098

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Department of Housing and Community Development

7004-0107..... \$50,000

7004-9316..... \$2,029,639

Massachusetts Marketing Partnership

7008-1116..... \$2,545,000

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

Office of the Secretary

1595-1075..... \$375,000

Gaming Economic Development Fund..... 100%

7003-0101..... \$1,948,449

Department of Career Services

7003-0100..... \$200,000

7003-0800..... \$4,495,579

7003-0803..... \$400,000

EXECUTIVE OFFICE OF EDUCATION

Department of Elementary and Secondary Education

7010-1192..... \$390,000

7035-0006..... \$5,187,992

7035-0008..... \$2,000,000

7061-0012..... \$1,998,540

7061-9010..... \$5,000,000

7061-9611.....	\$200,000
7061-9813.....	\$1,000,000
Department of Higher Education	
7066-0009.....	\$310,000
7066-0015.....	\$1,500,000
7066-0021.....	\$1,221,418
7070-0065.....	\$3,500,000
General Fund.....	14.36%
Gaming Economic Development Fund.....	85.64%
7070-0066.....	\$500,000
Worcester State University	
7116-0100.....	\$250,000
Cape Cod Community College	
7504-0100.....	\$100,000
Mount Wachusett Community College	
7509-0100.....	\$100,000
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY	
Office of the Secretary	
8000-0313.....	\$400,000
Military Division	
8700-1150.....	\$8,702,548

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise in this section, for the several purposes and subject to the conditions specified in this section, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2019. Except as otherwise stated, these sums shall be made available until June 30, 2020.

SECRETARY OF THE COMMONWEALTH

0511-0272.. For a statewide competitive grant program for the purpose of assisting municipalities with providing a complete and accurate count in the 2020 census; provided, that the grant program shall be known as the Cities Complete Count grant program; provided further, that the grant program shall be administered by the secretary of the commonwealth through a competitive request for proposals, which shall support outreach efforts in communities that are at significant risk of being undercounted; provided further,

that municipalities eligible to apply for the grant shall include municipalities that are among the hardest to count, including those with a 2010 Census Return Rate of 75 per cent or lower, and those with at least 50 per cent of the population in hard-to-count Census tracts, inclusive, as determined by the secretary; provided further, that eligible outreach and education activities shall include but not be limited to: (a) conducting outreach to hard-to-count populations through media, mailings, canvassing, phone banking, or public forums, (b) disseminating information at key service centers and access points in the community, and (c) tailored outreach and support to homeless populations, households with limited English, immigrant communities and individuals with difficulty accessing the internet or otherwise completing the form; provided further, that, in making awards, the secretary shall ensure, to the maximum extent practicable: (1) proportionate funding based on the distribution of hard-to-count communities across the commonwealth, and (2) targeted investments in areas with no federal area census office; provided further, that the highest priority is given to proposals which (A) identify solutions that directly address barriers to a complete count on 2020, including but not limited to: usability of the digital platform, impacts of a federal citizenship question, and reduced federal resources, and (B) tailor outreach efforts to engage historically underserved populations; provided further, that the total grant to a single recipient shall not exceed 10 per cent of the total available; provided further, that the secretary shall provide technical assistance to eligible municipalities in the application process; provided further, that the secretary may use not more than 5 per cent of the total appropriation for necessary administrative costs reasonably related to grant administration; provided further, that the secretary shall develop guidelines which outline periodic reporting requirements for grantees, including semi-annual and final reports; provided further, that the secretary shall file both a preliminary and a final report on the efficacy of the grant programs, which shall outline key accomplishments and estimated impact of the awarded funds; and provided further, that the preliminary report shall be filed with the house and senate committees on ways and means and with the joint committee on election laws not later than 3 months after the awarding of the funds, and the final report within 6 months of the completion of all grant activities..... \$1,000,000

0521-0002.. To implement early voting in the commonwealth for the presidential primary as required by section 89 of this act; provided, that not less than \$1,500,000 shall be expended for a campaign to increase public awareness of access to early voting pursuant to said section..... \$2,125,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Reserves

1599-2019.. For a reserve to provide extraordinary relief from the impacts of the July 23, 2019 tornado in municipalities on Cape Cod, including but not limited to, the towns of Harwich, Chatham, Yarmouth, Brewster, Dennis and the Barnstable County Sheriff's Department and other affected municipalities with qualifying expenses otherwise insufficient to receive federal disaster relief; provided, that the secretary of administration and finance shall file a distribution plan along with a detailed description of the qualifying

expenses for which municipalities will be reimbursed, 15 days in advance of the distribution, with the chairs of house and senate committees on ways and means..... \$3,020,000

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Office of the Secretary

1599-0718.. For a reserve to fund the costs associated with efforts to enhance safety and mitigate harms stemming from the increased presence of great white sharks in the Cape Cod region, including, but not limited to, shark tagging, monitoring and surveillance activities and staff costs associated therewith..... \$195,000

2000-1012.. For a grant program to support the commonwealth's agricultural, commercial fishing and cranberry growing industries; provided, that grants from this program shall be allocated equally for each industry; provided further, that the executive office of energy and environmental affairs shall establish the grant program and application criteria in consultation with the department of agricultural resources and the division of marine fisheries; provided further, that the executive office shall prioritize grant applicants focused on innovative approaches to enhance environmental benefits and encourage increased economic activity in its respective sector including, but not limited to: (i) capital infrastructure improvements that promote energy efficiency; (ii) the purchase or expanded use of renewable energy technologies; (iii) tools to address barriers to economic growth, including business management technical assistance and the purchase of more efficient equipment and technology; or (iv) tools and technologies to facilitate sustainability and new product development; provided further, that no grant recipient shall receive more than \$100,000 from the grant program; and provided further, that not later than March 30, 2020, the executive office shall submit a report to the house and senate committees on ways and means detailing the status of the grant program that shall include, but not be limited to: (a) the number of grant applications, by industry; (b) the number of successful grant applicants, by industry; (c) the amount of grant funding allocated for each successful applicant; (d) each successful grant applicant's proposed use of grant funding; and (e) the criteria used to determine successful applications..... \$1,500,000

2000-1013.. For the design, construction, preservation, reconstruction and repair of or improvements to culverts and dams across the commonwealth; provided, that expenditures from this item may include the costs of engineering, design, permitting and other services essential to these projects; provided further, that the executive office of energy and environmental affairs, in coordination with the Massachusetts Department of Transportation, shall develop a plan for project selection that takes into account need-based criteria, geographic distribution and environmental impact; and provided further, that not later than January 31, 2020, the executive office shall file the plan with the joint committee on environment, natural resources and agriculture, the joint committee on transportation and the house and senate committees on ways and means..... \$2,500,000

Department of Environmental Protection

2250-2002.. For the testing of potential per- and polyfluoroalkyl substances (PFAS) contamination of water supplies and for grants to support treatment and design of affected drinking water systems; provided, that nothing in this item shall preclude PFAS impacted

communities from seeking reimbursement for costs and expenses already incurred for testing potentially contaminated water supplies and the treatment and design of affected drinking water systems related to PFAS contamination; and provided further, that any unexpended funds in this item shall not revert but shall be made available for the purpose of this item until June 30, 2021..... \$4,200,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Mental Health

5059-1017.. For the costs associated with studying and reporting on operations at the Worcester recovery center and hospital under the department of mental health; provided, that not later than March 5, 2020, the department of mental health shall submit to the house and senate committees on ways and means and the joint committee on mental health, substance use and recovery a report including, but not limited to: (i) the number of forensic patients cared for at the hospital each calendar year since 2015; (ii) the percentage of the patient population composed of forensic patients as compared to the general behavioral health population each calendar year since 2015; (iii) the average length of stay for forensic patients; (iv) current staffing data including, but not limited to, current staffing levels per unit, overtime usage and frequency of staff absences; (v) the number of reported assaults on staff each calendar year since 2015 and associated medical leave taken by staff; (vi) proof of corrective action in response to the department of labor standards written warning dated July 13, 2015 and the subsequent consultant report dated May 17, 2016; (vii) trends in the number of beds for forensic patients across the commonwealth since 2015; and (viii) the process for assigning forensic patients to a certain mental health facility..... \$50,000

Department of Elder Affairs

9110-1635.. For adjustments to rates and capitations for home and community-based services provided through items 9110-1630, 9110-0600, and 4000-0601; provided, that \$4,141,830 shall be provided for an adjustment to approved program rates issued under said items 9110-1630 and 9110-0600 to provide a rate add-on for wages, compensation and salary related costs for personnel providing homemaker and personal care homemaker services; provided further, that \$5,941,400 shall be provided for adjusting rates for home health aide services funded through said items 4000-0601, 9110-1630 and 9110-0600; and provided further, that the secretary of elder affairs, with the approval of the secretary of health and human services and the secretary of administration and finance, may transfer funds from this item to said items 9110-1630, 9110-0600 or 4000-0601 or any other item necessary in order to ensure that all home health aides and personnel providing homemaker and personal care homemaker services receive an appropriate rate adjustment; provided further, that the department of elder affairs, in consultation with the executive office of health and human services, shall require that each home care and home health agency receiving funds from this item submit a spending plan fully accounting for the uses of said funds, including the rate add-on funds for hourly rate increases, other categories of worker compensation and other related eligible costs; provided further, that not later than July 1, 2020, the department shall provide a report to the house and senate committees on

ways and means detailing the impact of funds from this item on wages for the workforce at the home care and home health agencies receiving rate adjustments..... \$10,083,230

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Department of Housing and Community Development

7004-1010.. For the down payment assistance program administered by the Massachusetts Housing Finance Agency..... \$2,500,000

General Fund..... 36.10%

Local Capital Projects Fund..... 63.90%

Massachusetts Marketing Partnership

7008-1117.. For one-time local economic development projects; provided, that not less than \$200,000 be expended for the East Boston Social Centers, Inc. for the build out of 2 infant classrooms at the Barnes School; provided further, that not less than \$200,000 shall be expended to the NAACP Boston Branch for the preparation and execution of the one hundred and eleventh National NAACP Conference in the commonwealth; provided further, that not less than \$200,000 shall be expended for federal Americans with Disabilities Act-related accessibility upgrades at the town hall of the town of Leicester; provided further, that not less than \$200,000 shall be expended for the costs associated with building a new police station in the city of Leominster; provided further, that not less than \$200,000 shall be allocated to the city of Malden for safety improvements on Fellsway East at Highland avenue in the city of Malden; provided further, that not less than \$200,000 shall be expended for Plymouth 400, Inc. for coordination of the four hundredth anniversary commemoration; provided further, that not less than \$170,000 shall be expended for school security upgrades in the town of Stoughton including, but not limited to, the purchase of new 2-way radios and new security cameras; provided further, that not less than \$200,000 shall be expended for rehabilitation and improvements to the Whitney Pond dam in the town of Winchendon; provided further, that not less than \$200,000 shall be expended for Silent Spring Institute, Inc. for research on links between environmental chemicals and women and children's health; provided further, that not less than \$200,000 shall be allocated in equal amounts to the towns of Arlington, Billerica and Lexington for sidewalk and streetscape improvements; provided further, that \$25,000 shall be expended for Groundwork Lawrence, Inc. to study the expansion of the Healthy on the Block program into the cities of Haverhill and Methuen and the towns of Andover and North Andover; provided further, that \$200,000 shall be expended to The Kennedy Center in the Charlestown section of the city of Boston for human services programming; provided further, that not less than \$200,000 shall be expended for the Boys and Girls Clubs of MetroWest for facility improvements to the Marlborough Clubhouse; provided further, that not less than \$200,000 shall be expended for S.C.M. Community Transportation Corporation; provided further, that not less than \$70,000 shall be expended for supplemental emergency funding to Taunton Emergency Task Force Inc.; provided further, that not less than \$50,000 shall be expended in equal amounts to the Carver council on aging, Raynham council on aging, Marion council on aging, Dighton council on aging and Berkley council on aging for intergenerational community-based service

learning programs that partner with high schools, colleges and community-based organizations; provided further, that not less than \$80,000 shall be expended in equal amounts to the Bridgewater council on aging, Wareham council on aging, Middleborough council on aging and Taunton council on aging for intergenerational community-based service learning programs that partner with high schools, colleges and community-based organizations; provided further, that not less than \$200,000 shall be expended to the city of Peabody to conduct an engineering survey for the creation of a public trolley; provided further, that not less than \$200,000 shall be expended for Community Farms Outreach, Incorporated in the city of Waltham for improvements to the property located at 240 Beaver Street in the city of Waltham; provided further, that these funds shall not be expended until the University of Massachusetts conveys the property; provided further, that the initial expenditure of such funds shall be for a report that includes: (i) an assessment of the conditions, systems, structural integrity, safety, useful life and projected annual operating costs of the main administrative building located at 240 Beaver Street in the city of Waltham; and (ii) a list of prioritized recommended repairs for the building; provided further, that such funds shall be available through June 30, 2021; provided further, that not less than \$200,000 shall be provided to Berkshire Fund, Inc. to support the relocation of Barton's Crossing Homeless Shelter; provided further, that \$200,000 shall be expended for drinking water testing, purification and improvements to the water supply infrastructure in the city of Westfield; provided further, that \$200,000 shall be expended for a parking lot expansion and upgrades to the senior center at the Brockton council on aging in the city of Brockton; provided further, that \$100,000 be expended to the Plymouth County 4H Club; provided further, that not less than \$200,000 shall be expended to Inspirational Ones, Inc. to commence a youth innovation pilot program in collaboration with Methuen Public Schools and other agencies and organizations primarily serving the youth of the city of Methuen and the Merrimack Valley; provided further, that funds may be expended to create and implement a curriculum model to identify and expand deeper learning opportunities with a focus on engaging at-risk youth, secure a facility in the city of Methuen and hire an executive director and other staff directly related to providing said pilot program; provided further, that not less than \$200,000 shall be expended to the city of Lynn for the city's senior center; provided further, that not less than \$200,000 shall be expended on a study for improvements and repairs to the Lower Locks and surrounding area in the city of Lowell; provided further, that not less than \$200,000 shall be expended for the Friends of Chicopee Senior Citizens Inc. in the city of Chicopee; provided further, that not less than \$200,000 shall be expended for infrastructure improvements at Waters Farm in the town of Sutton; provided further, that not less than \$195,000 shall be expended for New Hope Incorporated for the design, planning, purchase of land and construction of an emergency shelter in northern part of the county of Bristol; provided further, that not less than \$200,000 shall be expended for enhancements and improvements to Mittineague park in the town of West Springfield; provided further, that not less than \$150,000 shall be expended for the Martha's Vineyard Commission to conduct a comprehensive housing and homelessness study for the county of Dukes County, which shall include, but not be limited to: (i) the identification of housing needs by municipality; (ii) an analysis of wastewater capacity by basin and municipality; and (iii) an enumeration of the capital expenses necessary to meet housing needs; provided further, that the Martha's Vineyard

Commission shall issue a detailed capital improvement plan to meet Martha's Vineyard's projected housing needs; provided further, that the Martha's Vineyard Commission shall work in consultation with municipalities in the county of Dukes County, the Dukes County Regional Housing Authority, the Martha's Vineyard Network on Homeless Prevention and the Island Housing Trust Corporation to develop the plan; provided further, that not less than \$50,000 shall be expended to the county of Dukes County to serve homeless and housing insecure residents, including to hire or contract for the services of a homeless prevention case manager; provided further, that not less than \$200,000 shall be expended for the main library of the Thomas Crane Public Library in the city of Quincy; provided further, that \$30,000 shall be expended to the town of Milton for the construction and installation of a permanent street hockey court; provided further, that not less than \$150,000 shall be expended for the Northampton Chamber of Commerce for local projects to expand community and cultural development in the city of Northampton; provided further, that \$175,000 shall be expended for the Andover Youth Foundation to satisfy the debt service incurred for construction of the Cormier Youth Center in the town of Andover; provided further, that \$100,000 be expended to Friendship Home, a non-profit respite home in Norwell; provided further, that not less than \$50,000 shall be expended for The South Shore Community Action Council, Inc. for the operation of an early childhood education program; provided further, that at \$180,000 shall be expended for the planning, design and construction of a handicap accessible platform at the North Wilmington commuter rail facility; provided further, that not less than \$20,000 shall be expended for planning, design and construction for a department of public works facility in the town of Rockport; provided further, that not less than \$25,000 shall be expended for energy efficiency and handicap accessibility upgrades at the Freetown council on aging in the town of Freetown; provided further, that not less than \$25,000 shall be expended for handicap accessibility improvements and upgrades at Sociedade Cultural Acoreana, Inc. in the city of Fall River; provided further, that not less than \$150,000 shall be expended for safety improvements and upgrades at the intersection of state highway route 177, Robert street and Tickle road in the town of Westport; provided further, that not less \$200,000 shall be expended on grants for improving the cultural competency of mental health counseling and guidance services in school districts with increasing enrollment located in the Metrowest cohesive commercial statistical area; and provided further, that not less than \$100,000 shall be expended for the Commonwealth Shakespeare Company.....

\$7,395,000

EXECUTIVE OFFICE OF EDUCATION

Office of the Secretary

7009-6800.. For an infrastructure grant program to assist public schools in enhancing safety and security measures; provided, that grants shall be administered by the executive office of education in coordination with the executive office of public safety and security, the executive office of health and human services and the Massachusetts school building authority; provided further, that the grants shall be used for retrofitting and upgrading school buildings with safety and security enhancements including, but not limited to, classroom door locks, security cameras or active shooter detection systems; provided further, that the department shall make efforts to notify all public school districts of the

program; provided further, that criteria shall be established to prioritize those schools most in need of infrastructure improvements related to safety and security and most in need of financial assistance for implementing the improvements; and provided further, that, not later than March 5, 2020, the executive office of education shall submit a report detailing the awarding of grants and the expected use of the grants to the executive office for administration and finance and the house and senate committees on ways and means..... \$2,000,000

Department of Elementary and Secondary Education

7061-0010.. For a grant program to assist public school districts in contracting with licensed community-based mental and behavioral health service providers for services in public schools; provided, that the program shall be administered by the department of elementary and secondary education in coordination with the executive office of health and human services; provided further, that the department shall make efforts to notify all public school districts of the program; provided further, that the department shall prioritize grant applications submitted by school districts with limited access to mental and behavioral health services and limited existing financial resources; provided further, that the department shall prioritize grant applications submitted by school districts that have created action plans based on the safe and supportive school framework or whose applications are consistent with infrastructure and coordination efforts linking schools to community-based resources in accordance with item 7061-9612; provided further, that grants may be expended to assist school districts in connecting students with community-based services to maximize coordination with service providers and establish more comprehensive continuums of care; provided further, that grants may be expended to support increased professional development opportunities for public school employees to identify students in need of mental and behavioral health support; and provided further, that, not later than March 5, 2020, the department shall submit a report to the executive office for administration and finance and the house and senate committees on ways and means on the awarding of grants and details of anticipated contracts, by school district..... \$2,000,000

7061-9815.. For a grant program administered by the department of elementary and secondary education in coordination with the executive office of public safety and security for the prevention of hate crimes, as defined under section 32 of chapter 22C of the General Laws, and incidences of bias in public schools; provided, that grants shall be used for education, professional development, prevention or community outreach; and provided further, that the department of elementary and secondary education shall develop guidelines for grant distribution including, but not limited to, prioritizing schools that have experienced hate crimes or incidences of bias within the last 2 years..... \$400,000

Department of Higher Education

7066-0115.. For the purposes of continuing the implementation of section 15E of chapter 15A of the General Laws to encourage private fundraising by the commonwealth's public institutions of higher education for the endowments and capital outlay programs of those institutions, including, but not limited to, endowed scholarship funds, endowed professorships, endowed STEM programming, endowed research positions, endowed

programming in the arts and humanities, endowed funds to increase diversity and inclusion on public higher education campuses, endowed funds that increase persistence and completion rates, endowed funds that encourage innovative financial aid strategies, including income share arrangements, endowed early college programs and such other purposes as the board shall determine to be consistent with system-wide and campus mission statements, and with measurable goals and metrics tied to those missions; provided further, that the board of higher education shall implement this program in a manner that ensures that each institution shall have an equal opportunity to secure matching funds from this item; provided further, that \$5,000,000 shall be allocated to the university of Massachusetts; provided further, that \$2,500,000 shall be allocated to state universities; provided further, that \$2,500,000 shall be allocated to community colleges; provided further, that the board shall issue a preliminary report on the initial allocation of matching dollars and any guidelines adopted for distribution and use of the funding not later than December 15, 2019 and a final report on the efficacy of the program in securing additional donations for public higher education, along with a description of all programmatic improvements made possible by the funds, not later than June 15, 2020; provided further, that the interim report and the final report shall be provided to the joint committee on higher education and the house and senate committees on ways and means; and provided further, that funds for the purposes of this item shall be made available until June 30, 2021..... \$10,000,000

General Fund..... 82.61%

Education Fund..... 17.40%

7066-1116.. For an infrastructure grant program to assist public institutions of higher education, including state and municipal colleges and universities, in enhancing the safety and security of students, faculty and staff; provided, that grants shall be administered by the executive office of education in coordination with the executive office of public safety and security, the executive office of health and human services, the Massachusetts state college building authority and the University of Massachusetts building authority; provided further, that the grants shall be used for retrofitting and upgrading campus buildings with safety and security enhancements including, but not limited to, classroom door locks, security cameras, active shooter detection systems, fire safety equipment or cybersecurity infrastructure; provided further, that the department shall make efforts to notify all public institutions of higher education, including state and municipal colleges and universities, of the program; provided further, that criteria shall be established to prioritize those colleges and universities most in need of infrastructure improvements related to safety and security and most in need of financial assistance for implementing said improvements; and provided further, that, not later than March 5, 2020, the executive office of education shall submit a report detailing the awarding of grants and the expected use of the grants to the executive office for administration and finance and the house and senate committees on ways and means..... \$5,000,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Office of the Secretary

8000-1127.. For a nonprofit security grant program to provide support for target hardening and other security enhancements to nonprofit organizations that are at high risk of terrorist attack or hate crimes, as defined in section 32 of chapter 22C of the General Laws, and are ineligible for the United States Department of Homeland Security’s Nonprofit Security Grant Program based on their location; provided, that: (i) at least 1 such grant shall be awarded to a nonprofit organization in the eastern region of the commonwealth; (ii) at least 1 such grant shall be awarded to a nonprofit organization in the central region of the commonwealth; and (iii) at least 1 such grant shall be awarded to a nonprofit organization in the western region of the commonwealth..... \$1,000,000

SECTION 2B. To provide for supplementing certain intragovernmental chargeback authorizations in the general appropriation act and other appropriation acts for fiscal year 2019, to provide for certain unanticipated intragovernmental chargeback authorizations, to provide for an alteration of purpose for current intragovernmental chargeback authorizations and to meet certain requirements of law, the sums set forth in this section are hereby authorized from the Intragovernmental Service Fund for the several purposes specified in this section or in the appropriation acts and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2019. These sums shall be in addition to any amounts previously authorized and made available for the purposes of those items. These sums shall be made available until June 30, 2020.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Reserves

1599-3100..... \$4,133,802

SECTION 2C.I. For the purpose of making available in fiscal year 2020 balances of appropriations that otherwise would revert on June 30, 2019, the unexpended balances of the appropriations listed below, not to exceed the amount specified below for each item, are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of chapter 154 of the acts of 2018. However, for items which do not appear in section 2 of the general appropriation act, the amounts in this section are re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section 2 of said chapter 154; provided, however, that for items which do not appear in section 2 of said chapter 154, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section 2 through 2E of this act or in prior appropriation acts. The unexpended balance of each appropriation in the Massachusetts management accounting and reporting system with a secretariat code of 01

or 17 is hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in said section 2 of said chapter 154. The sums reappropriated in this section shall be in addition to any amounts available for said purposes.

DISTRICT ATTORNEYS

Northwestern District Attorney

0340-0600..... \$605,000

SECRETARY OF THE COMMONWEALTH

Middlesex Registry of Deeds – Northern District

0540-1400..... \$100,000

OFFICE OF THE STATE AUDITOR

0710-0000..... \$300,000

OFFICE OF THE CHILD ADVOCATE

0930-0100..... \$300,000

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

0940-0100..... \$150,000

CANNABIS CONTROL COMMISSION

1070-0840..... \$500,000

HEALTH POLICY COMMISSION

1450-1200..... \$550,000

1450-1266..... \$110,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Reserves

1599-0054..... \$2,218,220

1599-2018..... \$5,000,000

1599-3222..... \$750,000

1599-4417..... \$12,900

1599-4448..... \$12,162,481

Division of Administrative Law Appeals

1110-1000..... \$14,400

Human Resources Division

1750-0928..... \$349,000

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Department of Fish and Game

2330-0300..... \$750,000

Department of Agricultural Resources

2511-0103..... \$625,000

Department of Conservation and Recreation

2810-0122..... \$100,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Transitional Assistance

4401-1000..... \$400,000

Department of Public Health

4510-0810..... \$1,000,000

Department of Children and Families

4800-0041..... \$4,500,000

Department of Mental Health

5046-0000..... \$5,800,000

Department of Veterans Services

1410-0022..... \$100,000

1410-1616..... \$150,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Office of the Secretary

7002-0017..... \$130,000

Division of Banks

7006-0010..... \$200,000

Department of Telecommunications and Cable

7006-0071..... \$113,074

Massachusetts Marketing Partnership

7008-1116..... \$400,000

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

Office of the Secretary

7002-1080..... \$65,000

Department of Family and Medical Leave

7003-0300..... \$350,000

EXECUTIVE OFFICE OF EDUCATION

Department of Early Education and Care

3000-3060.....	\$7,624,683
3000-4060.....	\$18,815,708
Department of Higher Education	
7066-1129.....	\$50,000
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY	
Office of the Secretary	
8000-0600.....	\$768,420
Office of the Chief Medical Examiner	
8000-0105.....	\$150,000
Department of Criminal Justice Information Services	
8000-0110.....	\$763,874
Department of State Police	
8100-1001.....	\$4,000,000
8100-1004.....	\$1,560,000
Department of Fire Services	
8324-0000.....	\$913,000
Department of Correction	
8900-0001.....	\$9,110,978
8900-0003.....	\$1,013,185

SECTION 2C.II. For the purpose of making available in fiscal year 2020 balances of retained revenue and intragovernmental chargeback authorizations that otherwise would revert on June 30, 2019, the unexpended balances of the authorizations listed below, not to exceed the amount specified below for each item, are hereby re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2B of chapter 154 of the acts of 2018; provided, however, that for items that do not appear in section 2 or 2B of said chapter 154, the amounts in this section are re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2, 2A or 2B of this act or in prior appropriation acts. Amounts in this section are re-authorized from the fund or funds designated for the corresponding item in section 2 or 2B of the general appropriation act; provided, however, that for items that do not appear in section 2 or 2B of the general appropriation act, the amounts in this section are re-authorized from the fund or funds designated for the corresponding item in section 2, 2A or 2B of this act or in prior appropriation acts. The sums re-authorized in this section shall be in addition to any amounts available for those purposes.

OFFICE OF THE STATE COMPTROLLER

1000-0601..... \$300,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE**Human Resources Division**

1750-0600.. \$250,000

Operational Services Division

1775-0800.. \$350,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**Office of the Secretary**

4000-0250..... \$8,285,479

Department of Veterans Services

1410-0018..... \$250,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY**Department of Correction**

8900-0021..... \$400,000

SECTION 2E. The sums set forth in this section are hereby appropriated for transfer from the General Fund to the trust funds named within each item unless specifically designated otherwise in this section, for the purposes and subject to the conditions specified in this section and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2019. Notwithstanding section 19A of chapter 29 of the General Laws, any transfer under this section shall be made by the comptroller, effective June 30, 2019.

TREASURER AND RECEIVER GENERAL

1595-1200.. For an operating transfer to the Massachusetts Clean Water Trust to support drinking water programs to remediate per- and polyfluoroalkyl substances (PFAS) contamination of public water supplies, including, but not limited to, no-interest loans..... \$10,650,000

1595-1205.. For an operating transfer to the Massachusetts Clean Water Trust to support its purposes as set forth in chapter 29C of the General Laws, including to increase project capacity..... \$9,050,000

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION**Department of Transportation**

1595-6386.. For an operating transfer to the Massachusetts Transportation Trust Fund, established in section 4 of chapter 6C of the General Laws, for grants to municipalities for the construction, reconstruction, maintenance or improvement of municipal ways..... \$20,000,000

Commonwealth Transportation Fund..... 100%

1595-6389.. For an operating transfer to the Massachusetts Bay Transportation Authority, or any fund controlled by the authority, for additional staffing and contract costs to support capital project delivery, inspection and maintenance activities and service diversions necessary to accelerate capital projects; provided, that the Massachusetts Bay Transportation Authority shall submit biannual reports to the house and senate committees on ways and means on the status of the acceleration of capital project delivery; provided further, that the first report shall be due not later than January 30, 2020 and the second report shall be due not later than June 30, 2020; and provided further, that the reports shall include, but not be limited to, the number of, delineated by position: (i) full-time equivalent employees hired; (ii) previously retired employees returning on a part-time basis; and (iii) contracted employees hired..... \$32,000,000

Commonwealth Transportation Fund..... 100%

SECTION 3. Clause (2) of section 59 of chapter 23K of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out subclause (a) and inserting in place thereof the following subclause:-

(a) 2 per cent to the Massachusetts Cultural and Performing Arts Mitigation Trust Fund established in section 2IIII of chapter 29;.

SECTION 4. Chapter 29 of the General Laws is hereby amended by inserting after section 2GGGGG, inserted by section 24 of chapter 41 of the acts of 2019, the following section:-

Section 2HHHHH. (a) There shall be a Massachusetts Cultural and Performing Arts Mitigation Trust Fund. All amounts credited to the fund shall be held in trust and shall be available for expenditure, without further appropriation, by the Massachusetts cultural council. The fund shall consist of: (i) monies transferred to the fund from the Gaming Revenue Fund pursuant to subclause (a) of clause (2) of section 59 of chapter 23K; (ii) income derived from the investment of amounts credited to the fund; and (iii) all other monies credited to or transferred to the fund from any other fund or source. The comptroller may certify amounts for payment in anticipation of expected receipts; provided, however, that no expenditure shall be made from the fund that shall cause the fund to be deficient at the close of a fiscal year. Money remaining in the fund at the close of a fiscal year shall not revert to the General Fund and shall be available for expenditure in subsequent fiscal years.

(b) Expenditures from the fund shall be made in the following manner; provided, however, that administrative and operational expenses shall not exceed 7 per cent of the total assets of the fund in any 1 fiscal year: (i) 1/4 of all monies deposited into the fund pursuant to subsection (a) shall be dedicated to the organizational support program of the

Massachusetts cultural council; and (ii) 3/4 of all monies deposited into the fund pursuant to said subsection (a) shall be dedicated to support not-for-profit and municipally-owned performing arts centers impacted as a result of the operation of gaming facilities; provided, however, that funds dedicated to such performing arts centers shall be to subsidize fees paid to touring shows or artists. Funding dedicated to such performing arts centers shall be allocated through a competitive grant process to be developed and administered by the Massachusetts cultural council.

(c) The Massachusetts cultural council shall report annually not later than March 1 to the house and senate committees on ways and means on the fund. The report shall include, but not be limited to, revenue received by the fund, revenue and expenditure projections for the forthcoming fiscal year and details of all expenditures from the fund.

SECTION 5. The first paragraph of section 5G of said chapter 29, as appearing in the 2018 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- If the department of revenue certifies that the amount of tax revenues estimated to have been collected from capital gains income exceeds \$1,000,000,000 in a fiscal year, the comptroller shall transfer quarterly any such amount that exceeds \$1,000,000,000 collected during that fiscal year as follows: (i) 90 per cent shall be transferred to the Commonwealth Stabilization Fund established in section 2H; (ii) 5 per cent shall be transferred to the State Retiree Benefits Trust Fund established in section 24 of chapter 32A; and (iii) 5 per cent shall be transferred to the Commonwealth's Pension Liability Fund established in subsection (e) of subdivision 8 of section 22 of chapter 32.

SECTION 6. The second paragraph of said section 5G of said chapter 29, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The transfers shall be made before the certification of the consolidated net surplus for the previous fiscal year under section 5C.

SECTION 7. Said section 5G of said chapter 29, as so appearing, is hereby further amended by striking out the third paragraph.

The Governor disapproved of the following section, for message see H.4252

~~SECTION 8. Section 42G½ of chapter 51 of the General Laws, as so appearing, is hereby amended by inserting after the word "vote", in line 57, the following words: under subsection (d) of section 65.~~

The Governor disapproved of the following section, for message see H.4252

~~SECTION 9. Said section 42G½ of said chapter 51 of the General Laws, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-~~

~~(d) In accordance with the memorandum of understanding required by subsection (b), each eligible applicant for services at an automatic voter registration agency who meets the qualifications to register to vote and does not decline to register to vote under subsection (d) of section 65 shall be registered as a voter under said section 65 as of the date the registrars add the person's name and address to the register of voters, pursuant to paragraph (4) of said subsection (d) of said section 65; provided, however, that an applicant who meets the qualifications to register to vote, does not decline to register to vote under said subsection (d) of said section 65 and completes a qualifying transaction with an automatic voter registration agency not less than 21 days before an election shall be entitled to vote in that election. If necessary to comply with federal law, the division of medical assistance and the commonwealth health insurance connector authority may allow an applicant to decline to register to vote at the time of application. Otherwise, all automatic voter registration agencies, including the registry of motor vehicles, shall transmit records of all eligible applicants as provided in subsection (e), and these applicants may decline to register to vote only after receiving notice from the registrars of voters under paragraph (3) of said subsection (d) of said section 65.~~

SECTION 10. Section 25B of chapter 54 of the General Laws, as so appearing, is hereby amended by striking subsection (g) and inserting in place thereof the following subsection:-

(g) The designation of an early voting site shall be made not less than 14 days prior to the beginning of the voting period established in subsection (b). Not less than 7 days prior to the beginning of the early voting period the registrars for each city or town shall post the location of the early voting sites as well as the applicable dates and hours. Notice shall be conspicuously posted in the office of the city or town clerk or on the principal official bulletin board of each city or town, on any other public building considered necessary, on the city or town's website, if any, and on the website of the state secretary.

SECTION 11. Subsection (c) of section 1 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after the figure "106", in line 8, the following figure:- , 108(f)(5).

SECTION 12. Section 40 of chapter 82 of the General Laws, as so appearing, is hereby amended by striking out, in lines 24 to 26, inclusive, the words “, excluding excavation by tools manipulated only by human power for gardening purposes and use of blasting for quarrying purposes”.

SECTION 13. The seventh paragraph of section 8D of chapter 90 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- The registrar shall make available in all registry branches registration stands provided by the Be the Match organization.

SECTION 14. Section 21 of chapter 137 of the acts of 2003 is hereby amended by striking out the figure “2019”, inserted by section 26 of chapter 359 of the acts of 2014, and inserting in place thereof the following figure:- 2024.

SECTION 15. Section 226 of chapter 139 of the acts of 2012 is hereby amended by striking out the figure “2020”, inserted by section 1 of chapter 363 of the acts of 2018, and inserting in place thereof the following figure:- 2021.

SECTION 16. Item 1599-0026 of section 2 of chapter 47 of the acts of 2017 is hereby further amended by inserting after the word “program”, the fourth time it appears, the following words:- and such funds shall be made available until June 30, 2020.

SECTION 17. Item 1000-0008 of section 2 of chapter 154 of the acts of 2018 is hereby amended by striking out the words “5 per cent” and inserting in place thereof the following words:- 16 per cent.

SECTION 18. Item 1410-0010 of said section 2 of said chapter 154 is hereby amended by adding the following words:- and such funds shall be made available to the town until June 30, 2020.

SECTION 19. Item 1599-0026 of said section 2 of said chapter 154 is hereby amended by inserting after the words “Holyoke City Hall;” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 20. Said item 1599-0026 of said section 2 of said chapter 154 is hereby further amended by inserting after the words “town-owned buildings” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 21. Item 2330-0100 of said section 2 of said chapter 154 is hereby amended by inserting after the word “by-catch” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 22. Item 4590-0250 of said section 2 of said chapter 154 is hereby amended by striking out the words “provided further, that no less than \$100,000 shall be expended for the purpose of establishing and supporting a school-based health center at Malden High School in the city of Malden” and inserting in place thereof the following words:- provided further, that not less than \$100,000 shall be made available for a grant to the Cambridge Health Alliance Foundation, Inc. for a school-based health center at Malden high school in the city of Malden and the grant shall be made available until June 30, 2020.

SECTION 23. Item 5046-0000 of said section 2 of said chapter 154 is hereby amended by inserting after the word “Barnstable”, the fourth time it appears, the following words:- and such funds shall be made available until June 30, 2020.

SECTION 24. Item 7007-0300 of said section 2 of said chapter 154 is hereby amended by adding the following words:- and such funds shall be made available until June 30, 2020.

SECTION 25. Item 7008-1116 of said section 2 of said chapter 154 is hereby amended by inserting after the word “Wakefield” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 26. Said item 7008-1116 of said section 2 of said chapter 154 is hereby further amended by inserting after the words “Frasca field in Tewksbury” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 27. Said item 7008-1116 of said section 2 of said chapter 154 is hereby further amended by inserting after the words “Mildred C. Hailey Apartments in Boston” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 28. Said item 7008-1116 of said section 2 of said chapter 154 is hereby further amended by inserting after the words “Roslindale Community Center” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 29. Said item 7008-1116 of said section 2 of said chapter 154 is hereby further amended by inserting after the word “Melrose”, the second time it appears, the following words:- and such funds shall be made available until June 30, 2020.

SECTION 30. Said item 7008-1116 of said section 2 of said chapter 154 is hereby further amended by inserting after the word “Milford”, the second time it appears, the following words:- and such funds shall be made available until June 30, 2020.

SECTION 31. Said item 7008-1116 of said section 2 of said chapter 154 is hereby further amended by striking out the words “for the restoration of the historic Forbes House in the town of Norwood” and inserting in place thereof the following words:- to the Norwood historical commission for the renovations of the little red brick school and the old jail in the town of Norwood and such funds shall be made available until June 30, 2020.

SECTION 32. Said item 7008-1116 of said section 2 of said chapter 154 is hereby further amended by inserting after the word “Taunton” the following words:- and such funds shall be made available until June 30, 2020; provided further, that funds appropriated and unspent for the operation of the life sciences, education and training center located at the former Paul A. Dever state school in the city of Taunton in item 7008-0900 of section 2 of chapter 47 of the acts of 2017 shall be made available until June 30, 2020.

SECTION 33. Item 8324-0000 of said section 2 of said chapter 154, as amended by section 28 of chapter 5 of the acts of 2019, is hereby amended by inserting after the word “Attleboro” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 34. Item 8324-0000 of said section 2 of said chapter 154, as so amended, is hereby further amended by inserting after the word “Winthrop” the following words:- and such funds shall be made available until June 30, 2020.

SECTION 35. Said item 8324-0000 of said section 2 of said chapter 154, as so amended, is hereby further amended by inserting after the word “Scituate”, the fifth time it appears, the following words:- and such funds shall be made available until June 30, 2020.

SECTION 36. Section 76 of said chapter 154 is hereby amended by striking out the words “June 30, 2019” and inserting in place thereof the following words:- April 1, 2020.

SECTION 37. Section 98 of said chapter 154 is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Notwithstanding any general or special law to the contrary, the unexpended balances in items 0699-0015 and 0699-9100 shall be deposited into the State Retiree Benefits Trust Fund established pursuant to section 24 of chapter 32A of the General Laws before the certification of the fiscal year 2019 consolidated net surplus pursuant to section 5C of chapter 29 of the General Laws. The amount deposited shall be an amount equal to 30 per cent of all payments received by the commonwealth in fiscal year 2019 under the master settlement agreement in *Commonwealth of Massachusetts v. Philip Morris, Inc. et*

al., Middlesex Superior Court, No. 95-7378; provided, however, that if in fiscal year 2019 the unexpended balances of said items 0699-0015 and 0699-9100 are less than 30 per cent of all payments received by the commonwealth in fiscal year 2019 under the master settlement agreement payments, an amount equal to the difference shall be transferred to the State Retiree Benefits Trust Fund from payments received by the commonwealth under the master settlement agreement.

The Governor disapproved of the following section, for message see H.4252

~~SECTION 38. Section 11 of chapter 205 of the acts of 2018 is hereby amended by striking out the word “January” and inserting in place thereof the following word: April.~~

SECTION 39. Item 4590-1504 of section 2A of chapter 273 of the acts of 2018 is hereby amended by inserting after the words “funded through items 4000-0005, 7061-0010 and 7061-9612;” the following words:- provided further, that preference in funding shall be given to applications serving municipalities with a population of more than 50,000 with a violent crime rate of more than 500 incidents per 100,000 residents in 2018; provided further, that each eligible organization serving said municipalities, whose application is approved by the department, shall receive not less than \$500,000; provided further, that the department shall ensure a geographically equitable distribution of these funds;.

SECTION 40. Item 8100-1014 of section 2A of chapter 5 of the acts of 2019 is hereby amended by inserting after the figure “2018” the following words:- , or the collection, testing or tracking of sexual assault evidence kits.

SECTION 41. Section 44 of said chapter 5 of the acts of 2019 is hereby amended by striking out, each time they appear, the words “December 31, 2019”, and inserting in place thereof, in each instance, the following words:- July 31, 2020.

SECTION 42. Item 1599-0010 of section 2A of chapter 6 of the acts of 2019 is hereby amended by inserting after the words “current level of funding” the following words:- and services.

SECTION 43. Item 0511-0271 of section 2 of chapter 41 of the acts of 2019 is hereby amended by adding the following words: ; provided further, that, not later than December 31, 2019, the secretary shall publish online a plan of action for implementing the Complete Count grant program, including a timeline detailing when requests for proposals for the Complete Count grant program will be issued and when funds will be awarded and disbursed to recipients; provided further, that the stated goals of said plan of action shall be that requests for proposals be issued not later than January 15, 2020 and to ensure that not

less than 50 per cent of the grants shall be awarded and disbursed not later than February 15, 2020 to ensure that grant recipients have sufficient time to prepare and conduct outreach.

SECTION 44. Item 0610-2000 of said section 2 of said chapter 41 is hereby amended by striking out the figure “\$205,000” and inserting in place thereof the following figure:- \$300,000.

SECTION 45. Item 0950-0000 of said section 2 of said chapter 41 is hereby amended by adding the following words:- ; provided, that not less than \$25,000 shall be expended for the purpose of holding 11 regional statewide hearings in partnership with organizations serving or advocating on behalf of the needs of girls in middle school through high school; and provided further funding shall also be used to host a statewide conference.

SECTION 46. Item 1410-0010 of said section 2 of said chapter 41 is hereby amended by inserting after the words “Duxbury American Legion Post 223” the following words:- ; provided further, that not less than \$150,000 shall be allocated for Heidrea for Heroes.

SECTION 47. Item 1410-1616 of said section 2 of said chapter 41 is hereby amended by inserting after the words “town of North Reading” the following words:- ; provided further, that not less than \$50,000 shall be expended to the city of Haverhill for the purpose of constructing a Vietnam Veterans Memorial at Mill Brook Park; provided further, that not less than \$50,000 shall be expended for the sculpting and erecting of the Justice Edward O. Gourdin Veterans War Memorial Park.

SECTION 48. Said section 2 of said chapter 41 is hereby further amended by striking out item 1595-1068 and inserting in place thereof the following item:-

1595-1068.. For an operating transfer to the MassHealth provider payment account in the Medical Assistance Trust Fund established under section 2QQQ of chapter 29 of the General Laws; provided, however, that these funds shall be expended for services provided during state or federal fiscal year 2019 or 2020 or for public hospital transformation and incentive initiative payments for state fiscal year 2019 or 2020 or for Medicaid care organization payments under 42 CFR 438.6(c) for rate year 2018, 2019 or 2020; provided further, that all payments from the Medical Assistance Trust Fund shall be: (i) subject to the availability of federal financial participation; (ii) made only under federally-approved payment methods; (iii) consistent with federal funding requirements and all federal payment limits as determined by the secretary of health and human services; and (iv) subject to the terms and conditions of an agreement with the executive office of health and human services; provided further, that the secretary of health and human services shall notify, in writing, the house and senate committees on ways and means and the joint committee on health care financing of increases or decreases in any payments made within

the term of the current 1115 waiver or other state plan amendments within 15 days; and provided further, that the secretary of health and human services shall utilize funds from the Medical Assistance Trust Fund to make payments of up to \$413,550,000 to the Cambridge public health commission or to Medicaid care organizations for payment to the Cambridge public health commission if the Cambridge public health commission, in anticipation of receiving such payments, first voluntarily transfers an amount equal to the nonfederal share of the payments to the Medical Assistance Trust Fund using a federally-permissible source of funds..... \$505,785,000

SECTION 49. Item 1599-0026 of said section 2 of said chapter 41 is hereby amended by inserting after the words “Camp Kiwanee in the town of Hanson” the following words:- ; provided further, that not less than \$170,000 shall be provided to the town of Heath to reimburse for damages related to Tropical Storm Irene.

SECTION 50. Item 2810-0122 of said section 2 of said chapter 41 is hereby amended by inserting after the words “Blue Hills trailside museum” the following words:- ; provided further, that not less than \$150,000 shall be expended for open space improvements in the Centralville and Pawtucketville neighborhoods in the city of Lowell; provided that not less than \$100,000 shall be expended to the Allston Brighton Community Development Corporation for open space enhancement and beautification of the Brighton section of the city of Boston; provided further, that not less than \$50,000 shall be expended to the town of Falmouth for the planning and construction of the Shivericks Pond project; provided further, that not less than \$200,000 shall be expended for the Havey beach property in the West Roxbury section of the city of Boston for an outdoor recreation center; provided further, that the department shall provide the house and senate committees on ways and means a status report on the request for proposals for the Havey beach property site not later than March 5, 2020; provided further, that not less than \$500,000 shall be expended for traffic analysis, a feasibility study and the design of improvements of the system of intersections along Nonantum road, Soldiers Field road and Birmingham parkway between Brooks street and Western avenue in the city of Boston; provided further, that the study and design process shall include community involvement and seek to reconnect parkland, improve pedestrian and bicycle access and improve the throughput of traffic in the system; and provided further, that the study shall incorporate and build on recent studies on the area and seek to facilitate swift progress on early action items identified by such studies.

SECTION 51. Said item 2810-0122 of said section 2 of said chapter 41 is hereby further amended by striking out the words “for Camp Meigs memorial park” and inserting in place thereof the following words:- to the 54th Massachusetts Volunteer Infantry Regiment Company A Reenactors and Historical Society based.

SECTION 52. Item 4000-0005 of said section 2 of said chapter 41 is hereby amended by inserting after the words “youth center in the city of Lawrence” the following words:- ; provided further, that \$100,000 shall be expended for the Merrimack Valley Public Safety Youth Center operated by Lawrence Family Development, Inc. in the city of Lawrence to further their programs to combat the large uptick in juvenile gun violence in the city; provided further, that \$150,000 shall be expended for the city of Lawrence to establish a pilot program to combat the large uptick in juvenile gang gun violence in the city.

SECTION 53. Item 4003-0122 of said section 2 of said chapter 41 is hereby amended by inserting after the words “city of New Bedford” the following words:- ; provided further, that not less than \$200,000 shall be expended for the Massachusetts Immigrant and Refugee Advocacy Coalition’s Welcome Spaces for All training program.

SECTION 54. Item 4120-4000 of said section 2 of said chapter 41 is hereby amended by adding the following words:- ; provided, that not less than \$270,000 shall be expended for the assistive technology loan program; and provided further, that not less than \$360,000 shall be expended for the durable medical equipment reuse program.

SECTION 55. Item 4200-0010 of said section 2 of said chapter 41 is hereby amended by inserting after the word “settings” the following words:- ; provided further, that not less than \$300,000 shall be expended for a competitive grant program developed under the Juvenile Detention Alternatives Initiative to support projects that reduce reliance on detention for low-risk youth, support meaningful participation of youth and families and promote racial equity and inclusion.

SECTION 56. Item 4510-0110 of said section 2 of said chapter 41 is hereby amended by inserting after the words “vital care to patients” the following words:- ; provided further, that not less than \$100,000 shall be expended to the Greater Lawrence Family Health Center, Inc. for programs to increase access to health care for the medically underserved in the city of Haverhill; provided further, that such programs shall include the development of a full-service community health center in the city of Haverhill with collaborative, graduate degree-level programs to train advanced practice nurses by Regis College; provided further, that the expenditure of such funds shall be contingent on the Greater Lawrence Family Health Center, Inc. providing a matching amount of not less than \$100,000 in private funding; provided further, that not less than \$250,000 shall be expended for a federally qualified community health center with a 24/7 satellite emergency facility licensed under 105 C.M.R. 1304 for the purpose of public safety improvements.

SECTION 57. Item 4512-0205 of said section 2 of said chapter 41 is hereby amended by inserting after the words “town of Hopkinton;” the following words:- provided further, that not less than \$1,000,000 shall be expended to the city of Boston for public health and homelessness initiatives; provided further, that such funds shall include, but not be limited to: (a) the use of street teams to increase mobile services to people on the street and provide rapid response to newly homeless individuals in order to connect them with community providers; (b) expanding the existing STEP Pilot to provide a seamless treatment path, intensive case management and economic supports such as job training and subsidized employment that address the complex issues of participating individuals; (c) the exploration of sober shelter capacity to meet the increased need for shelter for individuals in early recovery when they are in between levels of treatment; and (d) the expansion of women’s drop-in centers to reduce sexual exploitation and victimization among opioid users and the lack of low-threshold programming that addresses the unique needs of women; provided further, that not less than \$50,000 be expended to Troubled Waters, Inc. of Dracut and Lowell, MA.

SECTION 58. Item 4513-1130 of said section 2 of said chapter 41 is hereby amended by inserting after the words “town of Salisbury” the following words:- ; provided further, that not less than \$50,000 for the New England Learning Center for Women in Transition in the city of Greenfield.

SECTION 59. Item 4590-1507 of said section 2 of said chapter 41 is hereby amended by striking out the words “Andover Youth Services” and inserting in place thereof the following words:- Andover Youth Foundation.

SECTION 60. Item 5046-0000 of said section 2 of said chapter 41 is hereby amended by inserting after the words “immigrants and refugees” the following words:- ; provided further, that the department shall expend not less than \$50,000 for The Children’s Room located in the town of Arlington.

SECTION 61. Item 7000-9501 of said section 2 of said chapter 41 is hereby amended by striking the following words:- ; provided further, that not less than \$25,000 shall be expended to the Friends of the South End Library, Incorporated.

SECTION 62. Item 7003-0100 of said section 2 of said chapter 41 is hereby amended by striking the words “; provided further, that not less than \$100,000 shall be expended for the town of Chelmsford for the continued implementation of a business grant program” and inserting in place thereof the following words:- ; provided further, that not less than \$200,000 shall be expended for the town of Chelmsford for the continued implementation of a business grant program; provided further, that not less than \$100,000 shall be

expended for STRIVE FORWARD, a job-readiness program to be coordinated by the Justice Resource Institute to connect chronically unemployed adults with training, case management and job placement.

SECTION 63. Item 7004-0107 of said section 2 of said chapter 41 is hereby amended by inserting after the words “in the city of Leominster for kitchen renovations” the following words:- ; provided that not less than \$50,000 shall be expended for the Westford Housing Authority to purchase, remove, replace and install new stoves and cooking equipment in the public housing of the town of Westford.

SECTION 64. Item 7004-9316 of said section 2 of said chapter 41 is hereby amended by inserting after the words “established under section 60 of chapter 121B of the General Laws shall be made available to this item” the following words:- ; provided further, that not less than \$7,000,000 shall be expended to fund a rental and mortgage arrearage assistance pilot program for households whose incomes are at or below 50 per cent of the area median income and who are at risk of eviction or foreclosure within the next 12 months; provided further, that for the purposes of this program, to receive cash benefits or other services, it is not necessary for a household to be subject to summary process under chapter 239, and risk of eviction or foreclosure may be determined by documentation from the landlord or mortgage lender verifying outstanding rent or mortgage, including any interest, fees, or penalties, and documentation from the head of household demonstrating the household’s current inability to pay said amounts; provided further, that the department shall ensure that not less than 50 per cent of the funds be provided to households with incomes not greater than 30 per cent of area median income; provided further, that eligible households shall include, but not be limited to, families with children under the age of 21, elders, persons with disabilities and unaccompanied youth; provided further, that services and cash benefits under the arrearage program shall be made available to households for the prevention of the loss of subsidized or unsubsidized housing; provided further, that cash benefits shall not exceed the actual liability or four times the monthly rental or mortgage liability, whichever is less; provided further, that such benefits shall be paid directly to the landlord or mortgage lender; provided further, that in administering the program, the department shall coordinate with the department of transitional assistance, member agencies and offices of the Massachusetts interagency council on housing and homelessness and the agencies contracted to administer the residential assistance for families in transition program on behalf of eligible households served by those agencies and offices so as to streamline the application process, provide additional support services and better promote upstream homelessness prevention and housing stability; provided

further, that the department shall by October 31, 2020 issue a report on the rental and mortgage arrearage assistance pilot program funded by this item; provided further, that the report shall be submitted to the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on housing and the house and senate clerks; provided further, that the report shall include but not be limited to the following information: (i) the number of applications requested, the number of applications completed, the number of applications approved; (ii) the number of applications rejected and the reasons for denial; (iii) the household income and demographic information for each qualifying household and its members; provided further, that this information shall be provided by zip code and cumulatively; and (iv) the monthly rent or mortgage liability for each qualifying household and the amount of each arrearage payment; provided further, that, if there is a conflict between the provisions of this item and the provisions established by the department as part of any upstream rental arrearage assistance pilot program previously approved, the provisions of this section shall control, including but not limited to, eligibility standards, documentation requirements, and benefit caps; provided further, that funds for the rental and mortgage arrearage assistance program shall be made available until June 30, 2021;.

SECTION 65. Item 7006-0142 of said section 2 of said chapter 41 is hereby amended by striking out, in both places it appears, the figure “\$15,034,593” and inserting in place thereof the following figure:- \$16,034,593.

SECTION 66. Item 7008-1024 of said section 2 of said chapter 41 is hereby amended by striking out the words “March 16, 2020” and inserting in place thereof the following words:- April 30, 2020.

SECTION 67. Item 7008-1116 of said section 2 of said chapter 41 is hereby amended by inserting after the words “the town of Hatfield” the following words:- provided further, that not less than \$25,000 be expended to the Friends of the South End Library, Incorporated; provided further, that not less than \$50,000 shall be expended for the Hispanic American Library in Springfield; provided further, that not less than \$1,000,000 shall be expended for the continued operation of MassChallenge; provided further, that not less than \$75,000 shall be expended for a visitor center at Salisbury Beach in the town of Salisbury; provided further, that not less than \$250,000 shall be expended for the 11 Massachusetts visitor information centers; provided further, that not less than \$75,000 shall be expended for the Cabo Verdean Cultural Center Feasibility Commission established in section 136 of chapter 47 of the acts of 2017; provided further, that not less than \$200,000 shall be expended to assist the Worcester Department of Public Work’s

completion of the construction of the Francis R. Carroll Plaza; provided further, that not less than \$30,000 shall be expended to the Massachusetts Law Enforcement Memorial Foundation for the maintenance and upkeep of the Massachusetts Law Enforcement Memorial; provided further, that not less than \$40,000 shall be expended for ABCD North End/West End elderly program; provided further, that not less than \$500,000 shall be expended for a transfer to the Garden of Peace Trust Fund as set forth in Section 35LLL of Chapter 10 of the General Laws for the feasibility study, design, and construction to expand the Garden; provided further, that not less than \$200,000 shall be expended for the planning and development of a women's rights history trail in the commonwealth, including, but not limited to, permanent educational trail markers and a permanent women's rights memorial; provided further, that not less than \$100,000 shall be expended for promotional materials created by the Massachusetts office of travel and tourism for the women's rights history trail.

SECTION 68. Item 7010-1192 of said section 2 of said chapter 41 is hereby amended by inserting after the words "Northbridge public schools" the following words:- ; provided further, that not less than \$250,000 shall be expended for improvements to the former Thompson Street School in New Bedford; provided further, that not less than \$100,000 shall be expended for the town of Millis to fund an engineering study to determine what the needs are to replace the electrical and mechanical systems in the Millis Middle/High School; provided further, that not less than \$40,000 shall be expended for the town of Belmont for school safety technology.

SECTION 69. Item 7035-0006 of said section 2 of said chapter 41 is hereby amended by adding the following words:- ; provided further, that notwithstanding any general or special law to the contrary, \$2,616,032 in funds forwarded from fiscal year 2019 shall apply to fiscal year 2020 reimbursements.

SECTION 70. Item 7061-9611 of said section 2 of said chapter 41 is hereby amended by striking out the figure "\$500,000" and inserting in place thereof the following figure:- \$700,000.

SECTION 71. Item 7061-9813 of said section 2 of said chapter 41 is hereby amended by striking out the words "school districts serving fewer than 11 students per square mile shall be given priority for rural school aid" and inserting in place thereof the following words:- rural school aid shall be allocated equitably in the following order of priority: (a) school districts serving less than 11 students per square mile; (b) school districts serving not more than 21 students per square mile; and (c) school districts serving not more than 35 students per square mile.

SECTION 72. Said item 7061-9813 of said section 2 of said chapter 41 is hereby further amended by adding the following words:- ; provided further, that notwithstanding any general or special law to the contrary, \$1,000,000 in funds forwarded from fiscal year 2019 shall apply to fiscal year 2020 rural school aid.

SECTION 73. Item 7070-0065 of said section 2 of said chapter 41 is hereby amended by striking out the words “provided further, that funds from this item shall be made available for early educator scholarships, paraprofessional grants and One Family, Inc. in amounts not less than the amounts made available in fiscal year 2019”, and inserting in place thereof the following words:- provided further, that funds from this item shall be made available for paraprofessional grants in amounts not less than the amounts made available in fiscal year 2019; provided further, that not less than \$3,000,000 more than in fiscal year 2019 shall be expended on early educator scholarships; provided further, that not less than \$500,000 more than in fiscal year 2019 shall be expended on One Family, Inc.; provided further, that funds for the early educator scholarship and One Family, Inc. shall be made available through June 30, 2021;.

SECTION 74. Item 7116-0100 of said section 2 of said chapter 41 is hereby amended by adding the following words:- ; provided, that not less than \$250,000 shall be expended to assist in pre-construction enabling work at the new University May Street academic building.

SECTION 75. Item 7509-0100 of said section 2 of said chapter 41 is hereby amended by inserting after the words “CAD/COMSOL at Mount Wachusett Community College” the following words:- ; and provided further, that not less than \$100,000 shall be expended to Mount Wachusett Community College for information technology backup infrastructure.

SECTION 76. Item 8000-0313 of said section 2 of said chapter 41 is hereby amended by inserting after the words “low-income and downtown neighborhoods” the following words:- ; provided further, not less than \$200,000 shall be expended for the Massachusetts College of Liberal Arts in North Adams to enhance campus security through the purchase and updating of necessary public safety equipment; provided further, that not less than \$150,000 shall be expended for fire protection upgrades at Bridgewater State University; provided further, that not less than \$50,000 shall be expended on the Hampshire Hills Emergency Communication System Project to provide the critical emergency infrastructure improvements necessary to serve the needs of emergency responders in Hampshire, Hampden and Franklin counties.

SECTION 77. Item 8700-1140 of said section 2 of said chapter 41 is hereby amended by striking out, in both places it appears, the figure “\$400,000” and inserting in place thereof the following figure:- \$1,900,000.

SECTION 78. Item 1595-6368 of section 2E of said chapter 41 is hereby amended by inserting after the words “Lawrence Municipal Airport” the following words:- ; provided further, that not less than \$200,000 shall be expended for the purpose of performing all necessary and immediate repairs required to rehabilitate the portion of Briarwood road in the town of Bourne which traverses the Commonwealth’s Rail & Transit Division Right of Way; provided further, that no permit shall be required from any state or local agency or body for such necessary and immediate repairs; provided further, that \$125,000 shall be allocated to the town of Winchester for the repair and reconstruction of the Waterfield Road Bridge; provided further, that not less than \$100,000 shall be expended for a pilot program for the purpose of enabling at-risk youth to assist in state highway cleanup projects in the city of Lowell; provided further, that not less than \$60,000 shall be expended for a consultant to review necessary emergency repairs of Route 116 in the town of Cheshire; provided further that \$50,000 shall be allocated to the Massachusetts Department of Transportation to conduct a feasibility study relative to rail service throughout the Roxbury section of the city of Boston; provided that not less than \$50,000 shall be expended for the Beacon street bridle path feasibility study in the town of Brookline; provided further, that not less than \$250,000 shall be expended on the design, survey and construction costs associated with the repair of certain bridges in the city of Lowell; provided further, that \$200,000 be expended for traffic mitigation in the town of Braintree.

SECTION 79. Section 71 of said chapter 41 is hereby amended by striking out the figure “2019” and inserting in place thereof the following figure:- 2020.

SECTION 80. The second paragraph of section 82 of said chapter 41 is hereby amended by striking out the figure “72” and inserting in place thereof the following figure:- 75.

SECTION 81. Subsection (c) of section 2 of chapter 49 of the acts of 2019 is hereby amended by striking out the words “January 31, 2020” and inserting in place thereof the following:- March 16, 2020.

SECTION 82. (a) Notwithstanding the provisions of chapter 31 of the General Laws, any pre-employment medical examination administered by a federal agency or contractor to any person serving in the title of firefighter or crash crew member of the Joint Base Cape Cod, formerly known as Massachusetts Military Reservation Fire Department, or the

104th Fighter Wing Fire Department, who transferred from federal employee or other non-state employment status, shall be deemed sufficient to fulfill any pre-employment medical examination requirement for firefighters in state or municipal service in the commonwealth under chapters 48 and 31 of the General Laws. Any pre-employment medical examination referenced in this section or any physical examination taken subsequent to employment must meet the criteria provided in sections 94, 94A and 94B of chapter 32 of the General Laws.

(b) The provisions of this section shall only apply to Joint Base Cape Cod, formerly Massachusetts Military Reservation, firefighters who are employed as of the effective date of this act as a firefighter or crash crew member of the Joint Base Cape Cod Fire Department or as a firefighter with the 104th Fighter Wing Fire Department, and who entered state service pursuant to chapter 308 of the acts of 2008 and 104th Fighter Wing Firefighters who entered state service by an executive action of October 2010.

SECTION 83. Notwithstanding section 28 of chapter 53 of the General Laws or any other general or special law to the contrary, the state primary in 2020 shall be held on Tuesday, September 1, 2020.

SECTION 84. Notwithstanding section 3 of chapter 53 of the General Laws or any other general or special law to the contrary, a person whose name is not printed on the September 1, 2020 state primary ballot as a candidate for an office, but who receives sufficient votes to nominate the person for the office, shall file in the office of the state secretary a written acceptance of the nomination and a receipt from the state ethics commission verifying that a statement of financial interest has been filed pursuant to chapter 268B of the General Laws not later than 5:00 P.M. on Thursday, September 3, 2020.

SECTION 85. Notwithstanding sections 11, 13 and 53A of chapter 53 of the General Laws and section 5 of chapter 55B of the General Laws or any other general or special law to the contrary, objections to and withdrawals from nominations made at the September 1, 2020 state primary shall be filed with the state secretary not later than 12:00 P.M. on Friday, September 4, 2020.

SECTION 86. Notwithstanding section 14 of chapter 53 of the General Laws or any other general or special law to the contrary, any vacancies from the September 1, 2020 state primary caused by death, withdrawal or ineligibility under section 85 shall be filled by an executive committee, determined by the state party committee of the same political party that made the original nomination.

SECTION 87. Notwithstanding section 15 of chapter 53 of the General Laws or any other general or special law to the contrary, when a nomination is made to fill a vacancy caused by the death, withdrawal or ineligibility of a candidate from the September 1, 2020 state primary, the certificate of nomination shall be on a form prescribed by the state secretary, signed by the executive committee appointed by the state committee of the same political party as provided for in section 86 and filed with the state secretary not later than 5:00 P.M. on Tuesday, September 8, 2020.

SECTION 88. Notwithstanding section 135 of chapter 54 of the General Laws or any other general or special law to the contrary, a petition for a recount of the September 1, 2020 state primary shall be filed with the appropriate local election officials not later than 5:00 P.M. on Friday, September 4, 2020 and all recounts shall be completed and notice of the results shall be sent to the state secretary not later than 5:00 P.M. on Saturday, September 12, 2020.

Petitions for districtwide and statewide recounts of the September 1, 2020 state primary shall be submitted to the appropriate local election officials for certification not later than 12:00 P.M. on Friday, September 4, 2020 and local election officials shall complete certification not later than 10:00 A.M. on Tuesday, September 8, 2020. Thereafter, certified petitions shall be filed with the state secretary not later than 5:00 P.M. on Tuesday, September 8, 2020. If the state secretary determines that the contest is eligible for a statewide or districtwide recount, the state secretary shall notify the local election officials who shall complete the recount and shall notify the state secretary of the results of the recount not later than 5:00 P.M. on Saturday, September 12, 2020.

Notwithstanding section 135 of said chapter 54, a board of registrars shall provide not less than 2 days' notice of the date, time and location of the recount to each candidate for the office for which the recount has been petitioned. Electronic notice shall be sufficient.

SECTION 89. (a) Notwithstanding the provisions of section 25B of chapter 54 of the General Laws or any general or special law to the contrary, there shall be early voting for the 2020 presidential primary. The election officers and registrars of every city or town shall allow any qualified voter, as defined in section 1 of chapter 51 of the General Laws, to cast a ballot for the 2020 presidential primary during the early voting period, which shall begin on Monday, February 24, 2020 and end on Friday, February 28, 2020. Early voting shall also apply to any city or town election held at the same time as the presidential primary.

(b) Any qualified voter wanting to early vote by mail may file with the voter's local election official an application for an early voting ballot for the 2020 presidential primary. Any form of written communication evidencing a desire to have an early voting ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the state secretary. No application for an early voting ballot for the 2020 presidential primary shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters before 12:00PM on February 28, 2020. If the voter is registered as unenrolled or in a political designation, the applicant must include the name of the party whose primary ballot the voter is requesting.

(c) Early voting for the 2020 presidential primary shall be conducted during the usual business hours of each city or town clerk. A city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this subsection during the early voting period.

(d) All early voting ballots voted by mail for the 2020 presidential primary shall be received by the city or town clerk before the hour fixed for closing the polls.

(e) Each city and town shall establish an early voting site for the 2020 presidential primary that shall include the election office for the city or town; provided, however, that if the city or town determines that the office is unavailable or unsuitable for early voting, the registrars of each such city or town shall identify and provide for an alternative centrally-located, suitable and convenient public building within each such city or town as an early voting site. A city or town may also provide for additional early voting sites at the discretion of the registrars for that city or town. Each early voting site shall be accessible to persons with disabilities.

(f) The designation of an early voting site for the 2020 presidential primary shall be made no later than February 10, 2020. No later than February 12, 2020, the registrars for each city or town shall post the location of the early voting sites as well as the applicable dates and hours. Notice shall be conspicuously posted in the office of the city clerk or on the principal official bulletin board of each city or town, on any other public building considered necessary, on the city or town's website, if any, and on the website of the state secretary.

(g) No later than February 10, 2020, the state secretary shall deliver to each city or town, in quantities as the state secretary determines necessary, the following papers: (1) official early voting ballots for the 2020 presidential primaries, similar to the official ballot

to be used at the primaries; and (2) envelopes of sufficient size to contain the ballots specified in clause (1) bearing on their reverse the voter's affidavit in compliance with the requirements of subsection (i).

(h) An early voting ballot along with an envelope shall be provided to each qualified voter who participates in early voting for the 2020 presidential primary.

(i) A qualified voter casting a ballot at an early voting site shall complete an affidavit under the regulations promulgated pursuant to chapter 54 of the General Laws, which shall include a notice of penalties under section 26 of chapter 56 of the General Laws.

(j) Prior to the beginning of early voting for the 2020 presidential primary, the registrars for each city or town shall prepare a list for the early voting sites, containing the names and residences of all persons qualified to vote at each voting site, as the names and residences appear upon the annual register, and shall reasonably transmit the applicable list to the election officers at each early voting site designated by the registrars.

(k) The registrar or presiding official at the early voting site shall cause to be placed on the voting lists opposite the name of a qualified voter who participates in early voting the letters "EV" designating an early voter.

(l) The registrars shall prepare lists of all voters casting ballots during the early voting period and update the voter list in a manner prescribed by the state secretary.

(m) The provisions of sections 37 and 38 of chapter 53 of the General Laws shall apply to unenrolled voters and voters enrolled in political designations. The registrar or presiding official at the early voting site shall cause the name of the party of the ballot being voted to be recorded on the voting list.

(n) The counting of early voting ballots including, but not limited to, informing election officers and any challengers present under section 85A of chapter 54 of the General Laws shall be set by 950 C.M.R. § 47.00 so far as applicable. All envelopes referred to in this section shall be retained with the ballots cast at the 2020 presidential primary and shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

(o) The provisions of 950 C.M.R. § 47.00 shall apply to early voting at the 2020 presidential primary to the extent feasible, but the secretary shall update the rules to accommodate the dates set forth herein.

(p) A city or town may opt to detail a sufficient number of police officers or constables for each early voting site for the 2020 presidential primary at the expense of the city or town to preserve order, protect the election officers and supervisors from any interference with their duties and aid in enforcing the laws relating to elections.

(q) No early voting ballot cast under this section shall be counted if the officer charged with the duty of counting the ballot is cognizant of the fact that the voter has died prior to the opening of the polls on the day of the 2020 presidential primary.

SECTION 90. Notwithstanding sections 8 to 10, inclusive, of chapter 55B of the General Laws or any other general or special law to the contrary, the state ballot law commission shall notify candidates of any objections filed to nominations at the September 1, 2020 state primary not later than 5:00 P.M. on Friday, September 4, 2020. Notice of the commission hearings shall be given by telephone and electronic mail. Hearings on objections shall be held on Wednesday, September 9, 2020 and decisions shall be rendered not later than 5:00 P.M. on Monday, September 14, 2020.

SECTION 91. Notwithstanding any general or special law to the contrary, local election officials shall transmit absentee ballots to voters covered under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 USC 20302 et seq., whose applications were received not less than 45 days before the November 3, 2020 state election, not later than Saturday, September 19, 2020.

SECTION 92. Notwithstanding any general or special law to the contrary, the state secretary may add or change any dates relating to the nominations made at the September 1, 2020 state primary that the state secretary considers necessary for the orderly administration of the November 3, 2020 state election by providing notice of the change to the state parties and any affected person, by filing notice with the rules and regulations division, by posting on the state secretary's website and by whatever other means the state secretary considers appropriate.

SECTION 93. Notwithstanding any general or special law to the contrary, prior to calculating the fiscal year 2019 consolidated net surplus in accordance with section 5C of chapter 29 of the General Laws, and upon the recommendation of the secretary of administration and finance or his designee, the comptroller shall adjust any fiscal year 2019 appropriation fund split against the following funds to expend available revenue and to prevent deficiencies in those funds; provided that, changes to fund splits under this section shall not result in any of the following funds ending fiscal year 2019 in deficit:

- (a) Gaming Local Aid Fund established in section 63 of chapter 23K of the General Laws;
- (b) the Education Fund established in section 64 of said chapter 23K;
- (c) the Local Capital Projects Fund established in section 2EEEE of chapter 29 of the General Laws;
- (d) the Public Safety Training Fund established in section 2JJJJ of said chapter 29.

SECTION 94. Notwithstanding any general or special law to the contrary, not more than \$5,000,000 of funds deposited pursuant to chapter 273 of the acts of 2018 into the Water Pollution Abatement Revolving Fund established in section 2L of chapter 29 of the General Laws may be used for deleading projects, including grants, at early education facilities, childcare centers and public schools, prioritizing elementary schools. Funding shall be prioritized to address high risk populations based on characteristics including, but not limited to, age and socioeconomic status and based on consultation with the advisory committee for the lead poisoning prevention program established under section 190 of chapter 111 of the General Laws.

SECTION 95. Notwithstanding any general or special law to the contrary, the department of energy resources shall expend amounts from the RGGI Auction Trust Fund established in section 35II of chapter 10 of the General Laws to fund the green communities program established in section 10 of chapter 25A of the General Laws and to fund electric vehicle incentive programs through December 31, 2021; provided, however, that the department of energy resources shall offer rebates of not less than \$2,500 and not more than \$5,000 for the purchase or lease of battery electric vehicles, fuel cell electric vehicles and zero-emissions vehicles for sale or lease with a retail price of not more than \$50,000. All payments made from the fund before December 31, 2021 shall be prioritized so that the initial payments from the fund shall be made to the green communities and electric vehicle incentive programs; provided, however, that not less than \$27,000,000 shall be available for electric vehicle incentive programs per fiscal year; and provided further, that the department shall examine the programs, including, but not limited to, the cost-effectiveness of the programs in greenhouse gas emissions reductions, and report its findings to the joint committee on telecommunications, utilities and energy not later than January 1, 2022.

SECTION 96. Notwithstanding any general or special law to the contrary, the special commission established in section 103 of chapter 154 of the acts of 2018 is hereby revived and continued to December 31, 2019. The special commission shall file the results of its

study and its recommendations, including drafts of legislation necessary to carry those recommendations into effect, with the clerks of the house of representatives and the senate, the joint committee on consumer protection and professional licensure and the house and senate committees on ways and means not later December 31, 2019.

SECTION 97. (a) Notwithstanding any general or special law to the contrary, in setting standard payments to nursing facilities for the period of October 1, 2019 to September 30, 2020, inclusive, capital standard payments made to the nursing facilities pursuant to 101 CMR 206 shall provide that: (i) a facility's upward adjustment to its capital payment shall be calculated as the difference between the standard capital payment listed in 101 CMR 206.05(1) and its rebased capital payment that it would have received based on the capital standard payment calculation methodology in effect before October 1, 2019; and (ii) a nursing facility that becomes operational on or after November 1, 2019, an existing nursing facility that completely renovates or reconstructs its current building on or after November 1, 2019 or an existing nursing facility that fully relocates to a newly constructed location on or after November 1, 2019 shall be eligible for a capital standard payment in the amount of not less than \$37.60.

(b) A nursing facility shall be eligible for an adjustment to its capital standard payment pursuant to 101 CMR 206.05(2) after October 1, 2019 if, before March 31, 2020, the facility provides the executive office of health and human services with documentation of 1 of the following: (i) department of public health plan review approval pursuant to an approved determination of need dated before January 1, 2020; (ii) detailed architectural or engineering plans developed in response to an approved determination of need and submitted to the department of public of health before January 1, 2020; (iii) evidence of funding received, or a firm commitment to fund, from an outside lender dated before January 1, 2020, in an amount equal to or in excess of 50 per cent of the maximum capital expenditure as specified in an approved determination of need; (iv) evidence of applications made on or before January 1, 2020, to local government agencies for planning, zoning or building permits or other regulatory approvals required in connection with the implementation of an approved determination of need; or (v) evidence of the acquisition of land required for development of the project authorized by an approved determination of need.

SECTION 98. Grants from the amounts collected pursuant to subsection (b) of section 13T of chapter 23A of the General Laws allocated to regional tourism councils for fiscal year 2019 shall be distributed not later than December 31, 2019 according to the current allocation formula.

SECTION 99. The salary adjustments and other economic benefits authorized by the following collective bargaining agreements shall be effective for the purposes of section 7 of chapter 150E of the General Laws: (i) between the Middlesex sheriff and the Teamsters, Local 122, Unit SM2; (ii) between the between the Essex north and south registries of deeds and AFSCME, Local 653; (iii) between the board of higher education and the Massachusetts Community College Council; (iv) between the Massachusetts Department of Transportation and DOT Unit C, National Association of Government Employees, IBEW Local 103, Teamsters Local 127, and Teamsters Local 25; (v) between the Massachusetts Department of Transportation and DOT Unit D, National Association of Government Employees, IBEW Local 103, Teamsters Local 127, clerical, audit and support Employees and United Steelworkers Local 5696; (vi) between the state treasurer and the Coalition of Public Safety, Unit 5; (vii) between the Middlesex sheriff and NEPBA, Local 525, Unit SM1; and (viii) between the University of Massachusetts and NEPBA, Unit B3S.

The Governor disssaproved of the following section, for message see H.4252

~~SECTION 100. Sections 8 and 9 shall take effect on April 1, 2020.~~

SECTION 101. Section 11 shall be effective for taxable years beginning after December 31, 2017.

SECTION 102. Section 14 shall take effect on September 11, 2019.

SECTION 103. Except as otherwise specified, this act shall take effect upon enactment.

Approved, December 13, 2019.

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

REBECCA GROSSMAN, BECKY GROSSMAN
FOR CONGRESS, JONATHAN LEVENFELD,
SOPHIE KRIPP and SHIRLEY D. GROSSMAN,
on behalf of themselves and others similarly
situated,

Petitioners,

v.

WILLIAM FRANCIS GALVIN, in his Official
Capacity as Secretary of the Commonwealth of
Massachusetts,

Respondent.

Docket No. SJC-12996

AFFIDAVIT OF MICHELLE K. TASSINARI

I, Michelle K. Tassinari, on oath depose and state on personal knowledge and based on my review of the records of the Elections Division of the Office of the Secretary of the Commonwealth of Massachusetts (hereinafter, “the Elections Division”) as follows:

1. I am the director and legal counsel to the Elections Division of the Massachusetts Secretary of State’s office. I have been legal counsel since April 2000 and director since 2005. As such, I have personal knowledge of the matters set forth herein.
2. The Elections Division is responsible for administration of state and presidential primaries and elections in the Commonwealth, including, among other things, responsibility for the printing of nomination papers, the receipt of certified nomination

papers, and the printing of candidate lists and ballots, including official, early and absentee.

3. Following the July 6, 2020 passage of the law implementing election changes in light of the COVID-19 pandemic (Mass. Stat. 2020, c. 115), the Secretary mailed ballot applications to all registered voters in the Commonwealth at their registered addresses, unless the voter had a designated mailing address on file with their local election official, in which case the application was sent to that address as required by Mass. Stat. 2020, c. 115, § 6(d)(1).
4. In order to comply with the federally-imposed deadline for transmitting ballots to military and overseas voters protected by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Secretary must prepare the more than 500 distinct general election ballot styles for use by local election officials, who will, in turn, send them to the UOCAVA voters.
5. For the November 3, 2020 general election, the Secretary will prepare more than 500 different ballot styles, which must be tailored to each district's races and local ballot questions, and some of which must be printed in additional languages.
6. The Secretary must provide these ballots to local election officials at least three days in advance of the September 19 UOCAVA deadline (45 days in advance of the general election) to ensure that local election officials have adequate time to prepare the remaining paperwork and transmit the ballot and other material to the UOCAVA voters to comply with that federal deadline set by the federal Military and Overseas Voter Empowerment Act (MOVE).

7. This federal requirement under UOCAVA and MOVE applies to a substantial number of Massachusetts voters. In 2016, the last presidential election year, there were 23,479 military and overseas voters who were sent ballots. In 2018, there were 7,956 such voters who were sent ballots. As of August 20, 2020, more than 12,000 such voters have already applied for ballots for the November 3 election. We expect that for this year's general election, more than 25,000 military and overseas voters will request to be sent ballots.
8. The United States Department of Justice (DOJ) closely monitors our compliance with the federal MOVE deadline. In 2014, DOJ expressed concern when Massachusetts conducted a primary election on September 9, 2014 with a general election scheduled for November 4, 2014.
9. We are required to report to DOJ the number of military and overseas voters who have requested ballots and to certify that Massachusetts has satisfied the federal MOVE deadline by the Monday following the deadline, which this year is September 21.
10. The time between the primary election and the deadline to transmit ballots to military and overseas voters is used to comply with post-primary requirements such as objections (which, if made, must be heard and adjudicated by the State Ballot Law Commission), recounts if requested and ordered, withdrawals, and filling vacancies. Therefore the time the Secretary has to prepare ballots is in fact much shorter than the time between the primary and the September 19 deadline to transmit ballots to military and overseas voters.
11. By way of example, in 2018, the state primary was held on September 4, 2018 and the deadline to transmit UOCAVA ballots was on September 22, 2018, which, but for the post-primary procedures, would appear to give the Commonwealth 18 days to prepare

and send the ballots for most of the state. That year, however, there was a district-wide recount in the 3rd Congressional District Democratic Primary, which ordered on September 10, 2018, and was not completed by the cities and town in the district until 5:00 pm on September 17, 2018. At that point, there were only 5 days remaining before the UOCAVA deadline. During that narrow time frame, we had to prepare and distribute ballots to local election officials and in turn the local election officials had even less time to transmit to UOCAVA voters.

12. In 2020, the Commonwealth has just 18 days complete all post-primary requirements, including resolving any objections and recounts, and to prepare and send the ballots to local election officials for UOCAVA voters. If, for example, a district or state-wide recount is filed, which must be completed by September 12 under the existing statutory scheme, the Secretary will be left with only 4 days in which to get ballots to local election officials and the Commonwealth will have a total of 7 days to meet the MOVE deadline; if the State Ballot Law Commission has to adjudicate an objection by September 14, the Commonwealth's overall time for compliance dwindles to 5 days but the Secretary will have 2 days to get ballots to local election officials.

13. Rebecca Grossman and her husband requested an early voting ballot by mail from Newton election officials, and report that they have not yet received their ballots. According to Newton election officials, their applications were received by Newton on August 11, 2020, and ballots were sent to them on August 15, 2020.

14. Petitioner Shirley Grossman avers that she has not received the early voting ballot she requested from local election officials, but her ballot was likewise mailed to her on August 15, 2020.
15. Petitioner Sophia Kripp sent an application for an absentee ballot – not an early ballot – to her local election officials, but it was returned to the local election officials as undeliverable because she requested that her ballot be mailed to her college, which is now closed. She has since applied for an early voting ballot by mail to be sent to the address at which she is registered and the local election official has already honored that request and mailed her a second ballot.
16. Petitioner Jonathan Levenfeld alleges that he still has not received his application to request a ballot from the Secretary at his address in Cambridge – although he can obtain one online – but the reason he has not received this application in Cambridge is because it was sent to his registered mailing address in Washington, D.C., an address he provided to the Cambridge Election Commission.
17. At our direction, and consistent with Postal Service guidance, all ballot applications and all ballots sent to voters are sent via first-class mail; these ballots, too, are sent with first-class return mail envelopes that are pre-addressed and postage prepaid back to the appropriate local election official.
18. As an illustration of the complexities of post-primary procedures, in a recount, all party ballots for that race are hand counted. The recounts are scheduled individually by each city and town in the district. Ballots are counted by teams of two—one person reading the vote from the ballot and the other recording that vote onto a tally sheet. Each candidate in

that race can have an observer or agent for each recount worker. They can protest how the ballot was read or how the vote was recorded. Any recounts held this year will likely look very different and take longer. In the 2018 recount in the Democratic primary for the 3rd Congressional District, the City of Lowell had to hand count 12,000 Democratic ballots. It took approximately 8 hours to just put the ballots into the packs of 50 for counting. The actual recount took approximately 10 hours, using approximately 15 teams that were set up in a high school cafeteria. Social distancing protocols would likely prevent that many people from counting in the same space in 2020, and using fewer teams will prolong how long the count takes.

19. This year, the Secretary anticipates that Newton and Brookline will each have over 20,000 ballots cast in the contested Democratic primary for the 4th Congressional District. If a recount is requested in those municipalities, it will take substantially more time to count than the 12,000 Lowell votes took in 2018 without social distancing requirements.

Signed under the pains and penalties of perjury this 22nd day of August, 2020.

/s/ Michelle K. Tassinari
Michelle K. Tassinari

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA, STATE
OF CALIFORNIA, STATE OF DELAWARE,
DISTRICT OF COLUMBIA, STATE OF MAINE,
COMMONWEALTH OF MASSACHUSETTS, and
STATE OF NORTH CAROLINA,

Plaintiffs,

v.

LOUIS DEJOY, *in his official capacity as United States
Postmaster General*; ROBERT M. DUNCAN, *in his
official capacity as Chairman of the Postal Service
Board of Governors*; and the UNITED STATES
POSTAL SERVICE,

Defendants.

No. 2:20-cv-4096

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This lawsuit challenges Defendants’ unlawful actions designed to undermine the effective operation of the United States Postal Service (“USPS” or “Postal Service”) and impede the efforts of the Plaintiff States to conduct free and fair elections in the manner Plaintiff States have chosen. The Plaintiff States bring this action to remedy the harm caused by Defendants’ actions and to protect their constitutional authority to conduct their elections in the manner their respective legislatures have chosen.

2. Specifically, the States challenge several of USPS’s recent operational and policy changes, some implemented by USPS for the stated purpose of reducing the agency’s operating costs, but which have led to significant delays in mail delivery across the country.

3. These changes—which include prohibiting late or extra trips by postal workers that are often necessary to keep the mail moving forward in the mailstream; requiring carriers to

adhere rigidly to start and stop times regardless of whether all mail for their route has arrived or been delivered; and limiting the use of overtime—were made without due regard to their likely impact on mail service and in violation of the procedural requirements of the Postal Reorganization Act.

4. These policy changes also are inconsistent with the Postal Service’s longstanding practice: Keep every piece of mail moving each day toward its final destination and deliver every piece of mail ready for delivery.

5. These changes were made despite the ongoing COVID-19 pandemic, which has imposed significant and unanticipated burdens that make it more challenging for the Postal Service to meet its objective. Postal employees, as essential workers, remain at increased risk of contracting the virus; indeed, nearly 10 percent of the 630,000 postal workers nationwide have contracted it as of August 2020.¹ Increased rates of absence due to illness and the need to quarantine workers who may have been exposed require other postal workers to work additional hours, making the limitation of overtime and the Postal Service’s other policy changes particularly ill-advised.

6. What is more, USPS has implemented these unlawful policy changes just months before the November 3, 2020, general election. In this election, far more Americans will cast their ballots by mail than have ever done so before. In 28 states—including Plaintiff Commonwealth of Pennsylvania, Plaintiff State of Delaware, Plaintiff State of Maine, Plaintiff Commonwealth of Massachusetts, and Plaintiff State of North Carolina—voters will be able to apply for and cast a mail-in ballot for any reason. Voters in six other states will be able to invoke

¹ Jason Knowles and Ann Pistone, *USPS workers concerned agency isn’t doing enough to protect essential workers from COVID-19*, ABC7 Chicago (Aug. 14, 2020), <https://abc7chicago.com/usps-covid-illinois-postal-service/6360074/>

the COVID-19 pandemic to vote by mail. Plaintiff District of Columbia and nine additional states—including Plaintiff State of California—will send mail-in ballots to every eligible voter. And in seven other states, voters may request a mail-in ballot if they will not be able to vote in person on the day of the election.

7. Many of these states are already seeing record numbers of mail-in ballot requests. As of this week, North Carolina has received more than 10.8 times the number of absentee ballot requests than the state had at the same time in 2016.

8. Many states have only recently expanded their use of mail-in ballots. In California and the District of Columbia, for the first time, all registered active voters will automatically be sent a mail-in ballot for the November 2020 general election. In Pennsylvania and Delaware, all voters were given the option of voting by mail for the first time in the 2020 primary election. In that election, the number of mail-in votes in Pennsylvania was nearly eighteen times what it had been in 2016.

9. While mail-in ballots are a convenience for some voters, they are a necessity for others. For voters with disabilities or those who are unable to get to the polls, casting a mail-in ballot may be the only realistic means of voting. Furthermore, given the strong likelihood that the COVID-19 pandemic will not have abated by November, in-person voting will present an increased risk of infection. This risk is only exacerbated for elderly voters and others who are particularly vulnerable to the illness. For such voters, the ability to cast a ballot by mail is essential.

10. Despite the many benefits of mail-in voting—and the necessity of relying on mail-in voting during the current health crisis—President Trump has repeatedly sought to undermine confidence in voting by mail, falsely asserting that mail-in votes are subject to

widespread fraud. In fact, the States take numerous steps to protect against fraud, through techniques such as matching signatures, requiring witnesses, and providing each voter with an individually identified return envelope in which to place the voter's sealed ballot.

11. Contrary to President Trump's claims, there is no evidence that mail-in ballots contribute to fraud.

12. President Trump's attacks on mail-in voting have only escalated recently, as he has stated that he opposes providing USPS with additional funding because he believes that, without such funding, "USPS will not be able to have universal mail-in voting because they're not equipped to have it."

JURISDICTION AND VENUE

13. This action arises under the Postal Reorganization Act, 39 U.S.C. § 3661, and the United States Constitution. This Court has subject matter jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 1339, and 39 U.S.C. § 409.

14. In addition, this Court has the authority to issue the declaratory relief sought pursuant to 28 U.S.C. § 2201.

15. Venue is proper in this Court because Plaintiff Commonwealth of Pennsylvania resides in this district and because a substantial part of the events giving rise to this action occurred in this district. *See* 28 U.S.C. § 1391(e)(1).

THE PARTIES

16. Plaintiff Commonwealth of Pennsylvania is a sovereign state of the United States of America. This action is brought on behalf of the Commonwealth by Attorney General Josh Shapiro, the "chief law officer of the Commonwealth." Pa. Const. art. IV, § 4.1.

17. Plaintiff State of California is a sovereign state of the United States of America. This action is brought on behalf of the State of California by Attorney General Xavier Becerra, the “chief law officer of the State.” Cal. Const. art. V, § 13.

18. Plaintiff State of Delaware is a sovereign state of the United States of America. This action is brought on behalf of the State of Delaware by Attorney General Kathleen Jennings as the “chief law officer of the State,” charged with protecting public rights and enforcing public duties in court. *Darling Apartment Co. v. Springer*, 22 A.2d 397, 403 (Del. 1941). Attorney General Jennings also brings this action on behalf of the State of Delaware pursuant to her statutory authority to represent the State and its instrumentalities in all legal proceedings. Del. Code Ann. tit. 29, § 2504.

19. Plaintiff the District of Columbia (the “District”) is a sovereign municipal corporation organized under the Constitution of the United States. It is empowered to sue and be sued, and it is the local government for the territory constituting the permanent seat of the federal government. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia, Karl A. Racine. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest.

20. Plaintiff State of Maine is a sovereign state of the United States of America. This action is brought by and through the State of Maine’s Attorney General, Aaron M. Frey. The Attorney General of Maine is a constitutional officer with the authority to represent the State of Maine in all matters and serves as its chief legal officer with general charge, supervision, and direction of the State’s legal business. Me. Const. art. IX, Sec. 11; Me. Rev. Stat. tit. 5, §§ 191 *et seq.* The Attorney General’s powers and duties include acting on behalf of the State and the

people of Maine in the federal courts on matters of public interest. The Attorney General has the authority to file suit to challenge action by the federal government that threatens the public interest and welfare of Maine residents as a matter of constitutional, statutory, and common law authority.

21. Plaintiff Commonwealth of Massachusetts is a sovereign state of the United States of America. Massachusetts is represented by its Attorney General, Maura Healey. Attorney General Healey is the chief law enforcement officer in Massachusetts and has both statutory and common-law authority to bring lawsuits to protect the interests of the Commonwealth of Massachusetts and the public interest of the people. *Feeney v. Commonwealth*, 366 N.E.2d 1262, 1265-66 (Mass. 1977); Mass. Gen. Laws ch. 12, §§ 3, 10.

22. Plaintiff State of North Carolina is a sovereign state of the United States of America. North Carolina is represented by its Attorney General, Joshua H. Stein, who is the chief law enforcement officer of the State. The Attorney General brings this lawsuit under his constitutional, statutory, and common-law authority.

23. Defendant Louis DeJoy is the United States Postmaster General and is sued in his official capacity. His principal address is 475 L'Enfant Plaza S.W., Washington, D.C. 20260.

24. Defendant Robert M. Duncan is the Chairman of the Postal Service Board of Governors and is sued in his official capacity. His principal address is 475 L'Enfant Plaza S.W., Washington, D.C. 20260.

25. Defendant United States Postal Service is “an independent establishment of the executive branch” of the U.S. government. 39 U.S.C. § 201. Its principal address is 475 L'Enfant Plaza S.W., Washington, D.C. 20260. Congress has waived the Postal Service’s immunity from suit. 39 U.S.C. § 401.

BACKGROUND

I. Elections in the United States

26. The Constitution invests the States with primary authority for regulating elections for federal office.

27. Under the Elections Clause, each State’s legislature shall prescribe “The Times, Places and Manner of holding Elections for Senators and Representatives” to represent that State. U.S. Const., art. I, § 4, cl. 1. That clause further provides that Congress—and only Congress—“may at any time by law make or alter such regulations.” *Id.*

28. The exercise of State power under the Elections Clause is necessary for elections “to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Storer v. Brown*, 415 U.S. 724, 730 (1974). Consequently, “States have evolved comprehensive, and in many respects complex, election codes regulating in most substantial ways, with respect to both federal and state elections, the time, place, and manner of holding primary and general elections, the registration and qualifications of voters, and the selection and qualification of candidates.” *Id.*

29. Each State also possesses the constitutional prerogative, under the Electors Clause, to “appoint” presidential electors “in such Manner as the Legislature thereof may direct.” U.S. Const. art. II § 1, cl. 2. The Electors Clause “‘convey[s] the broadest power of determination’ over who becomes an elector” to the States. *Chiafalo v. Washington*, 140 S. Ct. 2316, 2324 (2020) (quoting *McPherson v. Blacker*, 146 U.S. 1, 27 (1892)).

30. The 26th Amendment further guarantees that the “right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.” U.S. Const. amend. XXVI.

II. Voting in the Plaintiff States

Pennsylvania

31. For several decades, Pennsylvania has allowed for absentee voting by, among others, individuals serving in the military and anyone who would be away from his or her polling place on Election Day for business or occupational reasons. 25 Pa. Stat. § 3146.1.

32. In October 2019, Pennsylvania enacted Act 77, the most significant change to the Commonwealth's elections code in more than 80 years. *See* Act of October 31, 2019, P.L. 552 No. 77 (Act 77). Among other reforms, Act 77 gave Pennsylvanians more time to register to vote; instituted no-excuse mail-in voting for all Pennsylvania voters; extended mail-in and absentee submission deadlines; allowed Pennsylvanians to request placement on a permanent mail-in or absentee ballot list for all elections held in a calendar year; and provided funding for local election board to implement more secure voting procedures, including machines with a voter-verifiable paper ballot.

33. Act 77 took effect for the 2020 primary election and will govern the November 2020 general election in Pennsylvania. As a result, any registered Pennsylvania voter is entitled to vote by an official mail-in ballot in the 2020 election. 25 Pa. Stat. § 3150.11.

34. The deadline to register to vote in Pennsylvania is 15 days before the election. 25 Pa. Stat. § 3071. For the November 2020 general election, this deadline is October 19, 2020.

35. Voters apply for a mail-in or absentee ballot by mailing or hand-delivering a paper form to the county board of elections. 25 Pa. Stat. § 3150.12(f); 25 Pa. Stat. § 3146.2.

Voters with qualifying state identification can also submit an application for a mail-in or

absentee ballot entirely online. 25 Pa. Stat. § 3150.12(f); 25 Pa. Stat. § 3146.2(k); Pa. Dep't of State, *Ballot Request Application*.²

36. Applications for mail-in and absentee ballots must be submitted one week before the election and received by county board of elections “not later than five o'clock P.M. of the first Tuesday prior to the day of” any election. 25 Pa. Stat. § 3150.12a(a); 25 Pa. Stat. § 3146.2a(a). For the November 2020 general election, the deadline to apply for a mail-in or absentee ballot is 5 p.m. on Tuesday, October 27.

37. Voters who satisfy an exception, such as voters with a disability or who were unable to apply for business or occupational reasons, may apply for an absentee ballot until polls have closed. 25 Pa. Stat. § 3146.2a.

38. Beginning 50 days before the election, the county board of elections must begin mailing mail-in and absentee ballots as soon as the ballot is certified and the ballots are available. 25 Pa. Stat. §§ 3150.12a(a), 3150.15; 25 Pa. Stat. §§ 3146.2a(a), 3146.5(b)(1). Once delivery of mail-in and absentee ballots has begun, the county board of elections must mail or deliver mail-in and absentee ballots to voters within 48 hours of receiving and approving an application for a mail-in ballot. 25 Pa. Stat. § 3150.15; 25 Pa. Stat. § 3146.5(b)(1). Because applications can be submitted until a week before the election, the latest a Pennsylvania county board can mail a ballot for the November 2020 general election is Thursday, October 29.

39. Act 77 provides that, except for overseas military ballots, mail-in and absentee ballots will be counted only if they are received by the county board of elections by 8 p.m. on the day of the election. 25 Pa. Stat. §§ 3150.16; 3511; 25 Pa. Stat. § 3146.6. Voters must mail the

² <https://www.pavoterservices.pa.gov/OnlineAbsenteeApplication/#/OnlineAbsenteeBegin>.

completed ballot or deliver it in person to the county board of elections. 25 Pa. Stat. § 3150.16; 25 Pa. Stat. § 3146.6.

40. In response to the COVID-19 pandemic and the significant increase in mail-in voting applications, Pennsylvania will provide funding to allow counties to send a postage-paid ballot-return envelope with each ballot for the November 2020 general election. The Pennsylvania Department of State is working with individual counties to identify the easiest manner of implementing pre-paid postage for November's returned ballots—whether it be reimbursed metered postage, funding Business Reply Mail postage costs, or reimbursement for stamps.

41. Pennsylvania voters at any time can request to be placed on a permanent mail-in or absentee ballot list. 25 Pa. Stat. § 3150.12(g); 25 Pa. Stat. § 3146.2(e.1). Voters on this list will receive a mail-in or absentee ballot application every year. If the voter completes the application and requests to receive a mail-in or absentee ballot for all other elections during that calendar year, then the voter will automatically receive a mail-in or absentee ballot for the remainder of the calendar year. More than 1.1 million Pennsylvania voters signed up for the permanent mail-in ballot list for elections in calendar year 2020.

42. On June 2, 2020, Pennsylvania conducted its first election under Act 77. “Nearly 1.5 million voters cast their vote by mail-in or absentee ballot, 17 times the number that voted absentee in the 2016 primary, when approximately 84,000 absentee ballots were cast.” Pa. Dep’t of State, *Pennsylvania 2020 Primary Election Act 35 of 2020 Report* 4 (Aug. 1, 2020) (“2020 Report”).³ The 2020 Report explained that four “unprecedented conditions” occurred for the 2020 primary: (1) all 67 counties implemented new voting systems with a voter-verifiable paper

³ <https://www.dos.pa.gov/VotingElections/Documents/2020-08-01-Act35Report.pdf>

ballot; (2) the expansion of mail-in voting to all eligible voters; (3) the COVID-19 global pandemic; and (4) civil unrest in response to the death of George Floyd, leading to curfews, travel restrictions, and office closures. *Id.* at 4. Nearly 1.5 million Pennsylvanians voted by mail and more than 1.3 million voted in person, resulting in “overall turnout . . . far higher than in 2012,” the last election in which a presidential primary was not contested in either party. *Id.* The ability to cast a mail-in ballot was particularly important in larger counties where hundreds of poll sites were consolidated for reasons related to COVID-19 and civil unrest. *See id.* at 31-32 (Allegheny consolidated 830 polling places into 211; Delaware consolidated 151; Montgomery consolidated 212; and Philadelphia consolidated 850 into 190).⁴

43. Older individuals, those 65 and over, make up 18.7 percent of Pennsylvania’s population, compared to 14.9 percent nationally.

44. As of August 17, 2020, more than 8.67 million Pennsylvanians have registered to vote. Of these, more than 1.68 million voters have requested a mail-in or absentee ballot for the November 2020 general election and more than 1.34 million voters have been approved. By comparison, only 356,300 absentee ballot requests were approved for the 2008 general election; 311,477 for the 2012 general election; and 322,467 for the 2016 general election.

California

45. California has a decades-long history of safely and securely administering mail-in elections. California began tracking the use of absentee mail-in voting in 1962, and it has allowed absentee mail-in voting for any registered voter, for any reason, since 1979.

⁴ *See also, e.g.,* Julian Routh, *County announces consolidated voting places for June 2 Pa. primary*, Pittsburgh Post-Gazette (May 15, 2020), <https://www.post-gazette.com/news/vote/2020/2020/05/15/allegheny-County-announces-consolidated-voting-places-for-June-2-Pa-primary/stories/202005150141>.

46. In June 2020, in response to COVID-19, the California Legislature enacted, and Governor Gavin Newsom signed, Assembly Bill 860, which requires that all active registered voters in California receive a vote-by-mail ballot in the mail prior to the November 2020 general election. 2020 Cal. Stat. ch. 4 (AB 860).

47. For the November 2020 general election, the California elections officials shall, no later than 29 days before the day of the election, begin mailing ballots and required election materials to every active registered voter in each county. The county elections official shall have five days to mail a ballot to each person who is registered to vote on the 29th day before the day of the election and five days to mail a ballot to each person who is subsequently registered to vote. Cal. Elec. Code § 3000.5. This must include a ballot, and all supplies necessary for the use and return of the ballot, including an identification envelope with prepaid postage for the return of the vote by mail ballot. Cal. Elec. Code § 3010.

48. California voters may return completed ballots by mail (with postage prepaid by the State); by returning the ballot in person to a polling place, vote center or early voting location, or office of county elections official; by dropping the ballot into one of the county's ballot drop boxes; or authorizing someone to return the ballot on the voter's behalf. Cal. Elec. Code § 3017, subds. (a), (b). The State accepts completed ballots that are postmarked no later than Election Day or received by other means no later than the time the polls close on Election Day. Cal. Elec. Code § 3020.

49. County election officials must examine the postmark on the return envelope and signature on the declaration before processing the ballot. Signatures are also reviewed to ensure that a voter's signature on the ballot declaration matches the signature of that voter in the registration files. Cal. Elec. Code §§ 3020, 3019.

50. County election officials may begin to process vote by mail ballot return envelopes beginning 29 days before the election. Processing vote by mail ballot return envelopes may include verifying the voter's signature on the vote by mail ballot return envelope pursuant to Section 3019 and updating voter history records. Cal. Elec. Code § 15101(a). For the statewide general election to be held on November 3, 2020, any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the 29th day before the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine. However, under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election. Cal. Elec. Code § 15101(b)(2). Results of any vote by mail ballot tabulation or count shall not be released before the close of the polls on the day of the election. Cal. Elec. Code § 15101(c).

51. For the November 2020 general election, county election officials must accept as timely cast any ballot received by the voter's elections official via USPS or a bona fide private mail delivery company by the 17th day after Election Day as long as the ballot is either (1) postmarked on or before election day, is time stamped or date stamped by a bona fide private mail delivery company on or before election day or it is otherwise indicated by USPS or a bona fide private mail delivery company that the ballot was mailed on or before election day; or (2) if the ballot has no postmark, a postmark with no date, or an illegible postmark, and no other information is available from USPS or the bona fide private mail delivery company to indicate the date on which the ballot was mailed, the vote by mail ballot identification envelope is date

stamped by the elections official upon receipt of the vote by mail ballot from USPS or a bona fide private mail delivery company, and is signed and dated prior to or on Election Day. Cal. Elec. Code § 3020(d).⁵

52. For prior elections, California has paid USPS Marketing Mail rate for distributed ballots and Business Reply Mail rate (First-Class equivalent) for returned ballots.

53. For elections other than the November 2020 general election, voters can request to be placed in permanent vote-by-mail status. Cal. Elec. Code. § 3000, *et seq.* Voters can complete a one-time application through their elections office online or by mail. Voters who complete the application to become a permanent vote-by-mail voter will automatically receive a mail-in ballot for all subsequent elections. A voter's permanent vote-by-mail status will end if the voter cancels their status or if the voter does not vote in four consecutive statewide general elections. As of filing, 14.4 million California voters are currently on the permanent mail-in ballot list.

54. Between tracking of individual ballots, verification of individual signatures, and other safeguards, California's vote-by-mail system has proven to be secure and, historically, there is no evidence of significant levels of voter fraud related to vote-by-mail ballots in California.

⁵ For purposes of this section, "bona fide private mail delivery company" means a courier service that is in the regular business of accepting a mail item, package, or parcel for the purpose of delivery to a person or entity whose address is specified on the item. Cal. Elec. Code § 3020(c). Notably, about 3,000 routes in California are only covered by rural carriers, meaning that residents along these routes heavily rely on USPS to send and receive mail. Erika D. Smith, *Column: Trump is so dumb trying to sabotage USPS, Democrats. He's hurting his own voters*, L.A. Times (Aug. 14, 2020), <https://www.latimes.com/california/story/2020-08-14/trump-usps-fight-hurts-voters-before-november-election>.

55. California's vote-by-mail system is widely and increasingly used by California voters. In the 2020 primary election, over 9.6 million ballots were cast, considerably above the 7.1 million ballots cast for the most recent similar election, the 2018 primary election. And the percentage of total ballots cast by voting by mail increased as well, from 67.7 percent of the total ballots cast in the 2018 primary election to 72.08 percent of the total ballots cast in the 2020 primary election.

56. California's expansive vote-by-mail system allowed the state to run elections during the COVID-19 pandemic without the danger of voters congregating at overcrowded polling stations. In two special elections held in May 2020, in which all active status, registered voters in those districts were automatically sent mail-in ballots, voter participation remained about the same or increased compared to the March 3, 2020, primary, in which mail-in ballots were not automatically sent to all active voters, except in Los Angeles County. In California's 25th Congressional District, there was 41.06 percent voter participation in the May special election, an increase from 38.95 percent voter participation in the March primary. In California's 28th State Senate District, there was 38.95 percent voter participation in the May special election, compared to 44.84 percent in the March primary.

57. Approximately 14.8 percent of California's population is aged 65 years or older.

58. As of filing, 20.9 million active California voters will automatically be receiving a mail-in ballot for the November 2020 general election.

Delaware

59. Delaware has allowed absentee voting for decades. Article V, § 4A of the Delaware Constitution directs the Delaware General Assembly to enact laws allowing for absentee voting for certain specified categories of individuals. Today, Delaware law allows qualified, registered voters who are unable to appear at their polling place to vote absentee if,

among other listed reasons, they are sick, physically disabled, absent from the State due to public or military service, or because they are living abroad or on vacation. Del. Code Ann. tit. 15, § 5502. Delaware subsequently permitted some of these classes of individuals to obtain permanent absentee status and receive an absentee ballot for every election. Del. Code Ann. tit. 15, § 5503(k).

60. Absentee voting eligibility for Delaware's 2020 presidential primary was expanded due to the COVID-19 pandemic through an executive order issued by Delaware Governor John C. Carney, Jr., which allowed any otherwise duly-registered voter to vote by absentee ballot using the "sick or physically disabled" qualification under Delaware law if the individual was abiding by Centers for Disease Control & Prevention and Delaware Division of Public Health guidelines by exercising self-quarantine or social distancing to avoid potential exposure to (and community spread of) COVID-19. *See Sixth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat* (Mar. 24, 2020).⁶ More than 56,000 individuals utilized this expanded absentee voting eligibility to cast an absentee ballot for the 2020 presidential primary, compared to 5,046 individuals who voted by absentee ballot for the 2016 presidential primary.

61. On July 1, 2020, Delaware enacted legislation to allow any registered voter to vote by mail-in ballot for the non-presidential primary election scheduled for September 15, 2020, the general election on November 3, 2020, and any special election to be called in 2020 due to a vacancy in a statewide office, the Delaware General Assembly, or an office of United States Representative, Senator, or Presidential Elector. Del. Code Ann. tit. 15, § 5601.

⁶ <http://governor.delaware.gov/health-soe/sixth-state-of-emergency/>.

62. Under the new mail-in voting law, the State Election Commissioner is required to send an application to receive a mail-in ballot to every qualified, registered voter no less than 60 days before an applicable election. Del. Code Ann. tit. 15, § 5603(a). For each registered voter who requests a mail-in ballot, the Delaware Department of Elections must send that voter a mail-in ballot, instructions for completing the ballot, and a postage-paid envelope marked “BALLOT ENVELOPE” to return it. Del. Code Ann. tit. 15, § 5604(b). These materials must be sent to the requesting registered voter not more than 30 days nor less than 4 days prior to the applicable election, and within 3 days of the materials becoming available to the Department of Elections. *Id.* As a matter of practice, the Department of Elections sends outbound election materials by First-Class Mail, except for the mail-in voting application, which is sent Business Reply Mail. The postage-paid ballot envelopes sent to voters are marked First-Class.

63. Delaware voters may return completed ballots to the Department of Elections in one of three ways: depositing the ballot envelope in a United States postal mailbox; delivering the ballot envelope to the Department of Elections; or placing the ballot envelope in a secure drop-box located in a publicly accessible portion of a Department of Elections office either before or on the day of election. Del. Code Ann. tit. 15, § 5607(a)(4). In each case, the Department of Elections must receive a mail-in ballot before the polls close on the day of election in order for it to be counted. Del. Code Ann. tit. 15, § 5608.

64. Approximately 19.4 percent of Delaware residents, and 24.2 percent of all registered Delaware voters, are 65 years of age or older.

65. As of filing, 727,968 Delaware voters have registered to vote. Of these, 81,677 voters have requested an absentee or mail-in ballot for the November 2020 general election.

66. As of filing, 24,552 Delaware voters are on the permanent absentee ballot list.

District of Columbia

67. In the District of Columbia, voters may cast an absentee ballot via mail without an excuse, or cast a ballot in person during early voting or on Election Day.

68. Ballots cast by mail must be postmarked or otherwise demonstrated to have been sent on or before Election Day and must arrive no later than the tenth day after Election Day.

69. Due to the COVID-19 pandemic, the District of Columbia Board of Elections (DCBOE) encouraged voters to cast their ballots by mail for the June 2, 2020, primary election. For that election, all active registered voters received an absentee ballot application and a postage-paid return envelope. D.C. Code § 1-1001.05(a)(9A).

70. Tens of thousands of voters submitted that application and participated in the election via mail-in ballot. Of the nearly 115,000 ballots cast in that election, 67 percent were cast by mail. By comparison, in the 2016 primary, just 5.5 percent of ballots were cast by mail.

71. To protect the public and election workers, DCBOE is strongly encouraging voters to vote by mail for the November 2020 general election. For that election, all active registered voters will receive an absentee ballot and a postage-paid return envelope at their registered address or mailing address. D.C. Code § 1-1001.05(a)(9A-i). Voters will not be required to request a mail-in ballot.

72. Due to COVID-19, and in comparison to previous presidential elections, there will be diminished availability to cast a ballot early in person or in person on Election Day. For example, while there were 143 Election Day precinct-based polling places for the November 8, 2016 election, there will be just 89 Election Day Vote Centers on November 3, 2020.

73. As of 2019, 12.4 percent of District residents were age 65 or older.

74. As of July 31, 2020, there were 503,093 registered voters in the District of Columbia.

Maine

75. Before 1999, Maine voters could vote absentee when the voter was unable to cast a ballot due to: absence from the municipality during the time the polls are open on election day; physical incapacity; confinement in a penal institution; or unreasonable distance from the polls, if the voter is a resident of a township, coastal island ward or district. Me. Rev. Stat. Ann. Tit. 21-A § 751 (1999). Since 1999, Maine voters also have been able to vote absentee with no excuse. Me. Rev. Stat. Ann. Tit. 21-A § 751 (2020).

76. To vote absentee, a voter must request a ballot. A request for a no excuse absentee ballot must be made no later than 5 p.m. on the Thursday before Election Day, which is October 29, 2020, for the upcoming election. Voters can still obtain an absentee ballot after that deadline if they can invoke one of the reasons listed in Me. Rev. Stat. Ann. Tit. 21-A § 753-B(2)(D) (2020).

77. Voters may choose between three methods of absentee voting: voters may mail their completed ballot to the municipal office for the municipality where they are registered to vote; voters may carry their completed ballot to that same municipal office, or have a family member or authorized third person do so; and voters may complete their ballot prior to Election Day in the presence of the clerk in their municipality.

78. With an exception for communities with fewer than 100 residents, absentee ballots must be received in the municipal office before 8 p.m. on Election Day to be counted. Me. Rev. Stat. Ann. Tit. 21-A §§ 626(2), 755 (2020).

79. The need for an effective vote-by-mail option is critical in Maine because the electorate includes relatively high levels of individuals unable to vote in person and individuals at risk of severe illness from COVID-19, particularly disabled and elderly voters.

80. Maine has among the highest rates of disability in the nation: According to the Maine Center for Disease Control, 22.1 percent of adults in Maine have some form of disability. Disabled Mainers vote at extremely high rates. In the November 2016 election, for example, 70.2 percent of disabled Mainers voted, the third-highest figure in the country.

81. Additionally, certain conditions which can result in disability, such as obesity and cancer, place individuals at an increased risk of severe illness from COVID-19. Maine has the highest obesity rate in New England, as well as the ninth-highest cancer rate in the country. According to the Maine Center for Disease Control, about half of Maine adults over the age of 18 are at risk of serious illness from COVID-19 due to age and pre-existing medical conditions.

82. Moreover, Maine is the oldest state in the nation. As of July 2019, approximately 21 percent of the population was over 65 years old. Older voters are also disproportionately represented in the Maine electorate. Of the approximately 693,000 Mainers who voted in the November 2018 election, more than a third were over the age of 65 (approximately 273,000 voters, or 79 percent of potential voters in that age group). Maine's older voters are particularly susceptible to harm from COVID-19. Over 27 percent of COVID-19 cases identified in Maine are among Mainers aged 60 or older.

83. Voting by mail is especially beneficial for Maine voters who are homebound, such as the elderly and members of the disabled community; those who are economically disadvantaged and have limited access to transportation and childcare that would enable them to vote in person during a set timeframe; overseas and military voters; those who are temporarily

away from home for work or family reasons; those who provide care for individuals must be vulnerable to COVID-19; and those who may not have time to get to the polls during set hours, such as shift workers, caregivers, single parents, and those without childcare or time off from work.

84. Maine's most recent primary, held on July 14, 2020, shows the importance of allowing voters to vote by mail. The percentage of ballots voted by mail increased significantly over prior years. Historically, the rate at which Maine voters voted by mail has been lower than 10 percent in general elections and less than 3 percent in primaries. Based upon final figures for the July 2020 primary, there were 111,139 ballots cast by mail, which equates to about 35 percent of ballots cast. This represents at least a 10 fold increase over primaries in the last four election cycles.

85. As of August 3, 2020, there are 1,063,383 residents are registered to vote. Between August 17, 2020 (when it was launched) and August 20, 2020, 45,976 voters have applied for an absentee or mail-in ballot through the online ballot request service, more than the total for the 2016 general election.

Massachusetts

86. Massachusetts has a long history of safely and securely accepting absentee ballots by mail. *See* Mass. Gen. Laws ch. 54, §§ 89-100. In 2014, Massachusetts law was changed to allow "early voting" for biennial state elections only, beginning with the 2016 election. The law provided for early voting in person or by mail, but only during the early voting period, which was limited to 10 days before the election. *See* Mass. Gen. Laws ch. 54, § 25B. The two systems (absentee voting and early voting) overlap in several ways, but the most important difference is that the state constitution requires that absentee voters must have an excuse (for example, a voter

can vote absentee if he is away from his city or town on Election Day), *see* Mass. Const. amend. art. CV, but no excuse is needed in order to vote early.

87. In 2020, in response to the ongoing COVID-19 pandemic, Massachusetts expanded its early voting program to permit voters to vote by mail without an excuse for an extended period of time over the previous law. Every registered voter is now eligible to vote early by mail in Massachusetts this year. A registered voter need only complete a timely application for a mail-in ballot to vote by mail this year in the State Primary or the State Election. *See* Mass. Stat. 2020, ch. 115, § 6

88. The deadline to register to vote in the State Primary (to be held on September 1, 2020) is August 22. The deadline to register to vote in the State Election (to be held on November 3, 2020) is October 24. Mass. Stat. 2020, ch. 115, § 18. A voter can register online, by mail, or in person at any city or town hall in Massachusetts. *See* Mass. Gen. Laws ch. 51, §§ 3, 26

89. In order to vote by mail, a registered voter must send a signed application for a mail-in ballot to a local election office. The voter will then be mailed a ballot to vote and return. *See* Mass. Stat. 2020, ch. 115, § 6

90. In order to make a timely request for a mail-in ballot, the voter's application for a ballot must be received by local election officials at least 4 business days before the relevant election. Local election officials mail ballots to voters as soon as they are available; this year, state law requires that ballots be made available to local election officials for the State Election no later than October 5, 2020. *See* Mass. Stat. 2020, ch. 115, § 6.

91. Each voter that makes a timely request for a mail-in ballot will receive a ballot, instructions, a security envelope in which to conceal the ballot after voting which contains an

affidavit that the voter must sign, and a larger envelope in which to return the security envelope. Once a voter receives a mail-in ballot, it can be completed and returned to local election officials either by mail or, where available, to a secure drop box. To be counted, the completed ballot must be received by a particular time by local election officials. For the State Primary on September 1, the ballot needs to be returned by 8 p.m. on September 1. For the State Election on November 3, a ballot, if mailed, needs to be postmarked by November 3 and it must reach the local election office by November 6. Hand-delivered ballots must be returned by 8 p.m. on November 3 for the State Election. *See* Mass. Stat. 2020, c. 115, § 6(h)(3).

92. For mail-in ballots, the envelopes provided to voters from Massachusetts are postage prepaid First-Class Mail rate for returned ballots.

93. Approximately 14 percent of the Massachusetts population is age 65 or older.

94. As of August 19, 2020, Massachusetts had 4,642,444 registered voters, of whom 1,081,089 have requested mail-in ballots for the September 1 primary election.

North Carolina

95. North Carolina has been safely and securely administering elections, including by giving voters the option to vote by mail for any reason, since 1999.

96. To vote by mail, voters must first be registered to vote. N.C. Gen. Stat. § 163-82.1. To vote in the 2020 general elections in North Carolina, voters who wish to register online or in-person must do so by October 9, 2020. N.C. Gen. Stat. § 163-82.6(d). Voters who wish to register by mail must ensure that their registration application is postmarked by October 9, 2020. *Id.*

97. To vote by mail, the voter must first request an absentee ballot by filling out a form provided by the North Carolina State Board of Elections. N.C. Gen. Stat. § 163-230.2. This form is available for download at the State Board's website and is also available for pickup at all

county board of elections offices. *Id.* The form can also be mailed to the interested voter upon request. *Id.* Absentee ballots may be requested until 5 p.m. on October 27, 2020. N.C. Gen. Stat. § 163-230.1(a). If the voter is requesting her absentee ballot by mail, the county board of elections office to which the voter sends her request must receive the request by 5 p.m. on October 27, 2020. *Id.*

98. County boards of elections will begin mailing absentee ballots to voters who have requested them using the request form beginning on September 4, 2020.

99. Voters may return completed ballots by mail. N.C. Gen. Stat. § 163-231(b). Alternatively, they may return completed ballots in-person to a county board of elections office or to early-voting sites during the early-voting period. *Id.* Absentee ballots must be returned to the county board of elections no later than 5 p.m. on Election Day. *Id.* Absentee ballots received after 5 p.m. on Election Day will be counted only if they are postmarked on or before Election Day *and* are received by mail no later than 5 p.m. three days after Election Day (in 2020, November 6). *Id.*

100. In a recent survey, 48 percent of likely voters in North Carolina said that they were “likely to vote by mail” in the 2020 General Election, compared to the 3 percent who voted by mail in 2016.⁷ In 2016, 4,769,640 voters cast ballots. Assuming a similar number of voters cast ballots in 2020, North Carolina is preparing for approximately 2.29 million voters to cast absentee ballots.

101. Approximately 16.7 percent of North Carolina residents are senior citizens, age 65 or older.

⁷ Charles Duncan, *Can North Carolina Handle Record Numbers of Absentee Ballots?*, Spectrum News1 (Aug. 1, 2020), <https://spectrumlocalnews.com/nc/charlotte/news/2020/07/31/north-carolina-sees-record-number-of-absentee-ballot-requests>.

102. As of August 19, 2020, North Carolina has received 295,959 requests for absentee ballots.

III. The United States Postal Service

103. The Constitution empowers Congress to “establish Post Offices and post Roads.” U.S. Const., art. I, § 8, cl. 7. The importance of the postal service “was prefigured by the Continental Congress’ appointment of Benjamin Franklin to be the first Postmaster General, on July 26, 1775 From those beginnings, the Postal Service has become the nation’s oldest and largest public business.” *U.S. Postal Serv. v. Flamingo Indus. (USA) Ltd.*, 540 U.S. 736, 739 (2004) (internal citations and quotation marks omitted).

104. The Postal Service has played “a vital yet largely unappreciated role in the development of” the United States. *U. S. Postal Serv. v. Council of Greenburgh Civic Assocs.*, 453 U.S. 114, 121 (1981). During the early years of this country’s development, “the Post Office was to many citizens situated across the country the most visible symbol of national unity.” *Id.* at 122.

105. Today, the Postal Service’s policy is to be “operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people.” 39 U.S.C. § 101(a). Its services are “to bind the Nation together through the personal, educational, literary, and business correspondence of the people,” which it does through “prompt, reliable, and efficient services to patrons in all areas.” *Id.* The costs of “maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.” *Id.*

106. The Postal Service touches the lives of virtually every American.⁸ Eighteen percent of Americans, and 40 percent of senior citizens, pay their bills via the mail. Nearly 20 percent of Americans who receive tax refunds do so through the mail. The Department of Veterans Affairs (VA) fills about 80 percent of veterans' prescriptions by mail, sending 120 million prescriptions a year. Every day, more than 330,000 veterans receive a package of prescriptions in the mail. More than half of the people who receive medication by mail are over the age of 65. Small businesses rely heavily on the Postal Service: 40 percent send packages via USPS every month and 25 percent fear that a post office closing would harm their business. In rural areas, where more than a third of post offices are located, the Postal Service provides a vital link to more than 14 million people without broadband access. In 2018, the Postal Service helped 42 million Americans securely vote in the midterm elections.

107. The Postal Service's critical role as an essential public service for all Americans is reflected in public opinion. According to the Pew Research Center, 91 percent of Americans have a favorable view of the Postal Service—higher than any other federal agency.

The Modern Postal Service

108. Postal service in the United States took its current form in 1970, when Congress passed the Postal Reorganization Act (PRA). *See* Pub. L. No. 91-375, 84 Stat. 719.

109. The PRA mandated that it “shall be the responsibility of the Postal Service to maintain an efficient system of collection, sorting, and delivery of the mail nationwide.” 39 U.S.C. § 403(b)(1).

⁸ Sam Berger & Stephanie Wylie, *Trump's War on the Postal Service Hurts All Americans*, Ctr. For Am. Progress (Aug. 19, 2020), <https://www.americanprogress.org/issues/democracy/news/2020/08/19/489664/trumps-war-postal-service-hurts-americans/>.

110. Under the PRA, the “Postal Service shall plan, develop, promote, and provide adequate and efficient postal services at fair and reasonable rates and fees.” 39 U.S.C. § 403(a).

111. When “determining all policies for postal services, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.” 39 U.S.C. § 101(e).

112. The PRA effected several changes designed “to increase the efficiency of the Postal Service and reduce political influences on its operations.” *Flamingo Indus.*, 540 U.S. at 740.

113. First, the PRA gave the Postal Service its current name and made it “an independent establishment of the executive branch of the Government of the United States.” 39 U.S.C. § 201.

114. Second, the PRA created a board of governors, consisting of 11 members, to oversee the exercise of the Postal Service’s power. 39 U.S.C. § 202(a). The President appoints nine of those governors with the advice and consent of the Senate. *Id.* Those nine appoint the tenth governor, who serves as the Postmaster General. *Id.* § 202(c). Those ten appoint the eleventh governor, who serves as the Deputy Postmaster General. *Id.* § 202(d).

115. Third, the PRA created the Postal Rate Commission—now called the Postal Regulatory Commission—as another “independent establishment of the executive branch of the Government of the United States.” 39 U.S.C. § 501.⁹ The Commission has five presidentially appointed members, all to “be chosen solely on the basis of their technical qualifications,

⁹ The sections of the PRA that created the Commission were initially codified at 39 U.S.C. §§ 3601-3604. In 2006, Congress transferred and modified certain provisions relating to the Postal Service, including those that established the Commission. Pub. L. No. 109-435, 120 Stat. 3198, 3238 (2006).

professional standing, and demonstrated expertise in economics, accounting, law, or public administration.” *Id.* § 502.

116. The Commission has numerous responsibilities set forth in the PRA and the Postal Accountability and Enhancement Act. *See* Pub. L. No. 109-435, 120 Stat. 3198 (2006). Among them, anytime “the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis” it must first “submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change.” 39 U.S.C. § 3661(b). Before the Commission issues an advisory opinion, it must hold a hearing on the record. *Id.* § 3661(c). The public is entitled to submit comments in proceedings before the Commission. 39 C.F.R. § 3010.140.

117. Prior to certain organizational changes implemented on August 7, 2020, the Postal Service maintained a headquarters and a field office structure composed of seven area offices (Eastern, Northeastern, Capital Metro, Great Lakes, Pacific, Southern, and Western), which themselves contained a total of 67 district offices that oversaw approximately 31,000 facilities. Post offices, branches, carrier stations, mail processing and distribution centers, network distribution centers, and other postal service facilities within a district reported up to the district office, which in turn reported up to the area office. District offices were responsible for implementing national policy and procedures within their districts.

118. Following operational changes implemented on August 7, 2020, retail and delivery operations are now divided into four areas (Atlantic, Southern, Central, and Western Pacific) and mail processing is divided into two areas (Eastern and Western).

Postal Service Operations

119. The Postal Service has formally adopted several classes of mail, including First-Class Mail and Marketing Mail, which are transported with different delivery standards and with different postage rates.

120. The Postal Service also offers Business Reply Mail, which enables the sender to provide a recipient with a prepaid method for replying to a mailing. Mail sent with a Business Reply Mail envelope is often not postmarked.

121. The processing and delivery of mail in the Postal Service network is a highly integrated and complex system through which an average of 470 million mailpieces move every day.

122. The Postal Service operates on a 24-hour clock, and every step of the mail processing and delivery stream leads into the next.

123. The majority of incoming mail—including letters, flats, and parcels—is processed overnight by postal workers and mail handlers at mail processing facilities, otherwise known as plants. Processing mail involves applying a postmark and sorting and arranging the mail for transportation and delivery. Most mail processing is now automated, with processing machines ultimately sorting the vast majority of mail into “delivery point sequence,” i.e., into the delivery order that will be used by the letter carrier on her route. Processed mail is dispatched in trucks from the plants in the very early morning (often 5 or 6 a.m.), where it travels either to non-local destinations for further processing or to delivery units (e.g., a post office or carrier station) for delivery to local destinations.

124. Processed mail ready for delivery normally arrives at the delivery unit in the morning (often 8 or 9 a.m.), where any final sequencing is carried out by clerks and letter

carriers. Carriers deliver the processed mail and collect new mail on foot or by vehicle in a prescribed area during general business hours (i.e., between approximately 9 a.m. and 6 p.m.). In the evening, mail collected by carriers on their routes and mail collected by clerks at post offices is sent from the delivery unit by truck to the processing plant; this process is known as the final dispatch of value. When the collected mail arrives at the processing plant, the cycle begins again.

125. Because the Postal Service has long embraced a philosophy that every piece of mail goes out of the plant or delivery unit every day, regardless of conditions, overtime is necessary. If a tray of mail is not ready when the truck is scheduled to depart the processing plant, the truck would ordinarily wait. Likewise, if the processed mail has not arrived at the delivery unit when the carrier arrives for work, the carrier would ordinarily wait for the mail to arrive before departing on her route. If additional mail arrives while the carrier is out on her route or if that day's mail was too much to carry in one trip, the carrier would ordinarily make a second trip to ensure every piece was delivered that day.

126. For the last decade, the Postal Service has experienced a decline in letter mail but an increase in parcels. Parcels can be bulkier and heavier and may require additional time to process and deliver. Recently, COVID-19 has caused a spike in parcels as Americans spend more time at home and avoid going out.

127. COVID-19 has caused staffing shortages at USPS and exacerbated the use of overtime, especially among letter carriers. If a letter carrier is sick, quarantining, dealing with the absence of child care, or otherwise unable to complete her route, then another carrier would need to work on an off-shift to ensure that the mail is delivered.

IV. Role of USPS in Ensuring Free and Fair Elections

128. Over the past several decades, voting by mail has steadily expanded nationwide. In 1996, 7.8 percent of Americans mailed in their votes; in 2016, 20.9 percent did.¹⁰ Today, every state offers some form of voting by mail.

129. A growing number of states conduct all-mail elections, in which every registered voter is mailed a ballot. Oregon conducted the first presidential election completely by mail in 2000.¹¹ Washington allowed counties to hold all-mail elections in 2005; by 2011, after 38 of 39 counties were conducting all-mail elections, the Washington Legislature implemented mail-in voting statewide.¹² In Utah, jurisdictions have been permitted to conduct elections by mail since 2012; all jurisdictions have done so since 2019.¹³ Colorado has been sending all voters mail-in ballots since 2013¹⁴ and Hawai‘i will be conducting elections entirely by mail for the first time in 2020.¹⁵ In response to the national health crisis caused by the COVID-19 pandemic, four

¹⁰ Pew Research Center, *Share of voters casting ballots by mail has steadily risen since 1996* (June 23, 2020), https://www.pewresearch.org/fact-tank/2020/06/24/as-states-move-to-expand-the-practice-relatively-few-americans-have-voted-by-mail/ft_2020-06-24_votebymail_01/.

¹¹ J. Edward Moreno, *Here’s where your state stands on mail-in voting*, The Hill (June 9, 2020), <https://thehill.com/homenews/state-watch/501577-heres-where-your-state-stands-on-mail-in-voting>.

¹² Wash. Sec’y of State, *Washington Vote-By-Mail Fact Sheet*, https://www.sos.wa.gov/_assets/elections/wa_vbm.pdf.

¹³ Nat’l Conf. of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options* (July 10, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

¹⁴ Moreno, *supra* note 11.

¹⁵ Nat’l Conf. of State Legislatures, *supra* note 13.

additional states—California, New Jersey, Nevada, and Vermont—and the District of Columbia adopted laws that will automatically mail ballots to all eligible registered voters.¹⁶

130. An additional 28 states allow voters to vote by mail without an excuse. Six others allow voters to cite the COVID-19 pandemic to vote by mail. And in seven other states, voters may request a mail-in ballot if they will not be able to vote in person on the day of the election.¹⁷

131. To accommodate the widespread adoption of mail-in balloting, USPS has in recent years adopted a number of policies and procedures to ensure the speedy and efficient processing of “Election Mail.”

132. “Election Mail” is a term of art within USPS, used to describe any item mailed to or from authorized election officials that enables citizens to participate in the voting process, such as balloting materials, voter registration cards, absentee ballot applications, and polling place notifications.

133. The Postal Service has traditionally given Election Mail its highest priority, regardless of the class of mail.

134. In an August 14, 2008, Postal Bulletin (PB 22239), the Postal Service stated that it “stands ready to do everything it can to make sure voters experience a smooth, well-organized process—one that provides them with the highest levels of trust and confidence when they cast their ballots by mail.” It was “critical” that “Postal Service employees be ready to provide reliable service and delivery for this very important and time-sensitive mail,” which “must be

¹⁶ Kate Rabinowitz & Brittany Renee Mayes, *At least 77% of American voters can cast ballots by mail in the fall*, Wash. Post. (last updated Aug. 14, 2020), <https://www.washingtonpost.com/graphics/2020/politics/vote-by-mail-states/>; Juliette Love, et al., *Where Americans Can Vote by Mail in the 2020 Elections*, N.Y. Times (last updated Aug. 14, 2020) <https://www.nytimes.com/interactive/2020/08/11/us/politics/vote-by-mail-us-states.html>.

¹⁷ See *supra* note 16.

handled promptly and receive equal care and attention.” The Bulletin reminded employees that “[w]illful delay of absentee balloting material or other election material is a violation of policy, ethics, and law.”

135. In a July 26, 2012, Postal Bulletin (PB 22342), the Postal Service stated that in the lead up to the November 2012 election, “Vote-by-Mail ballots and other mail prepared by election officials will be entering the mailstream” and “Postal Service employees need to watch for this important time-sensitive mail and do their part to ensure each mailing receives the highest level of service.” The Bulletin provided detailed standard operating procedures for the acceptance of Election Mail. The Bulletin also explained that the Postal Service would suspend its network consolidations from September through December 2012 “[d]ue to the volume of high-priority mail predicted for the election as well as the holiday mailing seasons.”

136. In 2016, the Postal Service began providing an Election Mail communications plan in multiple issues of the Postal Bulletin. (PB 22437, 22443, 22449).

137. In a September 1, 2016, Postal Bulletin (PB 22449), the Postal Service acknowledged that the “U.S. Mail is an important part of the U.S. election process.” It reminded employees that in the lead up to the November 2016 election, “Vote-by-Mail ballots and other mail prepared by election officials will be entering the mailstream” and “Postal Service employees need to watch for this important time-sensitive mail and do their part to ensure each mailing receives the highest level of service.” In response to concerns that “changes in delivery standards could require additional time for Election Mail” to reach voters, the Postal Service announced that “plans [were] in place from coast to coast to ensure the timely receipt, processing, and delivery of election and political mail.”

138. Among the key objectives of USPS's Election Mail communications plan for 2016 were to "[a]ssure election officials that ballots will be handled correctly" and "[i]ncrease attentiveness among employees that when they encounter official Election Mail . . . to always handle it promptly and provide it with equal care and attention." Among the key messages was that "the Postal Service can be trusted to deliver ballots in a timely manner." Because the Postal Service had made service standard changes in the last year, "Postal Service representatives [were] working closely with local and federal election officials to address and alleviate any concerns."

139. The Department has so far issued three Postal Bulletins that address Election Mail ahead of the November 2020 general election. (PB 22539, 22546, 22551).

140. In its July 30, 2020, Postal Bulletin (PB 22551), the Postal Service expressed its commitment "to fulfilling its role in the electoral process for those public policy makers who chose to use our organization as a part of their election system." It acknowledged that "voting by mail is increasing in popularity across broad segments of the American electorate, and the Coronavirus (COVID-19) pandemic has accelerated this trend." The Postal Service indicated that it expected more than a quarter of all voters to cast ballots by mail in light of recent changes related to COVID-19.

141. Among the key objectives of its Election Mail plan for 2020 are to "[i]nform election officials that ballots will be delivered according to USPS® service standards" and "[e]nsure Postal Service employees know that they must always promptly and efficiently handle Election Mail . . . with equal care and attention." Among the key messages is that "[c]ustomers can trust the Postal Service to deliver their mailed ballots in a timely manner."

142. Due to the importance of Election Mail, the Postal Service has historically delivered ballots even if they lack sufficient postage.

143. For example, an August 14, 2008, Postal Bulletin (PB 22239) stated that: “It is critical that this mail is handled correctly to avoid any negative impact on election results or the Postal Service. *Employees need to be aware that absentee balloting materials are handled differently than other unpaid or short-paid mailpieces. **ABSENTEE BALLOTING MATERIALS ARE NOT TO BE RETURNED FOR ADDITIONAL POSTAGE OR DETAINED!*** The postage is collected from the election office. Any delay of absentee ballots is a violation of Postal Service policy” (emphasis in original).

144. Likewise, in its July 26, 2012, Postal Bulletin (PB 22342), the Postal Service stated that “short-paid and unpaid absentee balloting materials must never be returned to the voter for additional postage. Postage is collected from the election office upon delivery or at a later date.”

145. On April 22, 2020, Postal Service spokesperson Martha Johnson reaffirmed that it “is the postal service’s policy not to delay the delivery of completed absentee or vote-by-mail ballots even if no postage has been affixed or if the postage is insufficient.”

146. The Postal Service has developed the Official Election Mail logo, a unique registered trademark “used on any mailpiece created by an election official that is mailed to or from a citizen of the United States for the purpose of participating in the voting process.” Use of the logo “serves to identify Official Election Mail for Postal Service workers and distinguish it from the thousands of other mailpieces that are processed daily.” The Postal Service issues Publication 631 to aid state and local election officials in using the logo.

147. The Postal Service also issues Publication 632, which provides state and local election officials with guidance on how to send Election Mail. The Postal Service has issued Publication 632 since at least September 2005.

148. In November 2007, the Postal Service developed the green Tag 191 to provide greater visibility to ballot mail during Postal Service handling. Election officials can use Tag 191 to identify trays and sacks of ballot mail destined for either domestic or international addresses. Tag 191 is not used for all Election Mail; instead it helps identify only actual ballots.

149. As part of its priority treatment of Election Mail, the Postal Service has historically delivered Election Mail at First-Class Mail delivery standards regardless of the class of mail used.

150. In its audit of the 2018 elections, the Postal Service Office of Inspector General (OIG) concluded, based on interviews with management at audited mail facilities, that Election Mail is generally handled as First-Class Mail. OIG found that 95.6 percent of Election Mail in 2018 met the 1-3 day service standard for First-Class Mail.

151. The highest performing mail facilities audited by OIG took affirmative steps to ensure that Election Mail be given priority attention, including: having personnel separate and identify Election Mail from other mail in the facility and facilitating timely and frequent communications with all levels of plant staff about policies and procedures for Election Mail.

152. The 2018 audit recommended Postal Service management take several key steps to ensure timely delivery of Election Mail, which “is necessary to ensure the integrity of the U.S. election process.” These steps included ensuring “sufficient mail processing staff are assigned to appropriately process peak” Election Mail volume.

V. The Administration's Efforts to Undermine Voting by Mail

President Trump's Campaign Against Mail-in Voting

153. In November 2017, President Trump appointed Robert M. Duncan to the Postal Service Board of Governors; he was confirmed by the Senate the following year and currently serves as the Board's Chairman.

154. Duncan had previously served as Chairman of the Republican National Committee (RNC) from 2007 to 2009. His official USPS biography states, "As RNC Chairman, he raised an unprecedented \$428 million and grew the donor base to 1.8 million – more donors than at any time in RNC history."¹⁸

155. In May 2020, the Board of Governors selected Louis DeJoy to serve as the 75th Postmaster General and Chief Executive Officer. DeJoy had no prior experience working at the Postal Service. He began serving as Postmaster General on June 15, 2020.

156. DeJoy, a longtime Republican fundraiser, had donated more than \$1.2 million to the Trump Victory Fund, millions more to Republican organizations and candidates, and, at the time of his appointment, was overseeing fundraising for the 2020 Republican National Convention.¹⁹ DeJoy also continues to own at least \$30 million in USPS competitor XPO and stock options in Amazon.²⁰

¹⁸ USPS, *Postal Leadership: Robert M. Duncan* (last updated Dec. 2019), <https://about.usps.com/who/leadership/board-governors/robert-duncan.htm>.

¹⁹ Brian Naylor, *New Postmaster General Is Top GOP Fundraiser*, NPR (May 7, 2020), <https://www.npr.org/2020/05/07/851976464/new-postmaster-general-is-top-gop-fundraiser>.

²⁰ Marshall Cohen, *Financial disclosures reveal postmaster general's business entanglements and likely conflicts of interest, experts say*, CNN (Aug. 12, 2020), <https://www.cnn.com/2020/08/12/politics/postal-service-dejoy-conflicts-amazon-trades-xpo-stake/index.html>.

157. Shortly before DeJoy's appointment, President Trump began a campaign of false claims about mail-in voting, alleging repeatedly that it is vulnerable to widespread fraud.

158. During this time, President Trump has made the following false and unsubstantiated statements regarding mail-in voting:

- a. On March 30, 2020, the President stated that he was opposed to a bill that would reform voting by mail because the bill would have allowed for "levels of voting that if you'd ever agreed to it, you'd never have a Republican elected in this country again."²¹
- b. On April 11, 2020, the President tweeted, "Mail in ballots substantially increases the risk of crime and VOTER FRAUD!"²²
- c. On May 24, 2020, the President tweeted, "The United States cannot have all Mail In Ballots. It will be the greatest Rigged Election in history. People grab them from mailboxes, print thousands of forgeries and 'force' people to sign. Also, forge names. Some absentee OK, when necessary. Trying to use Covid for this Scam!"²³
- d. On May 28, 2020, the President tweeted, "MAIL-IN VOTING WILL LEAD TO MASSIVE FRAUD AND ABUSE. IT WILL ALSO LEAD TO THE

²¹ Sam Levine, *Trump says Republicans would 'never' be elected again if it was easier to vote*, The Guardian (Mar. 30, 2020), <https://www.theguardian.com/us-news/2020/mar/30/trump-republican-party-voting-reform-coronavirus>.

²² Donald J. Trump (@realDonaldTrump), Twitter (Apr. 11, 2020, 8:29 p.m.), <https://twitter.com/realDonaldTrump/status/1249132374547464193>.

²³ Donald J. Trump (@realDonaldTrump), Twitter (May 24, 2020, 10:08 a.m.), <https://twitter.com/realDonaldTrump/status/1264558926021959680>.

END OF OUR GREAT REPUBLICAN PARTY. WE CAN NEVER LET THIS TRAGEDY BEFALL OUR NATION”²⁴

- e. On June 22, 2020, the President tweeted, “RIGGED 2020 ELECTION: MILLIONS OF MAIL-IN BALLOTS WILL BE PRINTED BY FOREIGN COUNTRIES, AND OTHERS. IT WILL BE THE SCANDAL OF OUR TIMES!”²⁵
- f. Also on June 22, 2020, the President tweeted, “Because of MAIL-IN BALLOTS, 2020 will be the most RIGGED election in our nations [sic] 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!”²⁶
- g. On June 28, 2020, the President tweeted, “Absentee Ballots are fine. A person has to go through a process to get and use them. Mail-In Voting, on the other hand, will lead to the most corrupt Election is [sic] USA history. Bad things happen with Mail-Ins. Just look at Special Election in Patterson, N.J. 19% of Ballots a FRAUD!”²⁷

²⁴ Donald J. Trump (@realDonaldTrump), Twitter (May 28, 2020, 9:00 p.m.), <https://twitter.com/realDonaldTrump/status/1266172570983940101>.

²⁵ Donald J. Trump (@realDonaldTrump), Twitter (June 22, 2020, 7:16 a.m.), <https://twitter.com/realDonaldTrump/status/1275024974579982336>.

²⁶ Donald J. Trump (@realDonaldTrump), Twitter (June 22, 2020, 9:45 a.m.), <https://twitter.com/realDonaldTrump/status/1275062328971497472>.

²⁷ Donald J. Trump (@realDonaldTrump), Twitter (June 28, 2020, 10:30 p.m.), <https://twitter.com/realDonaldTrump/status/1277429217190428673>.

- h. On July 21, 2020, the President tweeted, “Mail-In Voting, unless changed by the courts, will lead to the most CORRUPT ELECTION in our Nation’s History! #RIGGEDELECTION.”²⁸
- i. On July 30, 2020, the President tweeted, “Mail-In Voting is already proving to be a catastrophic disaster. Even testing areas are way off. The Dems talk of foreign influence in voting, but they know that Mail-In Voting is an easy way for foreign countries to enter the race. Even beyond that, there’s no accurate count!”²⁹
- j. On August 4, 2020, the President tweeted, “Whether you call it Vote by Mail or Absentee Voting, in Florida the election system is Safe and Secure, Tried and True. Florida’s Voting system has been cleaned up (we defeated Democrats attempts at change), so in Florida I encourage all to request a Ballot & Vote by Mail! #MAGA.”³⁰
- k. On August 5, 2020, the President tweeted, “Nevada has ZERO infrastructure for Mail-In Voting. It will be a corrupt disaster if not ended by the Courts. It will take months, or years, to figure out. Florida has built a great

²⁸ Donald J. Trump (@realDonaldTrump), Twitter (July 21, 2020, 7:41 a.m.), <https://twitter.com/realDonaldTrump/status/1285540318503407622>.

²⁹ Donald J. Trump (@realDonaldTrump), Twitter (July 30, 2020, 8:10 a.m.), <https://twitter.com/realDonaldTrump/status/1288809157722877952>.

³⁰ Donald J. Trump (@realDonaldTrump), Twitter (Aug. 4, 2020, 12:55 p.m.), <https://twitter.com/realDonaldTrump/status/1290692768675901440>.

infrastructure, over years, with two great Republican Governors. Florida, send in your Ballots!”³¹

- l. On August 15, 2020, the President tweeted, “The honorable thing to do is drop the Mail-In Scam before it is too late! Absentee Ballots, like they have in Florida, are good!”³²
- m. On August 17, 2020, the President tweeted, “Some states use ‘drop boxes’ for the collection of Universal Mail-In Ballots. So who is going to ‘collect’ the Ballots, and what might be done to them prior to tabulation? A Rigged Election? So bad for our Country. Only Absentee Ballots acceptable!”³³
- n. On August 20, 2020, the President tweeted, “The Democrats are demanding Mail-In Ballots because the enthusiasm meter for Slow Joe Biden is the lowest in recorded history, and they are concerned that very few people will turn out to vote. Instead, they will search & find people, then “harvest” & return Ballots. Not fair!”³⁴
- o. On August 20, 2020, the President tweeted, “They are sending out 51,000,000 Ballots to people who haven’t even requested a Ballot. Many of those people

³¹ Donald J. Trump (@realDonaldTrump), Twitter (Aug. 5, 2020, 7:08 a.m.), <https://twitter.com/realDonaldTrump/status/1290967953542909952>.

³² Donald J. Trump (@realDonaldTrump), Twitter (Aug. 15, 2020, 4:24 p.m.), <https://twitter.com/realDonaldTrump/status/1294731591030378497>.

³³ Donald J. Trump (@realDonaldTrump), Twitter (Aug. 17, 2020, 11:40 a.m.), <https://twitter.com/realDonaldTrump/status/1295385113862090753>.

³⁴ Donald J. Trump (@realDonaldTrump), Twitter (Aug. 20, 2020, 7:57 p.m.), <https://twitter.com/realDonaldTrump/status/1296597150181330944>.

don't even exist. They are trying to STEAL this election. This should not be allowed!”³⁵

159. During this period, the Trump Campaign or the RNC filed a number of lawsuits against states that allow for voting by mail, including Pennsylvania and California. On June 19, 2020, President Trump said about his election prospects that, “My biggest risk is that we don’t win lawsuits” and “We have many lawsuits going all over. And if we don’t win those lawsuits, I think—I think it puts the election at risk.”³⁶

160. On August 13, 2020, during a television interview, President Trump explained that he opposed additional funding for the Postal Service because he wanted to prevent expanded mail-in voting: “Now they need that money in order to have the post office work so it can take all of these millions and millions of ballots. Now, in the meantime, they aren’t getting there. By the way, those are just two items. But if they don’t get those two items, that means you can’t have universal mail-in voting because they’re not equipped to have it.”³⁷

Changes to Postal Operations

161. In early July 2020, at the direction of Postmaster General DeJoy, the Postal Service instituted several operational changes affecting how mail is transported.

162. These operational changes altered “the nature of postal services” and “affect[ed] service on a nationwide or substantially nationwide basis.” 39 U.S.C. § 3661(b).

³⁵ Donald J. Trump (@realDonaldTrump), Twitter (Aug. 20, 2020, 8:15 p.m.), <https://twitter.com/realDonaldTrump/status/1296601698891374593>.

³⁶ Christina A. Cassidy & Nicholas Riccardi, *Trump: Mail-in voting presents ‘biggest risk’ to reelection*, AP News (June 19, 2020), <https://apnews.com/419b8fc1a387e4f85a91429651c59b76>.

³⁷ Barbara Sprunt & Alana Wise, *Trump Opposes Postal Service Funding But Says He’d Sign Bill Including It*, NPR (Aug. 13, 2020), <https://www.npr.org/2020/08/13/902109991/trump-admits-to-opposing-funding-for-postal-service-to-block-more-voting-by-mail>.

163. At the direction of DeJoy, the Postal Service instituted these operational changes immediately and on a nationwide basis without first obtaining an advisory opinion from the Postal Regulatory Commission.

164. Two documents prepared by Postal Service employees reflect these operational changes. The first, a document titled “Mandatory Stand-Up Talk: All Employees” was dated July 10, 2020 (the “July 10 Stand-Up Talk,” Ex. A). The second, a PowerPoint presentation entitled “PMGs [Postmaster General’s] expectations and plans” (the “July PPT,” Ex. B) was prepared at around the same time.

165. “Stand-Up Talks” are a widely used means of providing postal employees with information about changes or updates in Postal Service policies and procedures. Postmasters and supervisors are expected to communicate the contents of a “Stand-Up Talk” to the relevant employees at the beginning of their shift. The relevant employees are then expected to abide by those policies and procedures.

166. The July 10 Stand-Up Talk states that it must be provided to “all employees” and that “[e]very single employee will receive this information, no matter what job they perform[.]” Out of a need to make “immediate, lasting, and impactful changes,” the July 10 Stand-Up Talk ordered an “operational pivot” targeted at the transportation of mail. It provides specific examples of “transportation changes being implemented immediately (today).” These changes included:

- a. “All trips will depart on time (Network, Plant and Delivery); late trips are no longer authorized or accepted.”
- b. “Extra trips are no longer authorized or accepted.”
- c. “Carriers must begin on time, leave for the street on time, and return on time.”

- d. “Carriers must make the final dispatch of value; no additional transportation will be authorized to dispatch mail to the Plant after the intended dispatch.”

167. The functional result of these operational changes is that mail can be delayed at multiple places in the mailstream. If processed mail is not ready when the truck is scheduled to leave the processing plant, then that mail is left behind for the day. If the truck is delayed on its way to the delivery unit, then the carrier must leave on her route at her start time without that day’s mail. If the carrier is unable to deliver all of that day’s mail before her return time, then she must return to the delivery unit with that mail undelivered and any new mail uncollected. If the mail carrier did not depart with all of that day’s mail—for example, because it was too much to carry or because additional mail arrived after she left—then that carrier cannot make extra trips and that mail remains in the delivery unit overnight. And if the carrier returns to the delivery unit after the truck has returned to the plant, then any new mail collected that day remains at the delivery unit overnight and will not be sent to the plant until the following day.

168. The July 10 Stand-Up Talk acknowledges that as a result of the changes, postal employees will see mail “left behind” and “on the workroom floor or docks” of processing plants. The Stand-Up Talk acknowledges that these consequences are “not typical.”

169. The July 10 Stand-Up Talk estimated that the changes implemented would result in around \$200 million in reduced expenses. For Fiscal Year 2019, the Postal Service reported operating revenue of \$71.1 billion and operating expenses of \$79.9 billion.

170. In two July 22, 2020, letters to members of Congress (Ex. C), General Counsel Thomas Marshall confirmed that the Postal Service is “taking immediate steps to increase operational efficiency,” including by “running operations on-time and on-schedule.”

171. In an August 6, 2020, letter to members of Congress (Ex. D), Postal Service Chief Operating Officer David Williams confirmed that the Postal Service has taken “immediate steps” focused on “improving our transportation efficiency,” including “working to eliminate extra and late trips.” He also stated that the Postal Service was working to reduce “unnecessary” and “unauthorized” overtime and that “operational managers must ensure that overtime is earned as the result of unexpected volume or other factors pursuant to our normal overtime analysis before it is approved.”

172. Similarly, DeJoy’s opening remarks for a Board of Governors meeting on August 7, 2020 (Ex. E), confirm that the Postal Service had taken “immediate steps” focused on “running our operations on time and on schedule, and by not incurring unnecessary overtime or other costs.”

173. In an August 11, 2020, letter to Congresswoman Carolyn Maloney (Ex. F), Marshall confirmed that the Postal Service had taken “immediate steps” focused on “improving our transportation efficiency,” including “working to eliminate extra and late trips.” He also stated that the Postal Service was working to reduce “unnecessary” and “unauthorized” overtime and that “operational managers must ensure that overtime is earned as the result of unexpected volume or other factors pursuant to our normal overtime analysis before it is approved.”

174. In an internal memo from August 13, 2020 (Ex. G), DeJoy stated that the Postal Service “must make a number of significant changes,” including “re-establish[ing] fundamental operating principles and then adher[ing] to them and run[ning] on time.” He confirmed that he “began those efforts right away.” As a result, he noted that the Postal Service now had an “on-time dispatch schedule” of “97.3 percent, up from 89.8 percent” and had “reduced extra trips by 71 percent.”

175. On August 18, 2020, DeJoy issued a public statement (Ex. H). To “avoid even the appearance of any impact on election mail,” he suspended several “initiatives” until “after the [November 2020] election is concluded.” DeJoy did not state that these initiatives would be revoked, nor did he state how the Postal Service would operationalize the rollback of these unspecified suspended initiatives.

176. DeJoy characterized the suspended initiatives as “longstanding operational initiatives” that “predate[d] [his] arrival at the Postal Service.” He did not otherwise specify which initiatives would be suspended.

177. DeJoy also stated that:

- a. “Retail hours at Post Offices will not change.”
- b. “Mail processing equipment and blue collection boxes will remain where they are.”
- c. “No mail processing facilities will be closed.”
- d. “[O]vertime has, and will continue to be, approved as needed.”

178. In the statement, DeJoy did not address the operational changes instituted at his direction in early July 2020, including the elimination of late and extra trips or the requirement that carriers adhere to rigid schedules.

179. On August 20, 2020, the Washington Post reported that DeJoy intends to make “far more sweeping changes to the U.S. Postal Service than previously disclosed,” including requiring States to pay First-Class postage for ballots in the future.³⁸

³⁸ Jacob Bogage, et al., *Postmaster general eyes aggressive changes at Postal Service after election*, Wash. Post (Aug. 20, 2020), <https://www.washingtonpost.com/business/2020/08/20/us-postal-service-louis-dejoy/>.

VII. Impact of Service Changes on Mail Delivery

180. In his August 13, 2020, memo, DeJoy acknowledged that the recent changes had had an effect on service, stating that “this transformative initiative has had unintended consequences that impacted our overall service levels.”

181. Since July 2020, there has been widespread reporting by the news media on changes in Postal Service operations and significant delays in mail delivery across the nation.

182. Because late trips and extra trips are now prohibited, including in Plaintiff States, mail has been left behind at processing plants and delivery units. Because letter carriers throughout the country, including in Plaintiff States, have been ordered to depart for their routes at set times, even if the processed mail has not yet arrived, and then to return at set times, even if all mail has not yet been delivered, carriers have been forced to leave mail undelivered. And because workers are not allowed to spend sufficient time processing and delivering the mail, the mail piled up, leading to greater delays.³⁹

183. In some areas, substitute workers are not being assigned when another worker is out, for reasons such as contracting COVID-19. While failing to assign substitute workers, USPS is simultaneously experiencing increased package volume.⁴⁰

³⁹ E.g., Michael Sainato, *Postmaster general’s changes causing mail delays, USPS workers say*, The Guardian (Aug. 16, 2020), <https://www.theguardian.com/business/2020/aug/16/usps-mail-delays-postmaster-general-changes-workers>; James Doubek, *Postal Workers Decry Changes And Cost-Cutting Measures*, KUOW (Aug. 11, 2020), <https://kuow.org/stories/postal-workers-decry-changes-and-cost-cutting-measures>.

⁴⁰ E.g., Ellie Rushing, *Mail delays are frustrating Philly residents, and a short-staffed Postal Service is struggling to keep up*, Phila. Inquirer (Aug. 2, 2020), <https://www.inquirer.com/news/philadelphia/usps-tracking-in-transit-late-mail-delivery-philadelphia-packages-postal-service-20200802.html>; Peter Hall, *Does the mail seem slow? You’re not imagining it*, The Morning Call (Aug. 1, 2020), <https://www.mcall.com/news/pennsylvania/mc-nws-pa-usps-mail-delivery-operations-slow-20200801-nmabfad46bc43a5mebq23xogbi-story.html>.

184. The combination of too few workers, elimination of late and extra trips, rigid adherence to start and end times, and increased package volume is causing undelivered mail and packages to pile up.⁴¹ In places, this has left rotting food and dead animals inside mail processing plants.⁴²

185. Elected officials, including officials in Plaintiff States, have received thousands of calls about delayed mail.⁴³

186. The operational changes implemented by the Postal Service come as millions of individuals nationwide are complying with stay-at-home and safer-at-home orders in response to the COVID-19 pandemic.

187. The Pennsylvania Department of Health, for example, recommends that individuals have “access to several weeks of medications and supplies in case you need to stay

⁴¹ E.g., Sainato, *supra* note 39.

⁴² E.g., Laura J. Nelson & Maya Lau, ‘*Like Armageddon*’: Rotting food, dead animals and chaos at postal facilities amid cutbacks, L.A. Times (Aug. 20, 2020), <https://www.latimes.com/california/story/2020-08-20/usps-cutbacks-post-office-chaos>; Scott Thistle, *Chicks shipped by mail are arriving dead, costing Maine farmers thousands of dollars*, Sun Journal (Aug. 19, 2020), <https://www.sunjournal.com/2020/08/19/dead-chick-deliveries-costing-maine-farmers-thousands-of-dollars/>.

⁴³ E.g., Ellie Rushing & Jonathan Lai, *Philly mail delays are raising alarms about the 2020 election: ‘This is a huge problem’*, Phila. Inquirer, (Aug. 6, 2020), <https://www.inquirer.com/politics/election/mail-voting-philadelphia-post-office-delays-20200806.html>; Daniel Moore, *Should the USPS run like a business? Yearslong dispute roils mail delivery ahead of 2020 elections*, Pittsburgh Post-Gazette (Aug. 16, 2020), <https://www.post-gazette.com/news/insight/2020/08/16/United-States-Postal-Service-mail-delivery-2020-elections-Trump-Doyle-Kelly-Toomey/stories/202008160025>.

home for prolonged periods of time.”⁴⁴ As a result, many people now rely on the mail for basic supplies.⁴⁵

188. Consequently, delays in the mail mean that individuals are not receiving essential items, such as medicine, paychecks, and unemployment benefits.⁴⁶ In Pennsylvania, for example, some residents are have gone three weeks without packages and letters that would otherwise deliver medication, paychecks, and bills.⁴⁷ Customers across southern Maine have experienced delays on as many as 65,000 pieces of mail. Delaware state agencies have reported significant delays in the delivery of important mail, such as checks from the State Pension Office and EBT cards being delivered to recipients. In North Carolina, there have been sustained reports of late delivery—by at least two weeks—of mail and packages, including mail and packages that small businesses depend on and medicines for those in rural communities.⁴⁸ In California, one 77-year old resident with asthma complained of not receiving her inhaler for three weeks in the mail, despite it usually only taking three to five days.⁴⁹ Another California resident reported that it recently took nine days for a letter with First-Class postage to be delivered from San Diego to

⁴⁴ Pennsylvania Dep’t of Health, *COVID-19 Information for At Risk Individuals* (last updated May 12, 2020), <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Guidance/At-Risk-Individuals.aspx>.

⁴⁵ E.g., Julie Zauzmer, *Amid national Postal Service crisis, D.C. area residents struggle without consistent mail*, Wash. Post (Aug. 15, 2020), <https://www.washingtonpost.com/dc-md-va/2020/08/15/amid-national-postal-service-crisis-dc-area-residents-struggle-without-consistent-mail/>.

⁴⁶ E.g., Zauzmer, *supra* note 45.

⁴⁷ See *supra* note 43.

⁴⁸ Michelle Wolf, *Mail delays hurting local small business owners*, MyFox8 (Aug. 9, 2020), <https://myfox8.com/news/mail-delays-hurting-local-small-business-owners/>.

⁴⁹ Kate Irby, *US Postal Service suspending cuts — but will it help Californians?* Sacramento Bee (Aug. 18, 2020), <https://www.sacbee.com/news/local/article245050900.html>.

San Jose.⁵⁰ One California resident living in a rural area reported that she did not receive any mail for a month, and ended up receiving two sets of bills in one day.⁵¹ California residents are incurring late-penalties because they have not received bills, and therefore cannot pay bills on time.⁵²

189. Many Native American tribes in California depend solely on USPS to send and receive mail. Tribes are required to submit in writing to request to be notified of proposed projects within an area that is traditionally and culturally affiliated. Tribes must respond in writing within 30 days of receipt of the formal notification and request consultation on the proposed project. Without this request, there is no requirement that an organization implementing a proposed project engage in tribal consultation for the protection of Native American burials and cultural resources. USPS delays will increase missed deadlines and responses to lead agencies for the protection on Native American burials and cultural resources.

190. USPS delays deprive people of important prescription medication. Veterans and VA staff told members of the Senate Committee on Veterans' Affairs that medications "are often taking weeks to be delivered and causing veterans to miss doses of vital medications."⁵³ One postal worker reported that a pharmaceutical company had complained that there were delays in

⁵⁰ Emily Deruy, *Q&A: What does the Postal Service kerfuffle mean for California voters?*, The Mercury News (Aug. 18, 2020), <https://www.mercurynews.com/2020/08/18/qa-what-does-the-postal-service-kerfuffle-mean-for-california-voters/>.

⁵¹ Kate Cimini, *Late deliveries, missing mail: Hundreds of Salinas residents want answers from USPS*, Salinas Californian (July 22, 2020), <https://www.thecalifornian.com/story/news/2020/07/22/rural-california-residents-take-issue-u-s-postal-service/5456022002/>.

⁵² Cimini, *supra* note 51.

⁵³ Letter from Sen. Jon Tester, Sen. Gary Peters, and 29 other Senators to Postmaster General Louis DeJoy (Aug. 13, 2020), <https://www.veterans.senate.gov/download/usps-delays>.

picking up its outgoing shipments.⁵⁴ One California resident reported that his eye medications took about 20 days to arrive from the time they were ordered from the local VA.⁵⁵

191. Businesses, too, are not receiving essential payments, some going as long as two weeks without mail.⁵⁶ Small businesses in particular rely heavily on the Postal Service to ship products and pay vendors, and delays can have an outsized impact on business reputation and customer retention.⁵⁷ In 2019, 70 percent of businesses with fewer than 10 employees had used USPS within the previous six months and the majority use USPS more than any other vendor.⁵⁸ In California, one business reported that customers have not received a packages shipped via USPS for one to two weeks, when those packages were supposed to arrive within two days.⁵⁹ Other businesses report that their payment checks from vendors are not arriving, forcing business owners to incur extra costs to cancel checks and wire funds instead.⁶⁰ And yet other businesses have had to reimburse customers for products that have not arrived on time via USPS, sometimes

⁵⁴ Brian Naylor, *Pending Postal Service Changes Could Delay Mail And Deliveries, Advocates Warn*, NPR (July 29, 2020), <https://www.npr.org/2020/07/29/894799516/pending-postal-service-changes-could-delay-mail-and-deliveries-advocates-warn>.

⁵⁵ Rosalind Adam, et al., *USPS Delays Are Causing People To Get Their Prescriptions Late*, BuzzFeed News (Aug. 17, 2020) <https://www.buzzfeednews.com/article/rosalindadams/post-office-delay-prescription-medicine>.

⁵⁶ Zauzmer, *supra* note 45.

⁵⁷ Samantha Masunaga, *How Postal Service cutbacks have left small businesses hurting*, L.A. Times (Aug. 19, 2020), <https://www.latimes.com/business/story/2020-08-19/usps-changes-hurt-small-businesses>.

⁵⁸ USPS OIG, *From Home Office to Post Office: Improving Microbusiness Engagement with the U.S. Postal Service* (Sept. 4, 2019), <https://www.uspsoig.gov/sites/default/files/document-library-files/2019/RISC-WP-19-008.pdf>.

⁵⁹ *Residents Throughout SoCal Report Increase In Package Delays From USPS*, CBS Los Angeles (Aug. 15, 2020), <https://losangeles.cbslocal.com/2020/08/15/residents-throughout-socal-report-increase-in-package-delays-from-usps/>.

⁶⁰ Masunaga, *supra* note 57.

having to ship replacement products through another delivery service, which cuts into business profits.⁶¹

192. State contracting and purchasing has also been impacted. The Pennsylvania Department of General Services has received numerous complaints from vendors concerning checks that appear to have been lost in the mail. The Department has also noticed that incoming mail from USPS has slowed significantly; on some occasions no mail is delivered and on other days what amounts to multiple days of mail is dropped off.

193. Mail delays have also slowed the delivery of legal documents and impeded legal proceedings. The Pennsylvania Department of Labor reports that at least 20 hearings before the Unemployment Compensation Review Board have been continued because the parties have not received the hearing notices (mailed 14 days in advance) or the documents for the telephone hearings (mailed 5 days in advance). There have also been delays in receipt of Department determinations and referee decisions, resulting in late appeals. The Pennsylvania Office of General Counsel's Criminal Unit, which handles extradition and interstate rendition matters, has experienced delays of a week to ten days in receiving extradition requests sent by USPS mail from Pennsylvania counties.

194. California's state agencies have been impacted by USPS delays, including various delayed licenses, payments, job applications, exams, lease payments, unemployment claims, equipment, hearing notices and other notices, subpoenas, personal protective equipment, and contracts, among other critical items.

⁶¹ Masunaga, *supra* note 57.

VIII. Impact on the 2020 General Election

195. The effects of the Postal Service’s operational changes also come on the eve of an election in which “an unprecedented number of people plan to vote by mail.”⁶²

196. In late July 2020, General Counsel Marshall sent letters to 46 states and the District of Columbia warning that the Postal Service cannot guarantee all ballots sent by mail for the November election will arrive in time to be counted.

197. Every Plaintiff State received a tailored version of this letter (the “Marshall Letters,” Ex. I).

198. The letters explained that, under the Postal Service’s reading of several of Plaintiff States’ election laws, “certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service’s delivery standards.” Marshall cautioned Plaintiff States that any “mismatch creates a risk”—and for California, a “significant risk”—“that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.”

199. Marshall explained that “most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service, and most domestic Marketing Mail is delivered 3-10 days after it is received.”

200. Marshall recommended “that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters.” If election officials use Marketing Mail, it “will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.”

⁶² Zauzmer, *supra* note 45.

201. The Marshall Letters did not reference or reaffirm any of the Postal Service's longstanding practices and policies of treating Election Mail with the highest priority and providing Election Mail with First-Class Mail delivery standards.

202. The Marshall Letters assumed that the Postal Service was operating pursuant to its normal delivery standards. The letters did not reference the operational changes instituted in early July 2020 that have significantly undermined the Postal Service's ability to meet its normal delivery standards.

203. For the November 2020 general election, Pennsylvania, Delaware, and Maine require ballots to be received on or before Election Day to be counted. North Carolina requires ballots to be received on or before Election Day, or postmarked on or before Election Day and received by November 6. Massachusetts, the District of Columbia, and California require ballots to be postmarked on or before Election Day and received by November 6, November 13, and November 20, respectively.

204. In response to the Marshall Letter, Pennsylvania requested the Pennsylvania Supreme Court to order that mail ballots be counted as long as they are received by the Friday after Election Day and postmarked on or before Election Day.⁶³

205. In response to USPS delays and President Trump's remarks, voters have reported that they "have great fear they [their] vote won't count" because they are "not sure if [they] can trust the mail right now."⁶⁴ Voters who have experienced mail delays, "will definitely vote" but

⁶³ Jonathan Lai & Ellie Rushing, *USPS says Pennsylvania mail ballots may not be delivered on time, and state warns of 'overwhelming' risk to voters*, Phila. Inquirer (updated Aug. 16, 2020), <https://www.inquirer.com/politics/election/pennsylvania-mail-voting-deadlines-post-office-lawsuit-20200813.html>.

⁶⁴ Irby, *supra* note 49.

will not “use the mail for it because of the delays.”⁶⁵ These voters are making plans to “go in person to make sure [they’re] counted,”⁶⁶ which poses the risk of exposure to COVID-19.

California’s Secretary of State has received a significant increase in calls and inquiries from voters concerned about the November 2020 general election and the implications of potential USPS delays.

206. The service delays caused by Postal Service’s implementation of sweeping new policies in the midst of a pandemic may disenfranchise voters because their ballots will not be sent or received in time and may deter people from voting because they do not trust that their ballot will be delivered.

207. During the global pandemic, voting by mail is the safest method for all voters.⁶⁷ To reduce the risk of contracting COVID-19, individuals are advised to limit interactions with other people as much as possible, including by reducing otherwise routine events, such as visiting the pharmacy.⁶⁸

208. The need to limit even routine interactions makes the option to vote by mail an essential option for all voters, but particularly important for those who are most likely to become severely ill.⁶⁹

⁶⁵ Rushing & Lai, *supra* note 43.

⁶⁶ Irby, *supra* note 49.

⁶⁷ Rushing & Lai, *supra* note 43; Sam Levine, *Postal service changes pose threat to voting, says former USPS deputy*, The Guardian (Aug. 13, 2020), <https://www.theguardian.com/us-news/2020/aug/13/united-states-postal-service-trump-republicans>.

⁶⁸ CDC, Coronavirus Disease 2019, *Your Health, Older Adults* (updated Aug. 16, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html>.

⁶⁹ CDC, Coronavirus Disease 2019 (COVID-19), *Your Health, People Who Are at Increased Risk for Severe Illness* (updated June 25, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html>.

209. The option to vote by mail is critically important for people over 65. Eighty percent of deaths from COVID-19 have been adults 65 and older and the rate of hospitalizations per 100,000 population due to COVID-19 drastically increases with age: from 27.2 for those 18-29, to 136.1 for those 50-64, 198.7 for those 65-74, 329.3 for those 75-84, and 513.2 for those 85 and older.⁷⁰ In California alone, almost 75 percent of the over 11,000 deaths from COVID-19 have been adults age 65 and older.⁷¹

210. People of any age are also at an increased risk of severe illness from COVID-19 if they have any of a host of underlying health conditions,⁷² although many of those conditions are more prevalent among older adults.⁷³

211. Voters over 65 and those with disabilities are already the most likely to vote by mail nationwide.⁷⁴ A national survey of the 2016 election found that “33 percent of voters 70

⁷⁰ Nat'l Ctr. for Health Statistics Mortality Reporting System, *Coronavirus Disease 2019 (COVID-19)-Associated Hospitalization Surveillance Network (COVID-NET)* (data through week ending June 6, 2020) <https://www.cdc.gov/coronavirus/2019-ncov/images/need-extra-precautions/high-risk-age.jpg>; CDC, *Coronavirus Disease 2019, Your Health, Older Adults* (updated Aug. 16, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html>.

⁷¹ Cal. Dep't of Public Health, *Cases and Deaths Associated with COVID-19 by Age Group in California* (Aug. 18, 2020), <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID-19-Cases-by-Age-Group.aspx>.

⁷² CDC, *Coronavirus Disease 2019, Your Health, People with Certain Medical Conditions* (updated Aug. 14, 2020), https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html.

⁷³ Pa. Dep't of Health, *COVID-19 Information for At Risk Individuals* (updated May 12, 2020), <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Guidance/At-Risk-Individuals.aspx>.

⁷⁴ Kevin Morris, *Who Votes by Mail?*, Brennan Center for Justice (Apr. 15, 2020), <https://www.brennancenter.org/our-work/analysis-opinion/who-votes-mail>; Charles Stewart III, *Some Demographics on Voting by Mail*, Election Updates (Mar. 20, 2020), <https://election>

years and older voted absentee, compared to 20 percent of voters in their thirties’ and that ‘30 percent of voters with a disability that kept the voter “from participating fully in work, school, housework, or other activities” voted absentee, compared to 22 percent of voters without a disability.’”⁷⁵

212. In response to COVID-19, the Centers for Disease Control and Prevention (CDC) guidance recommends election officials consider “offering alternatives to in-person voting if allowed in the jurisdiction,” and relocate polling places away from “nursing homes, long-term care facilities, and senior living residences, to help protect older adults and those with medical conditions.” For voters, the CDC recommends considering “voting alternatives available in your jurisdiction that minimize contact,” including “us[ing] early voting, if available,” and “vot[ing] at off-peak times.”⁷⁶

213. Pennsylvania Governor Tom Wolf and Secretary of the Commonwealth Kathy Boockvar both encouraged voters in the June primary election to “vote safely” by mail,⁷⁷ as have leaders of other Plaintiff States.⁷⁸ Both Republican and Democratic party officials in

updates.caltech.edu/2020/03/20/some-demographics-on-voting-by-mail/ (citing data from the Cooperative Congressional Election Study, Harvard University, <https://cces.gov.harvard.edu/>).

⁷⁵ U.S. Election Assistance Comm’n, Election Administration and Voting Survey, *Deep Dive, Early, Absentee, and Mail Voting* (Oct. 17, 2017), https://www.eac.gov/sites/default/files/document_library/files/eavsdeepdive_earlyvoting_101717.pdf (quoting Charles Stewart III, *2016 Survey of the Performance of American Elections*, MIT 13, <https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/Y38VIQ#>).

⁷⁶ CDC, Coronavirus Disease 2019, *Community, Work & School, Considerations for Election Polling Locations* (updated June 22, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

⁷⁷ Press Release, *Gov. Wolf Encourages Voters to Apply for a Mail-in Ballot* (Apr. 22, 2020), <https://www.governor.pa.gov/newsroom/gov-wolf-encourages-voters-to-apply-for-a-mail-in-ballot/>.

⁷⁸ Governor John Carney (@JohnCarneyDE), Twitter (Aug. 18, 2020, 11:13 a.m.), <https://twitter.com/JohnCarneyDE/status/1295740564969869320>. California Governor Gavin

Pennsylvania “have encouraged people to vote by mail amid concerns from county officials who fear the virus will make it difficult to find polling places and get poll workers to staff them.”⁷⁹

IX. Harm to the States as a Result of Defendants’ Actions

214. Defendants’ actions have caused and will continue to cause injury to the States’ sovereign, quasi-sovereign, and proprietary interests.

215. Defendants are undermining the States’ efforts to fairly administer their own elections pursuant to the authority vested in them by the Constitution. As a result, Defendants have caused and will continue to cause harm to the States’ sovereign interests, which include prescribing the method of selecting their representatives in the federal system to ensure equal sovereignty. In addition to the federal elections, the States will conduct their own statewide and local elections on Election Day. The conduct of state elections, in conformance with the Constitution and federal law, is a central component of State sovereignty.

216. In addition, Defendants’ actions will also force the States to devote significant additional resources to administering their elections, harming the States’ proprietary interests.

217. Many States will be required to devote additional resources to encouraging voters to return their ballots earlier than otherwise necessary, and will be required to implement

Newsom passed an executive order, later ratified by the California Legislature, to automatically send mail-in ballots to registered active voters for the November 2020 general election because “[n]o Californian should be forced to risk their health in order to exercise their right to vote.” Press Release, *Governor Newsom Issues Executive Order to Protect Public Health by Mailing Every Registered Voter a Ballot Ahead of the November General Election* (May 8, 2020), <https://www.gov.ca.gov/2020/05/08/governor-newsom-issues-executive-order-to-protect-public-health-by-mailing-every-registered-voter-a-ballot-ahead-of-the-november-general-election/>.

⁷⁹ 6ABC, *Pennsylvania boosting efforts to promote voting by mail amid COVID-19 pandemic* (Apr. 22, 2020), <https://6abc.com/coronavirus-pennsylvania-reopen-pennsylvania-one-retailer-customer-stay-at-home/6122146/>.

alternate means for voters to submit mail-in ballots, as a result of the delay in mail service caused by Defendants' actions.

218. The delays in mail service caused by Defendants' actions have harmed and will continue to harm the States in other ways. For instance, the States all depend on the operation of the Postal Service to perform essential government functions, including collecting revenue and providing services to their citizens. Delays in mail delivery caused by Defendants' actions thus cause direct harm to the States.

219. Administrative and state judicial systems in each of the States depend on operation of the mail to provide notice to parties and others about proceedings. Delays in mail delivery caused by Defendants' actions have undermined the efficient operation of legal proceedings in the States.

220. State criminal law proceedings also rely on the Postal Service for delivery of important legal documents. Delays in the delivery of mail risk undermining the enforcement of criminal law.

221. The States are also consumers of goods and services and frequently procure and pay for items using the Postal Service. Delays in delivery of goods and payment harm business relationships and deprive the States of the use of items purchased.

CAUSES OF ACTION

COUNT I

Violation of Postal Reorganization Act – 39 U.S.C. § 3661

222. Plaintiffs incorporate by reference the foregoing paragraphs as if they were set forth fully herein.

223. Whenever the Postal Service “determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially

nationwide basis” the Postal Service must first “submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change.” 39 U.S.C. § 3661(b). Before the Commission issues an advisory opinion, it must hold a hearing on the record. *Id.* § 3661(c). The public is entitled to submit comments in proceedings before the Commission. 39 C.F.R. § 3010.140.

224. As reflected in the July 10 Stand-Up Talk, the July PPT, letters to Congress, public statements, and internal memorandum, Defendants changed the nature of postal services in July 2020. Defendants adopted new operational policies that, among other things, prohibit late or extra trips by postal workers that are often necessary to keep the mail moving forward in the mailstream, require carriers to adhere rigidly to start and stop times regardless of whether all mail for their route has arrived or been delivered, and limit the use of overtime. As the July 10 Stand-Up Talk concedes, a consequence of the recent changes is that some mail will be “left behind.” Before these changes, such results were “not typical.” And as Defendant DeJoy concedes, these changes “had unintended consequences that impacted our overall service levels.”

225. Defendants’ recent changes to postal services have nationwide effect. The changes reflected in the July 10 Stand-Up Take were to be communicated to “[e]very single [Postal Service] employee . . . no matter what job they perform.” In subsequent letters to Congress and internal memorandum, the Postal Service has confirmed that the changes documented in the July 10 Stand-Up Talk are part of a nationwide change to the operation of postal services.

226. Despite the recent nationwide changes to the nature of postal services, the Postal Service did not first submit a proposal to the Commission or seek an advisory opinion before

implementing the changes, depriving the public of an opportunity to comment on the changes before they took effect.

227. Because Defendants did not submit a proposal of the recently enacted changes to, or seek an advisory opinion from, the Commission before the changes took effect, Defendants acted beyond their statutory authority and the changes are *ultra vires*.

COUNT II

Violation of Postal Reorganization Act – 39 U.S.C. §§ 101, 403

228. Plaintiffs incorporate by reference the foregoing paragraphs as if they were set forth fully herein.

229. The PRA mandates that it “shall be the responsibility of the Postal Service to maintain an efficient system of collection, sorting, and delivery of the mail nationwide.” 39 U.S.C. § 403(b)(1).

230. Under the PRA, the “Postal Service shall plan, develop, promote, and provide adequate and efficient postal services at fair and reasonable rates and fees.” 39 U.S.C. § 403(a).

231. When “determining all policies for postal services, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.” 39 U.S.C. § 101(e).

232. As reflected in the July 10 Stand-Up Talk, the July PPT, letters to Congress, public statements, and internal memorandum, Defendants adopted new operational policies in July 2020 that, among other things, prohibit late or extra trips by postal workers that are often necessary to keep the mail moving forward in the mailstream, require carriers to adhere rigidly to start and stop times regardless of whether all mail for their route has arrived or been delivered, and limit the use of overtime. As the July 10 Stand-Up Talk concedes, a consequence of the

recent changes is that some mail will be “left behind.” Before these changes, such results were “not typical.”

233. As reflected in the Marshall Letters, Defendants intend to abandon their longstanding practice of giving Election Mail the highest priority regardless of the class of mail.

234. The policies adopted by Defendants in July 2020 undermine the Postal Service’s “efficient system of collection, sorting, and delivery of the mail nationwide” and fail to “provide adequate and efficient postal services.”

235. The policies adopted by Defendants in July 2020 also fail to “give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery” of Election Mail, which is “important letter mail.”

236. As a result, Defendants acted beyond their statutory authority and the policy changes are *ultra vires*.

COUNT III

Violations of the Elections Clause – U.S. Constitution, Article I, Section IV, Clause 1 & the Electors Clause – U.S. Constitution, Article II, Section I, Clause II

237. Plaintiffs incorporate by reference the foregoing paragraphs as if they were set forth fully herein.

238. The Constitution’s Elections Clause vests authority in the States to regulate the “The Times, Places and Manner of holding Elections for Senators and Representatives” that will represent that State. U.S. Const. art. I, § 4, cl. 1. Only Congress may displace how a State has chosen to regulate the time, place, and manner of a federal election. *Id.*

239. Plaintiffs have exercised their authority under the Elections Clause to allow voters to vote by mail.

240. Congress has not passed any laws that conflict with Plaintiffs' exercise of authority under the Elections Clause.

241. The Constitution's Electors Clause vests authority in the States to appoint "a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress." U.S. Const., art. II, § 1, cl. 2.

242. Plaintiffs have exercised their authority under the Electors Clause to appoint their presidential electors based on the results of popular elections and have directed that voters may cast ballots for presidential electors by mail.

243. Plaintiffs have exercised their authority under the Elections Clause and the Electors Clause in reliance on the Postal Service's history of timely delivering Election Mail and treating Election Mail with the highest priority.

244. Defendants have abruptly and unlawfully impaired the operation of the postal services and have acted to cast doubt on the Postal Service's ability to facilitate mail-in voting.

245. As a result, Defendants have interfered with how Plaintiffs have exercised their authority under the Elections Clause and thus violated Plaintiffs' constitutional authority to set the "Times, Places and Manner of holding Elections for Senators and Representatives."

246. Defendants have further interfered with how Plaintiffs have exercised their authority under the Electors Clause and thus violated Plaintiffs' constitutional authority to appoint presidential electors.

COUNT IV

Violation of the 26th Amendment to the U.S. Constitution

247. Plaintiffs incorporate by reference the foregoing paragraphs as if they were set forth fully herein.

248. The 26th Amendment to the U.S. Constitution guarantees that “The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.”

249. Plaintiffs have a sovereign interest in their elected officials best representing the people of the respective States in the federal system, which Plaintiffs accomplish by exercising their constitutional authority over the time, place, and manner of elections to maximize the number of voters, including establishing voting by mail.

250. Defendants’ changes to postal services will significantly and disproportionately harm older voters, who are more likely to vote by mail and more at risk of serious harm from COVID-19.

251. Defendants made changes to the nature of postal services in a manner that departed from normal procedure because Defendants did not first submit a proposal of the newly implemented changes to the Commission.

252. Defendants’ recently implemented changes are intended to interfere with the Plaintiffs’ ability to count votes cast by mail and to make voters in Plaintiff States, especially senior citizens, less willing to vote by mail.

253. Because Defendants have acted in a way that disenfranchises voters on the basis of age, Defendants have violated the 26th Amendment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs requests that this Court enter judgment in their favor and grant the following relief:

- a. Declare that the operational and policy changes adopted by Defendants in July 2020—which include prohibiting late or extra trips by postal workers that are often necessary to keep the mail moving forward in the mailstream, requiring carriers to adhere rigidly to start and stop times regardless of whether all mail for their route has arrived or been delivered, limiting the use of overtime, and failing to treat Election Mail with the highest priority—are unlawful;
- b. Vacate the operational and policy changes adopted by Defendants in July 2020;
- c. Preliminarily and permanently enjoin Defendants from:
 - i. Continuing to implement and enforce the operational and policy changes adopted by Defendants in July 2020; failing to rescind these operational and policy changes to the extent they have been implemented; and failing to restore service to the levels provided before the unlawful changes;
 - ii. Instituting any changes with a nationwide or substantially nationwide effect on delivery services without first seeking an advisory opinion from the PRC pursuant to 39 U.S.C. § 3661 and seeking public input as required by the statute and by regulation;
 - iii. Failing to adhere to the Postal Service’s longstanding practice of treating Election Mail with the highest priority and as First-Class Mail regardless of the class of mail;
 - iv. Failing to postmark every piece of Election Mail the day it is received by USPS; and

- v. Prohibiting overtime, late trips, and extra trips during the week before, day of, and 17 days after the November 2020 general election.
- d. Appoint an independent monitor to oversee Defendants' compliance with the terms of the Court's order;
- e. Award Plaintiffs reasonable costs, including attorneys' fees; and
- f. Grant such other and further relief as the Court deems just and proper.

August 21, 2020

Respectfully submitted,

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**Appearing pro hac vice (applications
forthcoming)*

***Appearing pro hac vice (applications
pending)*

**** Application for admission forthcoming*



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division

Election Advisory #20-01

Regarding Return of Ballots via Secured Drop Box

August 17, 2020

Under Chapter 115 of the Acts of 2020, absentee and early ballots mailed to voters may be returned to the appropriate local election office via secured municipal drop box, where provided.

The purpose of this Advisory is to provide best practices with respect to providing, locating, securing, and emptying such drop boxes. This Advisory includes guidance provided by the Cybersecurity and Infrastructure Security Agency (CISA) Elections Infrastructure Government Coordinating Council and Sector Coordinating Council's Joint COVID Working Group.

PROVIDING DROP BOXES

Each city and town may, at its discretion, choose to provide a drop box for ballot return. When making this decision, keep in mind the following:

- Is your building currently open for the public to enter to hand-deliver ballots?
- How easily can a voter hand-deliver a ballot to your office without coming into close contact with any other person?
- Do you already have a drop box that can be used?
- Can you permanently anchor or attach the drop box, so it cannot be easily removed or tampered with?
- Where would you locate the drop box?
- How frequently will you be able to empty the drop box?
- Will you be able to staff the drop box on and near Election Day?
- How will voters know where to find the drop box?

NO-CONTACT BALLOT RETURN

If your building is not open to the public or could potentially close suddenly before Election Day, it will be important to have some alternate way for voters to hand-deliver their ballots without needing to come into close contact with others.

As Election Day approaches, election officials will be shifting from urging voters to mail their ballots to encouraging voters to hand-deliver their ballots to ensure timely delivery. Many voters are expressing concern about whether the U.S. Postal Service will be able to deliver their ballots in time to be counted and are asking for alternate methods of ballot delivery that will still allow them to self-isolate.

Outdoor drop boxes are not the only option. If your lobby is open to the public and staff is able to monitor the area from a safe distance, you may provide a locked ballot return container in that area for voters to enter and return their ballots.

Voters may also hand-deliver their ballots to early voting locations during early voting hours, but you may want to consider providing drop boxes just inside or outside of the location, so voters do not need to interact with others when returning their ballots. Such drop boxes must be guarded, but a greeter may be the person to guard it.

EXISTING DROP BOXES

Many towns have already utilized existing town drop boxes for ballot delivery for local elections this year. While those drop boxes were very useful for town elections during the height of the pandemic, they may not be large enough for an influx of ballots we expect to receive as we approach November. If you are able, consider acquiring larger drop boxes specific for ballot delivery.

SECURING YOUR DROP BOX

If you choose to provide an outdoor drop box, you will need to make sure that your drop box is made of a durable, weather-proof material.

The drop box must be locked and you must have a policy in place which answers the following questions:

- Who has access to the drop box?
- Who is responsible for emptying the drop box?
- If the drop box is used for multiple offices, who is responsible for sorting and delivering any election mail?
- How frequently will the drop box be checked and emptied?
- Who is going to staff the drop box on Election Day?

DROP BOX LOCATION

Any drop boxes provided for ballot return should be located on municipal property or other property that is easily accessed and monitored by election officials. The ideal location for a drop

box is just outside or inside your city/town hall, in an area in full view of the public. If your city/town hall is monitored by surveillance video, be sure to locate the drop box within view of a surveillance camera.

You may choose to provide multiple drop boxes, but all drop boxes must be able to be secured and monitored, to ensure ballot security.

During the early voting period, consider providing indoor locked drop boxes for ballot return. If you do not provide such a drop box, voters returning their ballots to an early voting location will need to come inside to interact with others, which is what many of them are seeking to avoid by using a mail-in ballot. If you can provide a secured municipal drop box near the entrance of your early voting location, then it will allow voters to drop off their ballots without coming in contact with others. Consider using a spare, locked ballot box for this purpose.

Because ballots received on Election Day will need to be checked in at the local election office and entered into VRIS before being counted at the polling places, drop boxes should not be located in polling places on Election Day. Instead, poll workers must be trained to send all voters attempting to return a ballot to your office, or vote in person if they are returning their own ballot.

EMPTYING DROP BOXES

Drop boxes will need to be emptied regularly, and at least once per day on the days your office is open. As Election Day approaches, depending on the size of your drop box, you may need to ensure the drop box is emptied several times per day.

If you are not the person emptying the drop box, make sure there is a clear chain of custody for all ballots. It is advised that you maintain a log of the date and time the drop box is emptied, by whom, and how many ballots were inside each time.

ELECTION DAY

If you do provide a drop box, they should be staffed throughout Election Day, if possible. The drop box will need to be emptied frequently, so ballots can be checked into VRIS and sent to the polling places to be counted.

An election official must be guarding the drop box at the close of polls on Election Day, so that the box can be emptied precisely at 8 p.m. For the State Primary, all on-time ballots will need to be counted in the local election office after voter lists have been returned or sent to the polls to be counted and added to the tally. Similarly, for the State Election, ballots will need to be counted at the polling place, counted in your office after the voter lists have been returned to you, or counted after Election Day, along with ballots postmarked by November 3rd and received by November 6th.

PUBLICIZING LOCATIONS

If you are going to have a drop box or multiple drop boxes, be sure to publicize the locations in as many places as possible. Post the information on your website, in local papers, and on outgoing messages on your phone.

Also make sure that any drop box provided for ballot return is clearly labeled as such. If you are using a drop box that you did not purchase from an election supply vendor, you will need to attach weather-proof signage to the box indicating that it is for ballot return. Be sure to provide signage in the same languages as your ballots, and any additional languages you believe are necessary.

The Elections Division will be publicizing the location of your drop boxes on our website. **You must also notify the Elections Division of any ballot return drop boxes you will be using.** A survey link has been provided to you to provide information on the locations of any drop boxes you currently have. For any updates after you respond to that survey, please email elections@sec.state.ma.us.

QUESTIONS?

Contact the Elections Division at 617-727-2828 or elections@sec.state.ma.us.



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division

Election Advisory #20-03

Regarding Health & Safety Guidelines for Conducting Voting in Person

August 20, 2020

COVID-19 has and continues to dramatically affect life in Massachusetts and presents a unique threat to the safety and administrative responsibility of conducting free, fair, and open elections within the Commonwealth. As a result, the General Court has made changes to certain provisions of the election laws to preserve the integrity and safety of the 2020 State Primaries and General Election.

All voters in Massachusetts can vote by mail in 2020 in addition to in-person voting options which will still be available for all elections, both at early voting locations and at polling places on Election Day. Voters are encouraged to determine the most safe and convenient way for them to participate in the upcoming elections.

In the current environment, the Elections Division wants to ensure that all election officials are prepared to protect the health and safety of poll workers and voters during in-person voting, both during the early voting period and on Election Day.

According to guidance from the Centers for Disease Control (CDC), public places can be made safer through the use of:

- Measures to separate people from one another by encouraging social distancing;
- Administrative measures to change the way people work;
- Personal protective equipment (PPE) to protect workers;
- Regular cleaning and disinfecting of high-touch surfaces; and
- Adherence to the state's face covering requirements.

Decisions about procedures and policies affecting upcoming elections should, to the extent possible, be made as soon as possible to facilitate a safe election and minimize the risks and confusion associated with changing procedures at the last minute.

This document provides guidance, consistent with recently promulgated regulations, were developed in consultation with the Massachusetts Department of Public Health and include changes to how elections are to be conducted this year, due to COVID-19.

The procedures in this document will help mitigate and minimize potential poll worker and voter exposure to COVID-19. While this guidance provides basic health and safety information, the situation concerning COVID-19 is fluid and elections officials are strongly encouraged to stay current on changes to public health guidance and state and local orders in order to increase safety protocols as necessary. At no point, however, shall such election officials be permitted to implement policies or procedures which do not comply with the minimum requirements of this document.

This guidance is not intended to revoke or repeal any employee rights, either statutory, regulatory or collectively bargained, nor is it a substitute for any existing safety and health-related regulatory requirements such as those of OSHA or the Massachusetts Department of Labor Standards, but must be implemented in addition to such standards.

POLLING PLACES & EARLY VOTING LOCATIONS

This section details changes that must be made to or around Polling Places and Early Voting Locations (collectively referred to as “voting sites”) to comply with state requirements and other applicable public health guidance and to minimize risk to voters, poll workers and observers to the greatest extent possible.

VOTING SITE LAYOUT

All voting sites must be configured to encourage social distancing, minimize the risk to the safety and health of all persons using or working at the site, and comply with all applicable regulations and public health guidelines.

General Requirements

Voting booths and/or other privacy screens must be spread out within the voting site and may not be less than six (6) feet from the next nearest booth or privacy screen. Booths which contain spaces for multiple voters must be altered to prevent voters from using such spaces which are less than six feet from the next nearest available space, except that spaces which are positioned on directly opposite sides of the booth and include a solid barrier in between may be used. Spaces on such booths which are not available for use by voters due to these guidelines should be marked as unavailable, either with signage, colored tape, or some other designation.

Check-in tables should be placed as near to the entrance to the voting site as possible without presenting a safety risk to workers or voters. Check-out tables, if their use is not being waived by the local election official, should be placed as near to the exit of the voting site as possible without presenting a safety risk to workers or voters. Tables of both types may seat a maximum

of two poll workers, provided those workers are spaced a minimum of six feet from one another. When such spacing is not possible at one table, poll workers should be seated at separate tables. Check-in and, if applicable, check-out tables should be turned sideways or two tables placed next to each other to provide maximum distance between the poll worker and voters.

Tabulators or other permitted ballot boxes should be placed as near to the exit of the voting site as possible and must be positioned to ensure voters need not pass by voters who are entering the voting site. AutoMARK machines must be placed as normal, provided that an additional three (3) feet of empty space must be provided on all sides of the machine, except those sides which directly adjoin a wall or physical barrier, and that the AutoMARK is immediately and directly accessible from the entrance to the voting site. Sites must maintain a clear and direct path between AutoMARK machines and both the tabulators or ballot boxes and the exit.

Barriers and Partitions

Where space is extremely limited and safe social distancing cannot be maintained, physical barriers or partitions such as acrylic, plexiglass or other materials that separate airspace should be used to provide additional safe guards and prevent exchange of air between individuals. Barriers should be installed at check-in and, if applicable, check-out tables. Such barriers should not be used in place of adequate distancing measures when such distancing is possible, though they may be used in addition to distancing measures in any case for added protection.

Ventilation

All possible measures should be taken to increase ventilation and the flow of fresh outside air within and throughout voting sites. Absent inclement weather, doors and external windows should be opened, and propped as necessary, to increase airflow. When available, fans should be placed near doors and windows to the extent possible to increase airflow both into and out of the voting site. If possible, building ventilation and HVAC systems should be programmed to consistently and continuously draw outside air into the voting site. Air should not be mechanically recirculated within the site.

Signage

To properly convey requirements and health measures at voting sites, new signage will be required in all voting sites. This section provides for the types and minimum requirements of such signage, though local election officials may post additional signage as they deem necessary and appropriate.

Signage should be displayed at entrances and other appropriate areas to remind voters and observers at every opportunity of physical distancing and face covering requirements and updated foot traffic patterns.

Signage should be visible at appropriate points within voting sites. Such signage should display each of the following messages, with no more than one message per sign:

- Please wear a face covering over your nose and mouth.
- Maintain physical distance of 6 feet from others.
- Use hand sanitizer at the check-in station.
- Place your own ballot into the tabulator or ballot box.
- Use hand sanitizer again after you vote.
- Your ballot is fragile; make sure your hands are dry and your sanitizer has evaporated before handling your ballot.

Large posters should be created, including in all mandated ballot languages in the municipality, which are broadly visible within each voting site and contain clear, declarative statements. Posters should include infographics, to the extent possible, depicting the expected behavior. Such posters should include the following language:

- Poll Workers Must...
 - Stay 6 feet away from other poll workers and voters.
 - Wear a face covering.
 - Wash or sanitize their hands frequently.
 - Sanitize items such as pens and poll books regularly.
 - Sanitize voting booths regularly.
- Voters Should...
 - Remain 6 feet away from other voters and poll workers.
 - Wear a face covering.
 - Wash or sanitize their hands before voting and after casting their ballot.

Note: Hand sanitizer can damage scan ballots and make them unreadable, so voters should not use hand sanitizer while handling, or immediately before handling, their ballot. Encourage voters to make sure their hands are completely dry after they use hand sanitizer and before handing them a ballot.

Additional signage should be posted throughout voting sites directing voters and poll workers to nearby handwashing stations and/or hand sanitizer dispensers. Any restrooms made available at the voting site should display signage encouraging proper hand-washing.

Any municipality with language requirements must ensure that signage is posted in the appropriate language(s) as well.

Floor Markings

Foot traffic both within and outside all voting sites should be designed in a one-directional fashion to minimize interaction and proximity between individuals as much as possible.

Six foot intervals should be marked on the ground outside and leading to the entrance to the voting site, using chalk or another material, to encourage proper physical distancing while voters wait to enter the site.

Guidance should be placed on the floor of the voting site using arrows made from painters tape, adhesive decals, or another material to guide voters through the voting site, from the entrance to any established line, to the check-in stations, to the voting area, to the check-out (if applicable), to the ballot box, and finally to the exit from both the voting site and the building where the voting site is located.

In lines and other potential points of congregation, floor tape or decals should be used to mark 6-foot intervals. Some locations may require stanchions with belting, such as high traffic sites and to segregate different precincts. In voting sites with multiple precinct and high-traffic sites, a welcome staffer should be available to direct voters to the appropriate location and deliver verbal messages about face coverings and distancing in order to prevent voters and observers from congregating.

All voting sites should be set up ahead in advance of voting. If the voting site cannot be set up ahead of time, adequate supplies (e.g., painter's tape, chalk, etc.) and specific instructions as to placement should be provided to poll workers to ensure the voting site clearly indicates where voters should stand and along what routes foot traffic should flow.

Additional Required Postings

Signage, posters, and other cues required by this document do not replace other postings still required by the General Laws, including specimen ballots, instructions to voters, penalty notices and the Voter's Bill of Rights. Such postings must still be made as normal.

PROCEDURES FOR VOTING SITES

Protecting Election Workers

Local election officials should offer training to election workers on COVID-19 safety. Training can include:

- Information on COVID-19, how to prevent it from spreading and which underlying health conditions may make individuals more susceptible.
- Procedures for self-screening at home, including temperature and/or symptom checks.
- The importance of not coming to work if:
 - A worker has any symptoms of COVID-19 as described by the CDC, such as a fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea, vomiting, or diarrhea, OR

- A worker was diagnosed with COVID-19 and has not yet been released from isolation, OR
- If, within the past 14 days, a worker has been identified as a close contact with someone who has been diagnosed with COVID-19 and has not been released from quarantine.
- To return to work after a worker receives a COVID-19 diagnosis only if 10 days have passed since symptoms first appeared, their symptoms have improved, and the worker has had no fevers (without the use of fever reducing medications) for the last 24 hours. A worker without symptoms who was diagnosed with COVID-19 can return to work only if 10 days have passed since the date of the first positive COVID- 19 test.
- Seeking medical attention if symptoms become severe, including persistent pain or pressure in the chest, confusion, or bluish lips or face.
- The importance of frequent hand-washing.
 - Scrubbing with soap and water for at least 20 seconds.
 - Using hand sanitizer containing at least 60% ethyl alcohol (preferred) or at least 70% isopropyl alcohol (a neurotoxin and eye irritant) where soap or running water are unavailable. Ensure that it does not contain methanol, which can be life-threatening.
- The importance of physical distancing, both at work and away from work.
- Proper use of face coverings, and their benefits and limitations.

Election workers should be instructed to report any and all COVID-19 symptoms they have experienced in the ten (10) days immediately preceding their scheduled work at a voting site to the local election official as soon as possible. Workers who report experiencing any symptoms listed by the CDC, or a temperature greater than 100° Fahrenheit, within the ten days before their scheduled assignment must not be allowed to report to work.

Prior to working at a voting site, the local election official should inquire of the election workers the following questions and record the worker's responses:

- Are you currently experiencing symptoms of COVID-19, like fever, chills, cough, shortness of breath, or difficulty breathing?
- Have you experienced any of these symptoms within the last 24 hours?
- Within the past 14 days, have you had contact with anyone who has tested positive for COVID-19?
- Have you tested positive for an active COVID-19 infection in the past 10 days?
- Within the past 14 days, has a public health or medical professional told you to self-monitor, self-isolate, or self-quarantine because of concerns about COVID-19 infection?

If the worker answers yes, or otherwise in the affirmative, to any of the above questions, the worker cannot be allowed to work, must be sent home, and should be advised to seek medical attention.

Preparing the Voting Site

Local election officials, if possible, should have voting sites deep-cleaned before and after use including early voting and both the September 1st Primaries and the November 3rd General Election. Regardless of deep-cleaning, election officials must also take the following proactive measures to prepare voting sites prior to both the early voting period and Election Day:

- Turn off public drinking fountains and cover them with a bag, tape, or other cover and post signs or other notice stating that they are inoperable;
- Work with facility management and election workers to improve fresh air intake and limit recirculation of air within the site to the greatest extent possible;
- Create layout templates for voting sites, designating placement of check-in tables, voting booths, tabulators, and other necessary elements of the voting site, making sure all elements are at least six (6) feet apart;
- Develop a plan for providing shelter or overhead protection for voters waiting outside the voting site in the event of inclement weather, if possible.

Interacting with Voters and Observers

In order to minimize contact and proximity between poll workers and voters, the check-in process may require altering. If possible, station workers at point(s) of entry to communicate safety procedures and direct voters to check-in stations quickly to ease entry bottlenecks.

If possible, create and mark with tape or other methods a “neutral zone,” ideally 24” x 24” in size at the check-in table and any other tables used for processing inactive and provisional voters. Documents which are traditionally handed from voter to poll worker or from poll worker to voter should instead be placed in this neutral zone. This includes ballots and security sleeves, identification when necessary, and any documents needing to be signed by the voter such as affirmations of current and continuous residence and provisional ballot affirmations. This will prevent direct contact between poll workers and voters. These neutral zones should be regularly disinfected, not less frequently than after every tenth voter is checked in at a given table.

Poll workers should examine documents visually without physically taking or otherwise handling them where possible.

Sanitizing the Voting Site

Local election officials should develop and distribute written disinfection protocols for voting sites which provide for the regular cleaning and sanitization of high-touch surfaces, shared items and technology, poll worker work areas, and all voting booths and equipment. Election officials must designate specific workers, who are not serving in a poll worker capacity, to perform such disinfection protocols to ensure the protocols are executed properly and without delay. When waiving the check-out table, if applicable, the Elections Division recommends re-assigning poll workers who would otherwise staff the check-out table to instead execute disinfection protocols and monitor social distancing, rather than eliminating the position

entirely. The remaining provisions in this section provide minimum mandatory requirements for such disinfection protocols.

High-touch surfaces, poll worker work areas, check-in table neutral zones, and voting booths should be disinfected a minimum of once every thirty (30) minutes using cleaning chemicals or other products approved for use against COVID-19 on the Environmental Protection Agency (EPA)-approved list. Disinfectants labeled to be effective against emerging viral pathogens, diluted household bleach solutions (5 tablespoons per gallon of water), or alcohol solutions with at least 70% alcohol that are appropriate for the surface should be used.

Ballot scanners, poll books or poll pads, and tabulators should be disinfected a minimum of once per hour using cleaning chemicals or other products approved for use against COVID-19 and for use on the machine. Poll workers must ensure tabulators and ballot boxes are completely dry after each disinfection before allowing the next voter to insert their ballot, as scan ballots are fragile and may be damaged by harsh chemicals. Election officials should contact any and all vendors of such machines to inquire about approved disinfectants.

AutoMARK machines must be thoroughly disinfected after each individual use by applying a cleaner approved for use both against COVID-19 and on the machine by the vendor. Single-use disposable ear covers should be used for device headphones and should be replaced after each use if the voter has not provided their own headphones. The poll worker responsible for replacing such covers must wash their hands properly after touching used covers and before applying new covers.

Other shared technology should be disinfected a minimum of once every thirty (30) minutes using cleaning chemicals or other products approved for use against COVID-19 and approved for use on the technology by the vendor. Election officials should contact any and all technology vendors of such technology to inquire about approved disinfectants.

Shared items like pens, phones, keyboards, etc. which are used by more than one person must be disinfected after each use. This includes ballot markers. Such items should be collected after they are used, sanitized, and made available for use again. After each use, pens or ballot markers should be collected and disinfected before being provided to other voters. Consider the use of pen holders marked "USED" and "CLEAN," to help poll workers keep track of which pens need to be disinfected. To reduce the need to clean shared items used by voters, a new pen should be provided for each voter. Alternatively, all voters should be encouraged to bring their own black pen to the voting site.

All sanitization and disinfection tasks and protocols must be conducted in full view. All workers should be provided with training on manufacturer's directions and OSHA requirements for safe use for all products used at the voting site. Workers using cleaners or disinfectants should wear gloves and eye protection as required by the product instructions.

Check hand sanitizer dispensers periodically and refill them before they run out. Hand sanitizer dispensers should be touchless whenever possible. Ensure handwashing stations are well-stocked with soap before the voting site is opened and throughout the day.

The Elections Division encourages local election officials to explore options for third-party assistance to meet increased cleaning demands if necessary, including outreach to local businesses to inquire about partnership opportunities.

Troubleshooting & Emergency Maintenance

In the event of a malfunction of one or more tabulators or AutoMARK machines which requires maintenance or troubleshooting, the person responsible for maintenance must be allowed into the voting site but must adhere to social distancing guidelines, face covering requirements, and any other local policies or public health guidance. Such requirements should, if possible, be communicated to the responsible person, vendor and/or technicians in advance of their arrival at the site.

REQUIREMENTS FOR ELECTION OFFICIALS

These guidelines are directed toward municipal election officials and their workers as they prepare safe, clean environments for employees, election workers and volunteers (referred to collectively as “workers”), to ensure the September 1st State Primaries and November 3rd General Election can be conducted during the current COVID-19 pandemic while minimizing existing health risks and without creating new ones.

Action Plans

Local election officials should develop site specific COVID-19 Infection Prevention Action Plan (“Action Plan(s)”) for every voting site after performing a comprehensive risk assessment of the voting site. In most cases, these action plans will consist of the procedures and precautions required in this document. Action plans should, at a minimum, contain the following elements:

- Name, title, and contact information of individuals at each site primarily responsible for implementing the plan.
- Specific COVID-19 safety instructions and training, including:
 - Cleaning and disinfection protocols;
 - Configuration for physical distancing and traffic flow guidelines, supplemented by placement of physical barriers where distancing is not possible;
 - Behaviors required of workers; and
 - Proper use of personal protective equipment.

Local election officials should provide workers with a copy of the action plan for the worker’s designated location in advance. Any action plans should be made available on the city or town’s website prior to the start of the Early Voting period for each election.

Training Poll Workers

Poll worker trainings must be held in accordance with social distancing guidelines and any other applicable regulatory or public health guidance. The Elections Division encourages such trainings be modified from their usual format to create a safer learning environment. Online training can supplement and in some cases replace in-person training. Election officials may consider and implement any of the following options as alternative methods for training poll workers:

- Use of video conferencing software
- Use of pre-recorded video lectures which simulate up-close use of voting equipment
- Software that allows simulations of physical action using drag-and-drop actions (i.e., pulling a ballot across the screen to the scanner)

Written materials may be provided to workers for at-home review and study as a supplement to the required trainings. If provided, these materials should include examples of the forms the workers will use during Early Voting and on Election Day.

If in-person trainings are conducted, the class sizes should be limited to ensure all applicable guidance and regulation regarding social distancing, face coverings, and personal hygiene can be followed. . Hold such trainings in a location that allows poll workers to have hands-on practice with the equipment one person at a time. It may also be possible to have small groups in a large room, like a town hall auditorium or school gymnasium, where tabulators and AutoMARKs can be placed at least six (6) feet apart, with one person per piece of equipment.

In addition to traditional poll worker trainings, local election officials must provide training and information on COVID-19 safety and the specific measures required within this document as previously noted.

The Elections Division further strongly encourages training poll workers in basic conflict negotiation and de-escalation tactics in anticipation of possible conflict regarding physical distancing, wearing face coverings, and personal hygiene requirements. Suggestions for these tactics are included below.

Procurement of Personal Protective Equipment

Local election officials are required to procure ample quantities of cleaning supplies required under “Sanitizing the Voting Site” well in advance of all elections. They are further encouraged to procure supplies of masks or other face coverings, gloves, and hand sanitizer to provide to all poll workers and to voters when possible.

The Elections Division will supply local election officials with Precinct Infection Protection Kits. These kits include equipment to keep both poll workers and voters safe, including disinfectant wipes, surgical masks, hand sanitizer, and gloves. These kits are intended for use in polling places on Election Day, but may be used to supply Early Voting Locations with necessary

supplies, provided that sufficient supplies remain for use on Election Day. Election officials are strongly encouraged to supplement these kits with outside procurements.

PPE & Hygiene Protocols for Workers

Local election officials are required to provide face coverings to elections staff and poll workers. Elections staff and poll workers can utilize their own face coverings. All poll workers must properly wear a face covering at all times while in the voting site. Proper use of face coverings requires:

- Coverage of the mouth and nose,
- Washing hands before and after use or adjustment,
- Washing or replacing the covering after each shift,
- Avoiding touching the eyes, nose, or mouth,
- Avoiding touching the front of the mask when putting it on, adjusting it, or removing it.

Local election officials are required to provide workers with disposable gloves, especially in high traffic settings and areas where contact with items others have touched is routine. Some of these settings include ballot handling, customer service and voting locations, especially those with higher traffic. Workers should wear gloves in these settings and at other points of contact with items that others have touched.

Wearers should not touch their mouth, nose, eyes or face covering with gloved hands. They should wash hands before putting gloves on and after removing them. Gloves must be disposed of and replaced after washing hands, after using the restroom, after eating or drinking, or after any other activities that may contaminate the gloves, including touching unsanitized items.

Further, workers must properly and frequently wash their hands with soap and warm water, scrubbing for at least 20 seconds. Where soap or a water supply is unavailable, use hand-sanitizer that is at least 60% ethyl alcohol or at least 70% isopropyl alcohol.

Gloves and hand sanitizer are being provided by the Elections Division.

Conflict Negotiation & De-escalation Tactics

Experience suggests that face coverings can be a common if unfortunate point of conflict. While voters are strongly encouraged to wear face coverings in the polling place, all polling places should be set up to be socially distanced and therefore voters must still be allowed to vote, even if not wearing a face covering. Accordingly, if a voter refuses to wear a mask, greater care must be given to maximizing physical distancing. However, voters who arrive expecting conflict may have difficulty recognizing their right to vote is being respected because of their stress level on arrival.

Workers should use de-escalation measures to lower the stress level of the voter and reach the best possible outcome. Since workers themselves may also find these encounters stressful, it

will be helpful to practice de-escalation measures beforehand, as well as those measures required when de-escalation fails, using role-playing.

De-escalation measures include:

- Speaking with a calm voice at a normal volume and communicating with a posture and expression of confidence that the voter will understand that their right to vote will be respected.
- Resisting the urge to engage on the underlying objection.
- Repeatedly reassuring the voter that they will be allowed to vote by using words such as “You’re going to get to vote. We will get you to the voting booth as quickly as possible.”
- Remembering that serving the voter quickly, with less conflict, will best ensure your safety and that of other workers and voters.

Local election officials should determine the appropriate response, including possible law enforcement involvement, when de-escalation related to face covering fails. Officials should have specific incident response plans for each voting site.

Election workers should role-play the possibility of a negative outcome to de-escalation and should be made aware of signs that de-escalation is failing, like changes in posture or tone from the voter that suggest they are getting angrier despite de-escalation attempts.

Election workers should be provided with instructions to call the local election office, or the state Elections Division, if they feel threatened or intimidated, if voters feel threatened or intimidated, or if a disturbance of any kind occurs. Election workers should be instructed to call local law enforcement first if they believe the immediate physical safety of any person in the polling place is in jeopardy.

More than one election worker should be present in any situation of conflict, with one worker engaging the voter and the other standing back to assess whether the situation is capable of being resolved quickly and without further conflict or whether further intervention is necessary. When deciding to seek outside help in dealing with the situation, an election worker should consider whether time devoted to the upset voter is significantly delaying other voters or otherwise disrupting the voting process. Election officials should provide election workers with specific instructions and messaging for interacting with voters who are unwilling or unable to follow guidelines, including methods for defusing potentially difficult situations with voters who insist on not abiding by health and safety requirements.

NOTE: All voters must still be allowed to exercise their right to vote regardless of face covering or distancing compliance.

MEASURES PERTAINING TO VOTERS & OBSERVERS

Requirements to Enter a Voting Site

Face coverings are strongly encouraged for all individuals wishing to enter a voting site. Anyone entering a voting site should be informed of the social distancing requirements and be provided with instruction on how to vote safely.

Rights of Voters are Unchanged

Though face coverings are strongly encouraged for entry to a voting site, a voter may not be turned away from the voting site, or denied the right to vote, for refusal to wear a face covering. If a voter refuses to wear a face covering, or responds with animosity or hostility to the request, follow the de-escalation protocols provided above, along with any additional such protocols devised and prepared by the local election official. Allow the voter to check-in and cast a ballot as quickly and efficiently as possible while minimizing the time the voter spends in the voting site and minimizing the voter's proximity to workers and other voters.

Disallowed Face Coverings

Some voters may arrive at a voting site wearing branded face coverings that represent a candidate or ballot measure; this may be deemed electioneering. If this occurs, workers may politely request that the voter use a different face covering, or in the alternative, provide another face covering, if available. Notify these voters that such face coverings violate the "150-foot rule" and cannot be allowed inside the voting site.

Provision of PPE

Election officials and municipalities may, but are not required to, provide PPE to voters or to observers. Supplies provided by the Elections Division in Precinct Infection Prevention Kits may only be provided to voters as quantities allow. Any PPE provided to voters and observers must comply with CDC recommendations but need not be of medical grade or quality.

Possible Restrictions on Observers

Election officials may limit the number of observers at one time and may require observers to provide advance notice of the location where and time when they want to observe. With reduced capacity within a voting site because of COVID-19, the number of observers that can be accommodated may be effected and further limited.

Any limits and advance notice requirements must be determined and publicized prior to the beginning of the early voting period and must be posted on the municipal website and at each voting site.

Observers must use face coverings and must maintain a minimum physical distancing of six (6) feet from all other observers, voters, and poll workers. Observers must also be asked to take such other measures as hand hygiene, cough etiquette and general respect for cleanliness and sanitation. Where observers prove unwilling to comply with guidelines, election officials should

work with the party, candidate or organization to resolve differences or bring in alternate observers.

Messaging to Voters

Local election officials are strongly encouraged to use all channels of communication, including municipal websites, official social media accounts, local and regional media outlets, and direct communication, to encourage voters to vote safely. Consider creating a COVID-19 safety page on your website and providing a link in all routine communication with voters.

Messaging to voters should include the following points:

- Voting by mail is a safe choice to avoid exposure to COVID-19 while voting.
- Mail-in ballots may be returned by mail, in person, or to secure ballot drop-boxes where available.
- If you must enter a voting location, please:
 - Wear a face covering.
 - Maintain physical distance of at least six feet from people not from your household.
 - Use hand sanitizer before approaching the check-in station and after voting.
 - Follow any additional guidance provided at the voting location
- Voting during traditionally lower demand times, like mid-morning and mid-afternoon, or lower traffic early voting days, can make the voting experience quicker.

Setting realistic expectations for voters is important. Communicate clearly with voters about what they can expect and what is expected of them to keep everyone as safe as possible. Tell voters what to expect in the polling place, including the following:

- Wait times are likely to be longer because of social distancing.
- Lines will look longer as a result of social distancing.
- Spaces for lining up may be marked with tape inside and chalk outside.