Counting and Certifying the Vote in the 2020 Election

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***Abstract*:**

As protestors shouted "Stop the count!" outside counting operations in some states and "Count the votes!" in others, the counting of votes in the 2020 U.S. presidential contest engendered all the controversy one would expect given the narrow margin of victory in the Electoral College and the polarized political environment in which the vote counting took place. This memo addresses what happened during the vote count in the days after the November 3 election. It focuses on the six states whose electoral votes decided the next president of the United States: Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin, with addendums on Florida and North Carolina.

***Author*:** Jennifer Friedmann

- "Nevada 2020: Election Administration in the Coronavirus Pandemic," Mikaela Pyatt, Alexa Gold, and Krithika Iyer (March 10, 2021)
- "Pennsylvania 2020: Election Administration in the Coronavirus Pandemic," Axel Hufford and Sarah Maung (March 10, 2021)
- "Wisconsin 2020: Election Administration in the Coronavirus Pandemic," Evie Freeman, Gabriella Garcia, and Maria LaBella (March 10, 2021)
- "Behind the Scenes of Mail Voting: Signature Verification and Witness Requirements in the 2020 General Election," Ali Bloomgarden, Arushi Gupta, Garrett Jensen, Zahavah Levine, Chris Middleton, Kyra Sikora (Last Updated: March 10, 2020)

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Introduction: Overview of the Counting Process

Every state government is responsible for counting the U.S. presidential vote in their state. The processes used to count the vote vary widely by state, both in terms of each state's statutory requirements and its administration of those requirements. Each of the battleground states described below had its own set of laws and procedures that dictated when and how ballots were counted, who did the counting and reporting, and how much discretion the state government gave to local election officials. But for every state, the procedures are split into four basic steps: processing mail ballots, tabulating results, reporting results, and certifying the vote.

Processing Mail Ballots: Processing mail ballots is sometimes called pre-processing ballots because it involves scrutinizing certain features of the ballot's return envelope before the ballot can be removed from the envelope for counting. Processing may include verifying signatures, sorting ballots into batches, opening envelopes, removing ballots from envelopes and, sometimes, from inner envelopes, and flattening ballots to prepare them to be fed into tabulation equipment. Processing takes place because mail ballots—or any ballot cast in an envelope, such as absentee ballots delivered in person or some provisional ballots—must be handled differently than ballots cast by a voter who checks into a polling place to cast a vote in person. When a voter is not present, an election administrator must check the identification of the voter returning the ballot. States often look for and verify voters' signatures, to confirm that the ballot return envelope is from the registered voter to whom the ballot was sent. Some states require a witness to sign a ballot envelope as well. Once the voter's identity and other required signatures or information has been verified, the envelope is opened and the ballot is separated from any identifying information. For states that use an inner envelope (or "secrecy sleeve"), the ballot is removed from those interior envelopes as well. The ballots themselves are then flattened to ensure they can be easily fed into vote tabulating equipment at a precinct or a central tabulation facility.

The timing of mail ballot processing also varies from state to state. Some states begin processing ballots weeks in advance of Election Day, while others are allowed to begin processing only on Election Day. States that begin early often have results counted by election night. In the eight swing states discussed below, the key dates in 2020 were as follows, in order of earliest processing date:

Table 1: Processing and tabulation start dates and ballot receipt deadlines for each of the 8 battleground states. Green indicates dates before Election Day (November 3, 2020), blue indicates deadlines and start dates falling on Election Day, and orange indicates deadlines falling after Election Day.

State	Processing Began	Tabulation Began	Ballot Receipt Deadline
Georgia	Sept. 15	Nov. 3	Nov. 3
Florida	Sept. 24	Sept. 24	Nov. 3
Nevada	Sept. 24	Oct. 19	Nov. 10
North Carolina	Sept. 29	Nov. 3	Nov. 12
Arizona	Oct. 7	Oct. 20	Nov. 3
Michigan	Nov. 2	Nov. 3	Nov. 3
Pennsylvania	Nov. 3	Nov. 3	Nov. 6
Wisconsin	Nov. 3	Nov. 3	Nov. 3

Tabulating the Vote: Tabulating, also known as counting, is the next step. Tabulation usually begins on Election Day at the close of the polls, but some states begin scanning ballots earlier, even though counts are not aggregated and revealed until after polls close. States generally use machines to perform the initial tabulation for speed and to prevent human error. The specific tabulation technology used in each state varies widely. Generally, the tabulation process involves poll workers feeding paper ballots into machines that create a final count at the end of the day. Election workers then transport the memory devices from these scanners to a central tabulation location to be uploaded into an election management system. Results are also printed at the polling place and posted publicly. Each polling location is usually required to maintain and securely store (or transfer to the county) a paper record of its votes. Both the paper ballots cast and printouts of the aggregated initial machine counts are preserved in case of a recount. States also have processes for interpreting ballots that are not readable by the vote-counting machine, such as ones with a misspelled name for a write-in candidate. Such ballots can require manual counts by poll workers.

Reporting the Vote: Local election officials are typically required to submit their tabulations into their state's centralized results reporting system at a designated time on election night. In states that start the process of tabulating ballots before Election Day, the first results reported on election night are often results from early in-person voting and swiftly returned mail ballots.

Some states require election officials to work continuously until the initial count is complete, while other jurisdictions may suspend counting for the night and resume the next morning.

Certifying the Vote: The initial results, often revealed on election night, are not yet final. The total vote count, which includes provisional ballots, mail-in ballots that are processed after Election Day, challenged ballots, and military ballots, must be verified over the coming weeks through an official canvass. The "canvass" is the official tally of votes for any given election. **Canvassing** is the procedure through which election officials verify that each ballot was correctly cast and counted. During canvassing, the materials, equipment, and results of an election are reviewed, updated, and officially recorded. Once the canvass of the ballots is completed and any discrepancies resolved, the vote totals are then certified, usually by the chief state election official. **Certification** is the process by which the results of an election are made official. Canvassing and certification are two closely related processes, and the terms are sometimes used interchangeably, but it is important to note that an election cannot be certified until a canvass has been completed. Certification usually [involves](#) a presentation of all of the canvass documentation—including certified returns, statistics, and narrative—to a canvassing board for its review and approval. Following the canvassing board's certification of the election, the responsible election authority designated by state law will provide each candidate with a notice of certification of the election. Depending on state law, a state may conduct a [recount](#) if a candidate contests the results or the election results are very close; several states *require* recounts depending on the margin of victory.

Together, these four steps constitute how American election officials count the vote. The appendix details the laws in eight battleground states (Arizona, Florida, Georgia, Michigan, Nevada, North Carolina, Pennsylvania, and Wisconsin), describing in detail how each state performs this four-step process. The state-by-state analysis examines specific challenges or issues with the counting process in the six states where voting in the presidential race was considered very close and whose electoral voters were decisive in the 2020 election: Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin.

Analysis: Counting the Vote in Battleground States

Arizona

In the days following the November 3, 2020, general election, protests outside of the elections office in Arizona's most populous county, Maricopa County in Phoenix, made the national news. The protests gave the impression of a chaotic vote-counting process—an impression bolstered by eight post-Election-Day lawsuits and the days it took for election officials to tally their results. However, the actual administration of the election—the vote counting and certification of results—unfolded in a smooth, timely, and precise manner. It constituted a remarkable feat in light of the coronavirus pandemic and Arizona's intensely partisan landscape. Governor Doug Ducey and Secretary of State Katie Hobbs, members of different political parties and often political rivals, each used their platforms to instill confidence in the results and to urge for patience as the process played out.

As a predominantly vote-by-mail state, Arizona often takes more time than other states to tabulate its election results and, with the added complication of a pandemic, 2020 was no different. However, Fox News and the Associated Press accurately called the contest for Democrat Joe Biden on election night, based on early returns from mail votes—a call that held up as the rest of the votes were tallied. Voters in Arizona cast more than 3.2 million ballots and turnout neared 80% of registered voters, up from about 65% in 2018 midterm and about 74% during the presidential election in 2016. Legal challenges to the results did not impact the outcome. The ballots were counted efficiently, the canvass confirmed the initial results, post-election audits re-affirmed the accuracy of the result, and the election was certified on time.

Processing and Rejecting Ballots

Election officials rejected 27,327 ballots cast by Arizona voters in the November election, more than twice the vote margin of victory in the presidential contest (10,457 votes). Ballots can be rejected in Arizona for several reasons, such as a missing signature or mismatched signature, receipt of a mail ballot beyond the deadline for receipt, or improper voter registration. But the 1.19% rate of rejected ballots in November 2020 represented an overall *decrease* for Arizona compared to previous elections, despite the coronavirus pandemic and late-changing registration deadlines for the 2020 election. The rejected ballot rate in Arizona has trended downward since at least 2012, following increased voter education efforts, new laws, and

improvements to election administration. Yet rejection rates varied by county: Apache County, which contains large portions of the Navajo Nation, experienced the highest overall rate of rejected ballots in the 2020 general election at 3.76%.

As in the previous three presidential elections, issues with a person's voter registration were the most common reason for rejection: statewide, 63% of all votes rejected—or more than 17,200 ballots—were cast by voters who were not registered or had an issue with their registration, such as missing the state deadline to register. Arizona, unlike 19 other states, does not have same-day voter registration.

Signature verification presented less of an issue than previous years. A law passed in 2019 with bipartisan support gave absentee voters five business days after the election to fix a mismatched signature.Experts said that change contributed to the decrease in early ballot rejections. County officials proactively contacted voters to cure any defects to their ballot return envelopes. In Maricopa County, for example, election officials texted voters to alert them to any signature issues, helping voters cure nearly 19,000 ballots that would have been rejected otherwise. However, because voters returned a huge number of mail ballots on Election Day, signature verification and the five-day cure period slowed the final vote tally and made it more difficult for election officials to finalize election results quickly.

The five-day period to cure a signature mismatch did *not* apply to voters who forgot to sign their ballot envelopes. Arizona automatically rejects ballots *missing* signatures after 7 p.m. on election night. In November 2020, Arizona rejected more than 2,000 such no-signature ballots.

Fears that there would be massive numbers of absentee ballots rejected for lateness did not materialize. There were concerns leading up to the election that the U.S. Postal Service would not be able to handle the record number of requested mail ballots. Arizona's "received by" deadline meant that ballots received at the county recorder's office *after* 7 p.m. on Election Day would be considered late and not counted. To reduce the incidence of late ballots, Secretary Hobbs produced a public messaging campaign to encourage voters to return their ballots via the post office by Tuesday, October 27—one full week before Election Day. Voters unable to postmark their ballots by October 27 were encouraged to return their ballots to an official ballot drop box or a polling place.

The public messaging campaign instructing voters to drop off their completed ballots instead of mailing them through the USPS after October 27 was successful. Many voters chose to return their early ballots in person on Election Day, rather than risk sending them in the mail and having them arrive late. In Maricopa County, an estimated 175,000 early ballots were returned on Election Day (dubbed "late earlies"). The downside of the high number of the sudden influx

of absentee ballots on Election Day, however, was that it left more ballots to be counted following Election Day. These ballots still had to be processed, with signature verification —including the five-day cure period for mismatched signatures—before they could be counted. And the so-called "late early" ballots were processed and counted last, after traditional in-person Election Day ballots.

Rejected provisional ballots did not represent a large portion of rejected ballots in the 2020 general election. The number of provisional ballots in the state dropped in 2020, largely because Maricopa County—the largest in Arizona—adopted a "vote center" model for in-person voting. Under the vote center model, voters were able to go to any vote center in the county, rather than to one specifically assigned precinct. In the 2016 presidential election, 52,173 provisional ballots were cast in Maricopa County; of those, 15,250 (29%) were rejected. In the 2020 presidential election, only 18,310 provisional ballots were cast in the county; of those, 12,112 (66%) were rejected. The reduced number of total provisional ballots was even more remarkable in light of the county's increased voter turnout this election—from 74.43% in 2016 to 80.51% in 2020. Maricopa vote centers effectively neutralized the state's controversial and heavily litigated law requiring that all "out-of-precinct ballots" be rejected. However, more than 1,400 ballots—across Mohave, Pinal, Pima and Apache counties, the remaining four counties that did not offer any vote centers—were rejected because they were cast in the wrong precinct.

Counting Ballots

Arizona offered a long period for voting before Election Day, and a new law allowing early tabulation of mail ballots helped produce a smooth vote count. Statewide, in-person early voting began 27 days before Election Day and continued through the Friday before Election Day. Tabulation of early ballots started 14 days before Election Day (previously it started only seven days before) (See A.R.S. § 16-550(B)), and after confirmation from the secretary of state that all voting equipment passed any required logic and accuracy test. (Ariz. Rev. Stat. § 16-552(A)). The 2020 election was Arizona's first presidential election with the extended tabulation timeline, which enabled Arizona to deliver election results more quickly.

Procedures for tabulating and processing in-person ballots differed by county—some counted ballots at a central location, and others counted them at individual polling locations. Regardless of method, there were no reported issues across the state. There were some minor hiccups, such as when polling places ran out of ink for their printers faster than anticipated, but these isolated issues were resolved promptly and did not cause inordinate delays. An additional issue

caused one of three computers to crash at a vote center, but that, too, was resolved in short order.

The most notable news incident occurred on November 4, 2020, outside the Maricopa County Elections Department, where a few hundred protesters, many wearing pro-Trump hats and carrying firearms, chanted "Count the votes!" for hours. Many of the protesters were galvanized by an unfounded claim that pro-Trump ballots had been disqualified because voters used Sharpie pens to mark their ballots. The rumor dubbed "SharpieGate" claimed that ballots marked with Sharpies could not be counted by the voting equipment. In fact, they were able to be counted by the voting machines according to a statement by the Maricopa County Board of Supervisors. Still other protesters expressed their dismay that some media outlets, such as Fox News and the Associated Press, had called Arizona for Joe Biden on election night.

Vote counts were the central issue in several lawsuits filed against Maricopa County Recorder Adrian Fontes and Arizona Secretary of State Katie Hobbs in the wake of the election returns. All three lawsuits were dismissed without having had any effect on the results of the election. First, in response to "SharpieGate," some voters in Maricopa County filed a suit alleging that the ballots they cast in-person on Election Day were not counted by the tabulation machines because they were given Sharpie brand markers by election officials to fill out their ballots. Their lawsuit, *Aguilera v. Fontes*, claimed the voting tabulation machines could not read votes marked in Sharpie ink. Arizona officials maintained that the votes were properly counted, and the manufacturers of the machines, Dominion Voting Systems, specifically recommended using Sharpies for ballot completion due to a new ballot design. As there was no evidence to support their claim, plaintiffs requested the court voluntarily dismiss the suit just three days after they filed it.

In *Donald J. Trump for President v. Hobbs*, the Trump campaign brought suit against Secretary of State Hobbs to halt the canvass until the state could review in-person ballots that were allegedly improperly disqualified due to "overvote," or voting for too many candidates for one office. Plaintiffs alleged that poll workers had induced voters to override alerts from a tabulation machine when a vote was flagged as unreadable, causing affected votes on those ballots to be disqualified. The case was dismissed as moot because the number of ballots at issue would not have impacted the election outcome.

In the third lawsuit, *Arizona Republican Party v. Fontes*, the state Republican Party brought suit against Maricopa County Recorder Fontes to increase the sample size of the required quality-control hand count from two percent of "polling places" to two percent of "precincts." While this plan may have delayed vote counts, the case was ultimately dismissed as well.

Reporting Results

On election night, Fox News and the Associated Press called Arizona for Biden, even though only around 70% of the vote had been counted. These announcements infuriated President Trump and his supporters. Yet, even though the Trump campaign argued that these calls were made too early, Biden's victory held as the rest of the votes were counted. These early calls held in part because Arizona election night results included mail votes, which were omitted from early results in other states with later processing procedures, such as Pennsylvania.

Under Arizona law, unofficial tabulated results may be released publicly after all precincts have reported to the Arizona secretary of state, or one hour after the closing of polls, whichever comes first. On Election Night 2020, the secretary of state website released the first results at 8 p.m., one hour after the polls closed at 7 p.m. The first results included early ballots, such as mail ballots, that had been counted starting 14 days before election night. After that, the results were updated as counties reported votes from machines at their polling locations. These results were unofficial, as they had not yet been certified by the local board of supervisors or other officers in charge. Results were simultaneously shared with the secretary via phone, fax, or "other electronic means" as they were tabulated.

Smaller counties with fewer resources experienced some reporting delays because of high voter turnout. While early ballots could be processed before Election Day, the processing required tremendous diligence and time and involved voter outreach if the ballots required curing. In Pima County, 376,000 early ballots were returned by October 30, which was about 72% of all the early ballots requested by county voters. Meanwhile, only 50,000 of the 638,000 registered voters in Pima County voted in person on Election Day. Thus, the vast majority of processing in Pima could be done prior to Election Day. By contrast, in Yavapai County, 80% of the registered voters were on the Permanent Early Vote List (PEVL), but the county needed days after Election Day to count 7,800 "late earlies" (mail ballots turned in late in the election cycle) dropped off at vote centers on Election Day.

Certifying the Vote

The post-election canvassing process in Arizona leading up to the certification went smoothly and efficiently. Boards of supervisors in all 15 counties certified tallies ahead of deadline. Multiple logic and accuracy tests were applied to the results in Maricopa County, confirming the canvassed results. On November 30, 2020, Governor Ducey and Secretary Hobbs certified the election results on schedule. The final results showed that Biden had beaten Trump by 10,457 votes—a margin of about 0.3 percentage points. At the certification ceremony, Secretary Hobbs

praised high turnout and a successful election operation, stating "this election was conducted with transparency, accuracy and fairness in accordance with Arizona's laws and election procedures, despite numerous unfounded claims to the contrary." Although Republican groups sought to nullify the certification through legal challenges, no challenge succeeded.

In *Ward v. Jackson*, the Arizona Republican Party, led by Chairwoman Kelli Ward, challenged the election certification. The lawsuit claimed, without substantial proof, that mistakes in signature verification and in duplication of ballots which could not be machine-read in Maricopa County led to Trump's defeat. The trial court permitted inspection of 1,626 randomly sampled ballots, for which there were fewer than 10 errors. The Supreme Court of Arizona found that the error rate was "statistically negligible" and might have resulted in only 153 votes lost for Trump. As such, the error rate was below the margin that would trigger a mandatory recount. The state supreme court affirmed the trial court's decision finding no fraud and confirmed the election of the Biden slate of Electors under Arizona state law. That effectively ended any further legal challenge to the outcome of the presidential election in the state. Ward and the Republican Party filed for certiorari with the Supreme Court of the United States. Their subsequent motion for expedited consideration was denied on January 11, 2021, and, on February 22, the U.S. Supreme Court denied their petition.

Another case, *Bowyer v. Ducey*, sought to invalidate the election results in Arizona. U.S. District Court Judge Diana Humetewa dismissed the case on December 9, 2020, criticizing the merits of the case but dismissing it on the grounds that the plaintiffs—the 11 electors pledged to President Trump if he had won Arizona—did not have standing. Petitioners filed a notice of appeal to the Ninth Circuit, but no final ruling on the case as of March 2021.

In two separate cases against the Arizona governor, plaintiffs sought to prevent the state's certified results from being cast at the Electoral College. Both lawsuits alleged a wide range of fraud. One, *Burk v. Ducey*, focused on the Dominion Voting Systems voting equipment and alleged that thousands of fictitious votes had been counted. That case was dismissed for lack of standing because the plaintiff was not a registered voter. The second lawsuit, *Stevenson v. Ducey*, sought to vacate the state's certified results and appointment of electors by arguing that private election grants to Maricopa County exacerbated problems with "unlawful ballots." Plaintiffs eventually requested the court dismiss the suit.

The attempts to invalidate the election results in Arizona through the courts were short-lived and unsuccessful. This did not stop the 11 Republican would-be electors from gathering on December 16 to cast their electoral ballots for President Trump and Vice President Mike Pence. Though their action may have cast doubt on the integrity of the results, it carried no weight in the Electoral College because the Arizona election had been certified for President-elect Biden.

Georgia

Though the general election turnout in Georgia in 2016 broke records with 4.1 million people participating, the turnout in the 2020 election was higher by almost 900,000 votes: Nearly five million Georgians—or 67.7% of the voting-eligible population—cast ballots in the presidential election in 2020. Existing vote-by-mail infrastructure, as well as new updates for 2020, such as early processing of absentee ballots, helped keep mail voting accessible, ballot rejection rates low, and ballot tabulation on track. Unlike in most states, however, November 3 closed only one chapter of the 2020 presidential election in Georgia. In the weeks after Election Day, Georgia's election officials had to oversee a hand audit of five million ballots (the first statewide audit ever performed in Georgia) and a full machine-based recount. Despite the challenges and the enormity of the undertaking, county officials met their deadlines and, in so doing, affirmed the outcome of the Georgia presidential election three separate times. Multiple lawsuits to challenge the results were ultimately unsuccessful.

Processing and Rejecting Ballots

Georgia voters cast 1,320,154 mail votes in the 2020 general election, representing a return rate of 74.1%. Voters cast more than six and a half times the number of absentee votes in 2020 compared to 2016, when voters cast 202,500 mail ballots. The percentage of absentee votes compared to all votes cast was more than 5 times higher in the 2020 general election—5% in 2016 and 26% in 2020.

Existing laws in Georgia eased the increase of absentee voting in 2020. State law did not require voters to provide an excuse for requesting a mail ballot, and absentee ballots did not require a witness signature or a copy of the voter's ID. The Georgia State Elections Board (SEB) also passed new rules in February 2020 ahead of the June presidential primary (which were later made applicable to the November general election) that proved vital to the election's success. One rule permitted county election officials to pre-process absentee ballots starting at 8 a.m. the third Monday before Election Day (October 19) instead of waiting for Election Day itself. Though officials were prohibited from counting absentee ballots ahead of Election Day, this new rule permitted them to get nearly three weeks head start on everything short of tabulation—which included signature verification, curing of absentee ballot errors, ballot scanning, and adjudication of ballot marking errors. Nearly all of Georgia's 159 counties expressed intent to start processing, scanning, and/or adjudicating early, including Georgia's 10 most populous counties.

Georgia officials made a number of policy changes in order to encourage and simplify mail voting in 2020, including the introduction of an absentee ballot request portal and ballot dropboxes. The secretary of state also took steps to increase voter confidence in mail voting. In late September, Secretary Brad Raffensperger introduced a new partnership with BallotTrax, a computer application that can provide detailed ballot tracking services to all Georgians. Citing the need to innovate and adapt to "unprecedented times," the secretary expressed hope that the service would provide Georgia voters with "greater clarity and increased confidence that their votes are accepted."

Rejection rates for mail ballots were low. Secretary Raffensperger reported that only 2,011 (or 0.15%) of all absentee ballots were rejected for missing or non-matching signatures in the November election. This rejection rate was down from the 2020 June primary rejection rate of 0.28% for missing or non-matching signatures. The secretary attributed the improvement to "both parties attempting to help voters cure their absentee ballots pursuant to the process set forth in Georgia statute." Interestingly, the November 2020 signature rejection rate was on par with the November 2018 rejection rate, even though no signature cure procedures were in place in 2018. Only in 2019 did House Bill 316 modify the existing signature verification procedures and introduce for the first time a notice and cure process for absentee ballots with signature defects. A total of 454 ballots in 2018 (0.15% rejection rate) and 580 ballots in 2016 (0.24% rejection rate) were rejected for missing or non-matching signatures. Part of the reason for the low rate of signature rejection may be due to the influx of volunteers who called and canvassed voters with uncured ballots in the days following the election.

Besides signature issues, late receipt of the mail ballot to election officials represented a significant reason that Georgia election officials rejected absentee ballots. In the June primary, 8,596 out of the 11,889 rejected ballots were tossed because they were received after the deadline. The introduction of ballot dropboxes for the November 2020 voting may have overcome potential postal delays facing voters trying to get their ballots returned on time, but changes in the deadlines for ballot receipt may have misled some voters to believe they had time to mail their ballots. In late August, Democratic plaintiffs in *New Georgia Project v. Raffensperger* secured a preliminary injunction extending Georgia's Election Day ballot receipt deadline by three days, from November 3 until November 6. Though the U.S. district court rejected the state's motion for a stay pending appeal in September, a three-judge panel on the Eleventh Circuit U.S. Court of Appeals granted the stay on October 2. Because the Eleventh Circuit did not hear and rule on the state's appeal by November 3, Georgia rejected all absentee ballots received after 7 p.m. on November 3, regardless of when the ballot return envelope was postmarked. Voters who heard about the initial deadline extension—but not about the 11th Circuit's stay of the extension—may have mistakenly believed they had longer than they did to

return their ballots. In addition, USPS delays may have increased transit times even for voters who mailed their ballot in a timely fashion.

Counting Ballots

In the days and weeks after November 3, Georgia's election became the subject of intense national interest and scrutiny. With a razor-thin margin separating the two presidential candidates, Georgia election officials took several days to announce the presidential results, reporting that Democrat Biden had won the state's popular vote (Associated Press took until November 12 to announce it believed Biden had won). However, that was only the beginning of the post-November 3 story in Georgia, which ultimately involved an audit, a recount, multiple lawsuits, and numerous misinformation narratives.

The use of mail voting shattered historical records, with relatively few problems. The sheer volume of absentee ballots, however—along with snafus such as a technical glitch in Gwinnett County and a burst water pipe in Fulton County—meant that, despite pre-processing efforts, the count was not complete by Election Night. While some counting had been expected to spill into the Wednesday or Thursday after the election, Secretary Raffensperger expressed frustration with the delays. By the evening of Thursday, November 5, there were still about 16,105 absentee votes remaining to be counted, as well as provisional ballots and ballots that needed to be cured before being scanned.

A software problem that occurred on Election Day delayed the counting of about 6,000 ballots in Gwinnett County outside of Atlanta. The error forced officials to rescan roughly 80,000 ballots to identify ones where voters made errors in marking them by hand. Over the next few days, an adjudication panel was tasked with examining those ballots to determine voter intent. Once that process was completed, the outstanding ballots—mostly absentee ballots received on Election Day– could be counted.

Georgia's results may have seemed slow compared to the rest of the country, but the new rule implemented in February 2020 that allowed for pre-processing ballots was instrumental in counting the huge influx of absentee ballots. The ability to pre-process ballots enabled more timely reporting of the results. In Georgia, where the presidential candidates were separated by fewer than 12,000 votes and the U.S. senatorial races bobbed in and out of runoff territory, counting all of the nearly five million ballots became especially necessary for ensuring a reliable report of the results. Had pre-processing of the absentee ballots not occurred, Georgia election officials might have needed even longer to count all the ballots. That delay could have further

jeopardized the perceived legitimacy of the election results and compromised officials' ability to comply with the November 13 county certification deadline.

Though many lawsuits would follow the certification of votes, one challenge came during the initial count. In *In re: Enforcement of Election Laws and Securing Ballots Cast or Received After 7 p.m. on November 3, 2020*, the Georgia Republican Party and Trump campaign asked a state superior court to order the Chatham County Board of Elections to follow specific ballot custody procedures, namely, to sequester all absentee ballots received after 7 p.m. on Election Day. The court held that there was no evidence that the 53 ballots in question were returned after 7 p.m. on Election Day or that Chatham County Board of Elections had violated any law.

Auditing Results

The 2020 general election triggered the first statewide audit ever performed in Georgia. In 2019, the Georgia legislature updated the state's election laws to require that in even-numbered years, a manual statewide risk limiting audit (RLA) be conducted before certification of the state's election results. RLAs are used to confirm, with strong statistical likelihood, that the votes cast on a voting machine for a certain contest were tabulated correctly (i.e. that the same results would have been reached had the ballots been counted by hand). The RLA is conducted by hand-counting a statistically significant sample of paper votes to see if it matches the machine count. Unlike traditional post-election audits, where the number of ballots to be examined is simply a fixed number or percentage of total votes cast, the number of ballots subject to an RLA depends on the closeness of a given race. Where the margin between the top two candidates is wide, fewer ballots must be inspected to reach statistical confidence about the results; where the margin is narrow, significantly more sample ballots must be examined.

On November 11 at 1 p.m. EST, Secretary of State Raffensperger announced that the presidential contest would be the subject of the pre-certification Risk Limiting Audit. At the time, Biden was leading by around 13,500. However, instead of selecting a random sample of ballots for each county to review, the secretary announced that the close margin of votes between the two major party presidential candidates (about 0.3%) would trigger a full *hand* re-tally of all five million ballots cast across all 159 counties. The announcement followed public pressure from President Trump's campaign and Georgia Republicans for the secretary to conduct a full recount. Voting Works, a non-partisan and non-profit election technology company contracted to develop Georgia's audit technology, said that, while only around 1.5 million ballots needed to be audited in order to provide statistical confidence about the winner, in a presidential contest this close, it was actually "less work to sample every cast ballot, simply because attempting to

audit a large subset incurs the work of retrieving and replacing specific ballots, while reviewing all ballots does not."

The secretary's office directed counties to begin the audit process no later than November 13 at 9 a.m. (the deadline for county certification) and to complete it by 11:59 p.m. on November 18—two days prior to the state certification deadline. VotingWorks made copies of audit paperwork (and even a humorous video demonstrating the tasks required in a full hand tally) publicly available online. Some facilities also live-streamed the audit process.

Though it was widely expected that counties would need to work around the clock to meet the November 18 deadline, many counties—even Fulton, the state's most populous county—finished early. On November 19, Secretary Raffensperger announced the completion of the audit—the largest hand tally in United States history—and shared the audit results and audit report. Secretary Raffensperger also announced the successful completion of a forensic audit of voting machines and shared that a certified testing laboratory "found no evidence of the machines being tampered." According to the audit report, the audit "confirmed the original result of the election, namely that Joe Biden won the Presidential Contest in the State of Georgia." The audit data showed that the vast majority of Georgia's 159 counties found negligible changes in their vote counts. In fact, 52 counties reported no changes in their vote totals, and another 73 reported vote total changes of fewer than 10 votes. Seven of the state's more populous counties had vote count differentials greater than 100 votes, and Dekalb, Floyd, Fulton, and Gwinnett had discrepancies greater than 500 votes. Most notable was Floyd County's experience, which turned up 2,600 previously untallied votes—an oversight for which a local election administrator was later fired. In the course of the audit, President Trump netted 496 votes, bringing Biden's lead to 12,248 votes out of nearly five million cast.

Governor Brian Kemp certified the results of the audit on November 20 but, in his remarks, Kemp explicitly referenced that the law required him to do so, and he encouraged Secretary Raffensperger to investigate all potential instances of electoral fraud.

Recounting and Recertifying Results

Even though the results of the audit corroborated the original tally, the Trump campaign was entitled under Georgia law to request a machine recount because the post-audit margin remained below 0.5%. The margin hovered around 0.3% after the audit. The Trump campaign formally requested a taxpayer-funded machine recount on November 21, which differed from the hand audit in that all ballots needed to be rescanned through voting machines. The secretary of state instructed counties to complete the machine recount by December 2, which

they did, with the exception of a negligible number of votes in Coffee County. Every other county was able to complete the task of recertification within the given time limits. The final results of the recount indicated that Biden officially won the state of Georgia by 11,779 votes—reflecting 99.965% accuracy in the original Election Day count.

Two lawsuits were filed before the recount was complete. In *Pearson v. Kemp*, filed on November 25, 2020, six Georgia Republicans represented by conservative attorney Sydney Powell filed an election contest. The lawsuit alleged that election software and hardware from Dominion Voting Systems, which they claimed was developed by Venezuelans to manipulate votes in favor of Hugo Chavez, led to a fraudulent ballot-stuffing campaign in five Georgia counties. Plaintiffs alleged that the state's use of Dominion technology violated the Election Code and the Fourteenth Amendment by processing "defective" ballots, and the lawsuit sought an injunction against transmitting Georgia's certified results. On December 7, the court dismissed the case. In the minutes on the record, the judge said that "[the plaintiffs] ask the court to order the secretary of state to decertify the election results as if such a mechanism even exists, and I find that it does not." The judge also found that the plaintiffs did not have legal standing and that the suit did not belong in federal court. Plaintiffs filed an emergency appeal to the U.S. Supreme Court on December 11. The petition was dismissed on February 11.

Another case filed on November 25 in Georgia state court, *John Wood v. Raffensperger,* sought to nullify the election results. Plaintiff, the president of the Georgia Voters Alliance, contended that Georgia officials violated the state Election Code and state constitution in several ways: by accepting a grant from the Center for Tech and Civic Life to help fund the election, by following a consent decree that provided for more scrutiny of absentee ballot signatures and disqualification, and by counting purportedly illegal votes. He requested that the court prevent the governor from certifying Georgia's election results. The case was dismissed on the grounds that neither the governor or the secretary of state can be named as defendants in an election contest, as they are protected by sovereign immunity.

On December 7, 2020, the secretary of state recertified the results of the presidential election, as did Governor Kemp—the last step towards committing Georgia's electoral votes to Biden. The recertification followed the audit-triggered hand recount and the formal recount requested by the Trump campaign. Both recounts upheld the original outcome of the race.

The same day as the recertification, Governor Kemp issued a statement, along with Lt. Governor Geoff Duncan, responding to Republican lawmakers' request that the Georgia General Assembly convene a special session to select a slate of electors who would, instead, vote for Trump. Kemp's statement unequivocally denied the request, stating that "[i]n the 1960s, the General Assembly decided that Georgia's presidential electors will be determined by

the winner of the state's popular vote. Any attempt by the legislature to retroactively change that process for the November 3 election would be unconstitutional." In this [statement](#), Governor Kemp and Lt. Governor Duncan also advised Republican lawmakers that "the judicial system remains the only viable—and quickest—option in disputing the results of the November 3 election in Georgia." While it may have been the only option, the courts, ultimately, were not a successful forum for litigants hoping to invalidate the will of Georgia voters.

The Trump campaign also filed two post-certification lawsuits. *Trump v. Raffensperger*, filed December 4, asked a state court in Fulton County to order Georgia to conduct the presidential election all over again, from scratch. Petitioners alleged that respondents, the secretary of state and county elections officials, allowed unqualified people to vote, sent unsolicited absentee ballots to voters, entered into a consent decree that allocated more personnel to conduct signature verification, and that the number of absentee ballots was higher than in previous elections. The case was [voluntarily dismissed](#) on January 7, 2021. In one last-ditch effort, President Trump requested an emergency injunction in federal court December 31, in *Trump v. Kemp,* to decertify Georgia's election results, alleging that Georgia's manner of conducting the election violated the Electors Clause. The court denied the request on January 5, 2021. Neither of these lawsuits had any impact on certification or results.

Georgia voters also filed lawsuits during the post-election period, but they had no impact on the results of the election either. Three came before the recertification. First, in *Rebecca Brooks v. Thomas Mahoney III*, filed on November 11, four Georgia voters filed suit against the Georgia governor, the secretary of state, and members of the county boards of elections in eight counties, alleging voter fraud. Their examples included claims that voter registration rolls in 21 counties exceeded 100% of eligible voters in those counties, and that they believed more than 70,000 non-citizens voted for Biden. Plaintiffs sought to exclude counties with any irregularities from the state's overall vote total, on the grounds that such counties' inclusion would dilute plaintiffs' votes. Five days later, plaintiffs [voluntarily dismissed](#) their suit.

In the second post-election citizen lawsuit, *Lin Wood v. Raffensperger*, filed in federal court on November 13 (the day the audit began), a Georgia voter sought an injunction against certifying the general election results in the state. The plaintiff alleged that the secretary of state had violated the Elections Clause by entering into the litigation settlement in *Georgia Democratic Party v. Raffensperger* in March, and that the secretary of state had changed the manner of handling absentee ballots to a form inconsistent with state law. The court [held](#) that Lin Wood lacked standing to bring these claims and that the plaintiff had not demonstrated a likelihood of success on the merits.

In the third citizen lawsuit, _Boland v. Raffensperger_, filed in a state court in Fulton County November 30, a Georgia voter alleged that 20,311 people who did not reside in Georgia voted in the election and that there was a low ballot rejection rate based on signature mismatch. As remedy, the plaintiff sought the decertification of election results. The court dismissed the suit on December 8 for lack of standing and for insufficient factual basis for the claims. The Georgia Supreme Court declined to hear an appeal and the plaintiff voluntarily dismissed the case.

Post-certification, two Georgia voters sought to decertify Georgia's presidential results in _Still v. Raffensperger_, filed on December 12, 2020. Petitioners contended that Coffee County experienced irregularities during its recount and was unable to certify its recount by the secretary of state's deadline. They argued that, because of this incident, the court should de-certify Georgia's results. The case was voluntarily dismissed on January 7, 2021.

Finally, in _Favorito v. Cooney_, a tabulation observer and several hand-count auditors filed suit on December 23 in a state court in Fulton County alleging a range of mail-ballot fraud. Among other claims, petitioners said they detected a sudden 20,000 vote increase for Biden, and alleged that a video posted on social media showed that, during a water main break at the State Farm Arena voting center when some staff and reporters left the premises, other election workers allegedly pulled out cases filled with ballots and scanned them. Plaintiffs sought an order permitting them to inspect and scan all mail ballots for the general election; the case remains open as of early 2021.

Michigan

In the words of Michigan Secretary of State Jocelyn Bensen, the 2020 general election went "incredibly smoothly." Turnout reached record highs, with more than 5.5 million votes cast, representing 71% of all registered voters — compared to 4.9 million votes cast in the 2016 general election, representing 63% of registered voters. Even with the massive increase in voter turnout and mail voting, fewer mail ballots were rejected in November 2020 than in previous elections. Although many worried that it would take several days for the state to report election results, the press called the state for Joe Biden at 6 p.m. the day after Election Day. Biden defeated Trump in Michigan by 2.8 percentage points, or 154,188 total votes.

Despite the well-executed election, there was still a cloud of misinformation narratives and unsubstantiated claims of voter fraud and electoral misconduct hanging over Michigan. The phenomenon dubbed a "red mirage" by political observers is one in which Republicans appear to be winning at first because in-person votes are counted first. Democratic voters in 2020,

especially due to the coronavirus pandemic, leaned heavily on absentee votes (which are typically counted later). So as the election counting proceeded, an early Republican lead (the "red mirage") was dissipated by a later Democratic surge (the "blue tsunami"). Unsupported claims of voter fraud were buoyed by unsuccessful post-election lawsuits, as well as by state legislative hearings that dragged on until December 2. Neither the lawsuits nor the hearings stopped Michigan's certification process and, on November 23, the state certified its election results for Biden.

Processing and Rejecting Ballots

As expected, absentee voting hit an all-time high in Michigan. Of the 5.5 million votes cast in November 2020, 3.26 million were early or mail ballots, representing nearly 60% of all votes cast and with a return rate of 94% of mail ballots requested. This was a 167% increase in mail and early vote turnout from 2016. Despite this surge in mail voting, no supply or ballot shortages were reported.

 Anticipating a significant increase in mail voting, Secretary of State Jocelyn Benson and Michigan town clerks called for an earlier start date for processing mail ballots—a change they had sought since August 2019, long before the coronavirus pandemic. Under state law in 2019, processing of mail ballots could not begin until Election Day. Election officials feared it would take many days after Election Day to count mail votes (see appendix for details on the procedures). In October 2020, the Michigan legislature, controlled by the Republican Party, passed a new law, Senate Bill 757, that allowed election officials in larger municipalities to pre-process (but not to count) mail ballots the day before Election Day, one day earlier than previously allowed. Additionally, the bill allowed for extra work shifts for counting mail ballots. These changes were relatively modest, and Secretary Benson predicted that the state might not be able to announce the 2020 presidential results until the Friday after the election. However, election staff worked tirelessly and finished processing and counting votes by Wednesday evening, November 4.

Some election experts worried that the rejection rate of mail ballots could be large enough to decide the Michigan election. This fear stemmed from the 2016 election, when the number of mail ballots rejected was only 10 fewer than the margin by which President Trump won the state. As it turned out, however, rejection rates in November 2020 were low—0.46%, compared to 0.49% rejected in the 2016 presidential election and 0.70% rejected in the August 2020 primary. Of the 3.26 million mail and early ballots cast, only 15,302 were rejected, well below the 154,188-vote margin by which Biden defeated Trump in the state.

While Michigan does not require a witness signature or a copy of an ID with mail ballots, the state has a signature verification process. The state also rejects ballots received after 8 p.m. on Election Day, no matter the postmark date. Of the 15,302 ballots rejected in the November 2020 general election, most fell into five categories: 3,328 were rejected for lateness, 1,400 for mismatched signature, 1,852 for missing signature, 4,090 for voters who moved to a different jurisdiction after voting absentee but before Election Day, and 3,469 were voters who died before Election Day.

Two new sets of rules in 2020 reduced the number of mail ballots rejected for signature reasons. First, Michigan Secretary of State Jocelyn Benson issued statewide signature verification guidance in early 2020. The guidance was created in response to a lawsuit, *Priorities USA v. Benson,* filed by the League of Women Voters. It standardized criteria employed across the state while providing more rigorous training for election officials on signature verification. Significantly, the guidance recommended that slight dissimilarities in signatures should be resolved in favor of the voter whenever possible, permitting officials to accept more signatures. Second, the Michigan legislature passed a law (Senate Bill 0757) on October 7, 2020, requiring notice be given to voters who submitted defective ballot envelopes and mandating such voters have an opportunity to cure those defects before Election Day. After these rules went into effect, the rate of rejections for signature issues fell slightly from 0.14% to 0.1% of total absentee ballots between the August 2020 primary and the November 2020 general election. Rates also fell from the 2016 general election, where the rate of rejection for signature issues was 0.13%.

In light of the expected high volume of mail ballots, voting rights advocates feared a large number of mail ballots in November would be rejected for lateness. These fears were exacerbated by the high number of rejections for late-arriving ballots in the August primary and by concerns that operational changes at the U.S. Postal Service (USPS)would slow mail delivery. Late ballots did end up constituting about 1 in 5 rejected ballots during the 2020 general election.

In two lawsuits, plaintiffs unsuccessfully tried to obtain an extension to the Election Day receipt deadline. First, plaintiffs in *League of Women Voters of Michigan v. Benson* unsuccessfully petitioned a three-judge panel of the Michigan Court of Appeals to order the secretary of state to accept ballots *postmarked* by Election Day, and the Michigan Supreme Court denied plaintiffs leave to appeal. Then, in *Michigan Alliance for Retired Americans v. Benson*, a Michigan state court granted plaintiffs' request for a preliminary injunction enjoining enforcement of Michigan's Election Day ballot receipt deadline. However, on October 16, well after the state had printed and mailed voting materials and instructions reflecting the new injunction-granted deadline, a different three-judge panel of the state appeals court reversed that ruling. The appeals panel

held that it was constitutional to require ballots be *received* by the close of polls on Election Day in order to be counted. This late reversal left election officials and voting rights advocates scrambling to publicize the change in deadline to minimize voter confusion.

Fortunately, operational slowdowns of the USPS prior to the election did not cause as many votes to be rejected for lateness as some had feared and expected. But the USPS changes and delays did prompt at least three lawsuits involving Michigan. Over the summer, the Michigan attorney general joined other states in a federal lawsuit against the USPS. Then, the weekend before Election Day, in a federal lawsuit brought by voting rights groups, a federal court ordered the USPS to accelerate delivery in Detroit, Michigan, and Lakeland, Wisconsin. And finally, on Election Day itself, in response to data showing that the USPS was in possession of 300,000 ballots nationwide that had been scanned into the USPS's processing system but not delivered to their elections office destinations, voting rights nonprofits filed a lawsuit seeking an injunction that would require USPS inspectors to scour facilities across the country, including in Detroit, for undelivered ballots. While the court granted the injunction for various USPS facilities in Detroit, USPS failed to comply with the judge's order, claiming that compliance "would've interrupted Election Day processes at the facilities and wasn't feasible for the small number of inspectors at a facility." While some were alarmed by the USPS's failure to comply, only 3,328 ballots were ultimately rejected in Michigan for lateness, about half the number (6,405 ballots) as rejected in the 2020 August primary. Extensive educational campaigns conducted by Michigan's secretary of state and more than 100 nonprofit organizations likely helped encourage voters to mail their ballots early or drop them off at official locations.

Counting Ballots

The tabulation of votes in Michigan proceeded faster than anticipated. The Associated Press called the election for Joe Biden on Wednesday, November 4, at 6 p.m, two days before a call was expected. AP was able to make an early call because the remaining uncounted votes came from overwhelmingly Democratic areas. Though the count was expected to take up to three days after Election Day, Michigan finished counting its remaining ballots on Wednesday night, as Secretary Benson announced in a video. Counties posted their unofficial results on their websites in the early morning hours on Thursday, November 5. The new law allowing processing to begin the day before the election and extending work hours for poll workers enabled this efficient counting effort.

Republican poll challengers and the Trump campaign filed multiple lawsuits after Election Day, seeking to delay or halt the tabulation of the vote or the election certification. While these

lawsuits all alleged election irregularities and even outright fraud, their legal claims centered around compliance with election procedures, such as observation of certain processes.

Three lawsuits, all in state courts, sought to halt the count of mail votes until more Republican poll observers were allowed to watch the tabulation of votes. First, in *Polasek v. Benson*, plaintiffs sought an emergency declaratory judgment that more than one challenger per party should be present to observe the absent voter counting board. The judge denied the request, finding that the defendants, including Michigan's secretary of state, did not have the power under Michigan law to expand the number of challengers to 10 per party as requested.

Second, in *Donald J. Trump for President v. Benson*, plaintiffs requested the vote count in Wayne County be halted until the secretary of state allowed the Trump campaign's chosen inspectors to be present at the absentee ballot boards. It also asked that the count be halted until the campaign's challengers were able to review video surveillance footage of ballot dropboxes (which they alleged would show a passenger in a car dropping off more ballots than there were people in the car). The judge dismissed the case and the appeals court upheld the dismissal, holding that Michigan law required fraud claims to be tested through the request of a recount before relief could be granted by the courts.

In the third case, *Stoddard v. City Election Commission*, plaintiffs requested an injunction to halt the counting of absentee ballots until observers from both parties were present. The judge denied the motion, noting that plaintiffs had failed to state a cause of action, made allegations that amounted to "mere speculation, " and offered "no evidence to support their assertions." The judge also noted that plaintiffs had alternative remedies, such as a recount.

Republican poll challengers, state elected officials, and President Trump himself made numerous claims of voter fraud and improper election conduct in Michigan. The Republican-controlled Michigan legislature held days of hearings, allowing witnesses to testify, with little oversight or rebuttal, that voter fraud occurred. These hearings gave an uncontested microphone to claims of voter fraud that did not hold up in lawsuits. But the repeated publicly aired claims of voter fraud in Michigan and other states may have had an impact on public opinion: Three in four Republicans in late November said they lacked confidence that the November election was conducted fairly. Additionally, these claims sparked significant anger and led to threats of violence against many state election officials, including against Michigan's secretary of state (a Democrat). Michigan's election infrastructure and administration proved to be robust, but political and misinformation campaigns were also robust and undermined the perceived legitimacy of the election in the minds of many voters.

Many misinformation narratives surrounded the ballot counting process. The combination of protests and misinformation culminated in a year of "political chaos" in Michigan. Most of the misinformation narratives were easily and quickly debunked. Claims of ballot stuffing in Flint relied on a video which turned out to show a polling place in Russia. Claims that a "mysterious wagon" filled with Democratic ballots was sneaked into Detroit's TCF Center were discredited when the wagon turned out to contain a reporter's camera equipment.

Two misinformation narratives did gain considerable traction. The first contended that computer glitches in Antrim and Oakland counties swung their vote counts for Biden. Conspirators alleged a plot between the Democratic Party and Dominion Voting Systems, a company which manufactures voting machines used in Michigan and other states, to ensure that Biden won. While two computer glitches in Antrim and Oakland counties did occur, both were quickly rectified and the source of each was easily identified. In Antrim County, which did use Dominion voting machines, the glitch was caused by the town clerk's failure to update the ballot file in certain voting machines. The glitch was minor, and the tabulation of votes in each precinct was correct, as verified by a hand count. However, the glitch caused the individual precincts' vote tallies to be added together incorrectly, so the unofficial total vote count for the county was off by a few thousand votes until the error was discovered and fixed. In Oakland, a software glitch caused some votes to be counted twice. However, the issue was fixed within a day of being identified. Additionally, Oakland's voting machines were not manufactured by Dominion, so the two glitches could not have been connected to a grander Dominion conspiracy.

A second misinformation narrative claimed that Republican poll challengers were unfairly barred from observing the processing and counting of absentee ballots in Detroit. This claim was parroted in several election lawsuits (described above) and was amplified by Trump on Twitter. Some election challengers were prevented from entering a counting center in Detroit (TCF Center), but that was because the number of Republican challengers already observing the process had reached the limit allowed under state law. Michigan law provides that only one appointed election challenger per eligible group may observe the conduct of the absentee voter counting board, which tallies absentee votes on Election Day and the day before Election Day. In fact, over 100 Republican challengers were allowed to observe at TCF Center.

Certifying the Vote

Detroit's Wayne County election board initially refused to certify the election results because of fraud allegations, and many feared the State Board of County Canvassers would do the same. However, each of Michigan's 83 counties certified local election results on time, following the

standard double-checking that occurs during the routine canvass process. This process, as is usual, revealed a handful of issues attributed to "typical human error" that were resolved. Biden's margin increased slightly after the canvass—but of the more than 5.5 million ballots cast, only a small fraction were affected by the process. The Michigan Bureau of Elections subsequently recommended the State Board of County Canvassers certify the statewide results.

Michigan's State Board of County Canvassers voted on Monday, November 23, to certify the state's election results in all 83 counties, formally granting Joe Biden the state's 16 electoral votes. Three of the four members of the Michigan Board of State Canvassers voted to certify the results, arguing it was their required duty under the law. The remaining board member, Republican Norm Shinkle, abstained. After the vote, the Trump campaign vowed to continue to fight to overturn the results despite Michigan's certification, but the Trump administration announced it would begin the transition process to Biden's presidency.

No automatic recount was required under state law because Biden's margin over Trump exceeded 2,000 votes. Under Michigan law (§168.879), the Trump campaign could have filed for a recount within 48 hours of certification. However, the Trump campaign did not request a recount in Michigan. The margin by which President Trump lost Michigan (154,188 votes) was much wider than in other states where the campaign filed for recounts. Republican lawmakers in Michigan also met with Trump on November 21 and reported that they had "not yet been made aware of any information that would change the outcome of the election in Michigan."

Four lawsuits, in state and federal courts, attempted to halt certification of Michigan's election results. In *Constantino v. Detroit*, several Wayne County voters alleged a laundry list of electoral misconduct by the City of Detroit election officials. They requested an audit, an order to stop the counting of votes, and an injunction to halt certification. The state circuit court denied all requests, finding that the affidavits supplied by plaintiffs were "rife" with generalization, speculation, hearsay, and a lack of evidentiary basis.

In *Donald J. Trump for President, Inc. v. Benson*, the Trump campaign alleged in a federal district court that Wayne County and Secretary Benson violated the Michigan Election Code by purportedly not permitting challengers to observe the conduct of the election and the processing of ballots. The campaign also alleged election officials pre-dated ballots that were not eligible to be counted. Plaintiffs voluntarily dismissed the case eight days later.

In *Bally v. Whitmer*, plaintiffs alleged in federal district court that a certified poll watcher was excluded from observing canvassing, and they made claims of fraud, citing the complaints in

Constantino v. Detroit and *Donald J. Trump for President Inc. v. Benson*. Within five days, plaintiffs voluntarily [dismissed](#) the case.

Finally, in *Johnson v. Benson*, two Michigan voters and poll challengers at the TCF Center polling location in Detroit requested an injunction barring election certification. They alleged that the secretary of state's purportedly illegal plan to mail absentee applications to all registered voters enabled Democratic Party inspectors to fill out "thousands" of ballots at the TCF Center, in violation of state law. After two days, plaintiffs voluntarily requested their lawsuit be [dismissed](#).

After the election results were certified, two lawsuits in state court sought to decertify the results. In the first, *Johnson v. Benson*, members of Black Voices for Trump alleged that respondent state officials failed to allow meaningful poll observation, that they instructed election workers to count invalid ballots, and that they permitted counties to accept private grants from tech billionaire Mark Zuckerberg to help fund election expenses. The case was [dismissed](#) for lack of jurisdiction and because the injunction request was moot. In the second case, *King v. Whitmer*, six Michigan voters alleged that Republican poll observers were denied the opportunity to meaningfully observe vote counts, that election workers forged and altered ballots, and that defective ballots were counted. The federal district court [dismissed](#) the case, and plaintiffs [filed](#) a petition for a writ of certiorari with the U.S. Supreme Court, which denied cert on February 22.

In a suit filed in December, *Leaf v. Whitmer*, plaintiffs claimed that the Michigan Board of Elections' routine order to delete certain election records was intended to destroy evidence of voter fraud. The lawsuit was [thrown out](#) on various procedural grounds, including a failure to submit a proper complaint and a failure to comply with basic notice requirements.

One case in Michigan was filed *against* the Trump campaign. *Michigan Welfare Rights Organization v. Trump*, plaintiffs alleged that the president's attempts to pressure election officials to decertify Michigan election results was an effort to disenfranchise Black voters. The case has not been resolved as of March 2021.

Nevada

With six electoral votes, Nevada was not initially expected to be a state that could sway the election. But as results around the country trickled in, Nevada became a critical battleground. To outsiders, the lack of immediate results appeared to be due to counting delays, but Nevada election officials were on pace to conduct a timely election and count. Multiple lawsuits

challenged the state's universal vote-by-mail option, argued a lack of "meaningful observation," and cast doubt about the veracity of the Agilis brand signature verification system. But the Nevada Supreme Court unanimously certified the state's election results. Biden won Nevada by 33,596 votes—a margin of 2.39% over Trump. Voters cast 1,425,026 total votes in the 2020 general election (78.22% of active voters), an increase from the 2016 total of 1,125,429 votes (76.83% of active voters). Despite the conclusion of lawsuits in Nevada and a 78% voter turnout rate, misinformation continued to spread in the weeks after November 3.

Processing and Rejecting Ballots

Mail voting was the most popular method of voting in the Nevada 2020 general election. Mail ballots accounted for 48.46% of overall turnout, while early in-person voting accounted for 40.59% of ballots, and in person voting on Election Day accounted for 10.95% of votes. The 690,548 mail ballots cast for 2020 marked a monumental increase from the 78,572 mail votes of 2016, when they represented only 6.98% of total votes.

Nevada's existing laws, plus legislative action in August, allowed the state to avoid problems that made voting by mail more difficult in other states. Before the coronavirus pandemic, Nevada already had the no-excuse vote-by-mail option, no requirements for witness or signature identification, and same-day voter registration. In 2019, Nevada passed legislation that allowed officials to count mail ballots 1) that were postmarked on or before Election Day but arrived no later than seven days after the election, and 2) that had indeterminable postmarks but arrived no later than the three days after the election. By May 2020, Nevada authorized automatically sending registered voters mail ballots for the primary election.

After the June primary election, the Nevada State Legislature passed Assembly Bill 4 ("AB 4") in August 2020, which created election procedures during an "affected election"—a general election for which there is a declaration of emergency in effect on July 1. Unsurprisingly because of the coronavirus pandemic, there was a declared state of emergency in Nevada in effect on July 1, thus making the November 2020 election an "affected election." Importantly for mail voting, AB 4 authorized state officials to send mail ballots to every registered voter and permitted third-party ballot collection. The law enabled election officials to process mail ballots upon receipt *and* to start counting them 15 days before the election. These rules made it simpler for voters to cast ballots and more efficient for officials to count them. President Trump challenged AB 4 on the grounds that the new rules would lead to voter fraud, but the court dismissed the suit for lack of standing.

AB 4 also had important implications for signature verification of mail ballots. Before AB 4, a ballot could be rejected if at least two employees in the office of the county clerk "believe there is a reasonable question of fact as to whether the signature" on the ballot matched the signature "available in the records of the county clerk." AB 4 altered the rejection standard so that a signature could be challenged *only* if it "differs in multiple, significant and obvious respects from the signatures of the voter available in the records of the county clerk." In accordance with existing signature verification policies before AB 4, election officials notified the voter if their ballot was rejected for signature deficiencies and provided them with opportunities to "cure" signature deficiencies until 5 p.m. on November 12. During the Nevada primary election, the main reason for rejection of mail ballots was missing signatures and signature mismatches. Historically, members of minority communities in Nevada were more likely to have their ballots rejected for signature issues than white voters.

Just 0.58% of all mail ballots returned in Nevada were rejected in the 2020 general election, a significantly smaller portion than in 2016 (1.60%) and 2018 (2.05%). Initially, 12,584 (1.82% of the 690,584 returned mail ballots) needed a signature cure. Of those, 9,697 (77.06% of mail ballots in need of cure) were successfully cured before November 10. This left only 2,887 (0.42% of mail ballots) of ballots rejected in the 2020 general election due to a signature defect. By contrast, 12,366 (2.56% of the 483,788 returned mail ballots) needed a signature cure in the primary election. Just under half of those ballots ended up being cured and counted. In total, 97.31% of the ballots voters returned in the general election were returned correctly and did not need subsequent signature cures.

Nevada's extended ballot receipt deadline lessened the risk that ballots would be rejected because of postal delays. While national media coverage of USPS delays fueled voter fear that their ballots would not reach election officials on time, Nevada law allows for some delay. As long as ballots were postmarked by November 3, they would be counted—even if they arrived as late as November 10, 2020. Due to Nevada's lengthy ballot receipt deadline (seven days after the election), the Nevada deputy secretary for elections predicted that USPS delays would not be an issue within the state. To further alleviate some concerns surrounding vote-by-mail, state officials in September implemented BallotTrax, a third-party tool used in Nevada and other states to track when ballots were mailed, when returned ballots were received by the county, and when ballots were counted.

Counting Ballots and Reporting Results

Nevada's vote count received national attention, as it was among the final battlegrounds to be called. Despite memes ridiculing the slow pace of Nevada's count procedure, the count was

actually happening at a normal and expected speed. To ease the tension, Secretary of State Barbara Cegavske issued a statement on November 4 to clarify why the results had not been posted, stressing that "the counting of ballots in Nevada is proceeding at the expected pace." For the 2020 general election, Nevada law allowed election officials to start counting returned mail ballots 15 days before Election Day and required all ballots to be counted within nine days of the election. Officials had warned that results could take up to 10 days, emphasizing their prioritization of accuracy over speed.

Nevada's count appeared to be delayed for multiple reasons. First, mail ballots that were postmarked by November 3 but arrived through November 10 were eligible to be counted per state law, so the state was obligated to wait a week for late-arriving mail ballots. In addition, ballots with signature defects could be cured and counted through November 12. With a slim margin between Trump and Biden, these outstanding ballots were crucial in determining the ultimate winner of the state. Lastly, voters who registered in person during early voting or on Election Day cast provisional ballots, and their registrations needed to be verified before their votes were counted. During the 2020 general election, 30,007 voters registered to vote in person during early voting or on Election Day and cast provisional ballots.

Nevada's policy of batching election result updates also slowed the pace of results as the nation eagerly awaited news. At 2:45 a.m PT on November 4, the Nevada Elections Division tweeted that all in-person early votes, in-person Election Day votes, and mail ballots through November 2 had been counted, but there were still many more ballots to count. A large volume of mail ballots received on Election Day, mail ballots to be received over the next week, and provisional ballots were yet to be counted. Furthermore, no new results would be posted until November 5 at 9 a.m. PT. Secretary Cegavske also announced that unofficial election results would be updated daily around 9 a.m. starting on November 5, while one-off updates might occur from time-to-time.

In other states, the results of the presidential election could be estimated by how many ballots remained outstanding in certain precincts. But in Nevada, the number of ballots outstanding was a difficult number to estimate because the state had sent every voter a mail ballot and, while the state did not expect a 100% return rate, it did not know what the turnout might be. Therefore, even though Biden led Trump by about 1% of votes on the morning of November 5, news networks held off on making an official call. Furthermore, key counties had high numbers of ballots remaining to be processed and counted—by 10 a.m. on November 5, 63,262 ballots remained to be counted in Clark County alone. However, by November 7, media outlets such as the Associated Press and the *New York Times* had called Nevada for Biden. Ultimately, President-Elect Biden won the state by a margin of 33,596 votes.

Other than delays, the counting process went fairly smoothly. There were a few isolated incidents of protests at polling and counting locations. Post-Election Day, protestors descended on the Clark County Election Center, where election workers were counting ballots, demanding the count be stopped. In response, the county increased security and started tracking cars entering and leaving the election center.

Nevada Republicans and the Trump campaign began legally challenging Nevadas's general election processing and counting procedures as early as October 23. The last case was filed on November 17 to request that the Nevada State Court certify the Nevada election for President Trump. The most substantive challenges concerned the use of the Agilis automated signature-matching software and a purported lack of ability to observe counting procedures. None of the cases resulted in ordering election officials to cease using the Agilis software. One case ended because of a stipulation in which Clark County agreed to expand observation access. Despite that agreement, a subsequent lawsuit, asking for closer observation (among other things), was ultimately dismissed.

Republican voters filed a lawsuit, *Stokke v. Cegavske*, on November 5, 2020, to challenge the ballot counting process. Plaintiffs, two individuals and two Nevada Congressional campaigns, sought injunctive relief to direct state election officials to (a) cease their use of the Agilis system to count ballots and (b) allow greater access to ballot-counting observers. Plaintiffs claimed that the Agilis system, which purportedly misidentified plaintiff Stokke as having already voted by mail, was not able to properly verify signatures. The court denied the plaintiffs' request for preliminary injunction to mandate that Clark County permit observers to be closer to the ballot-counting process. Plaintiffs subsequently voluntarily dismissed their lawsuit.

Certifying the Vote

Nevada officially certified the results of the general election on November 24, 2020, after county clerks had certified the vote count for their counties and passed their certifications up to the secretary of state. The Nevada Supreme Court approved the state's election results. Several Nevada Supreme Court justices congratulated Secretary of State Cegavske for running a smooth election with a 77.3% turnout rate. Biden won by a margin of 33,596 votes overTrump.

Nevada's certification took place despite a number of GOP legal challenges to the state's election results and counting process, and the Trump campaign's unsupported accusations of voter fraud in the state. Under Nevada law, a candidate defeated in any election may request a recount within three business days of the canvass and the subsequent certification of votes. While Trump did not request a recount, his campaign and other candidates for office filed four

election contests. An election contest in Nevada is a special judicial proceeding with its [own rules](). In addition to making unfounded voter fraud claims, all the legal challenges filed in Nevada after Election Day sought to replace Agilis, an automated ballot processing system used by Clark County to conduct signature verification for mail ballots to supplement human review (see, e.g., [Stokke v. Cegavske](), [Law v. Whitmer](), and [Rodimer v. Gloria]()). While plaintiffs contended that the Agilis machine misidentified signatures, courts found no proof of such malfunctioning. In one case, the judge found the testimony not credible because the plaintiffs' expert witnesses were "unable to identify the source" of their datasets and admitted to using "no quality control" ([Law v. Whitmer]()). All of these lawsuits were unsuccessful.

Pennsylvania

Pennsylvania's counting of in-person and absentee ballots proceeded as many expected and largely without issue, including the early emergence of a "red mirage" that was later swamped by a "blue tsunami." Pennsylvania election officials fully complied with the law and successfully oversaw the canvassing, tabulating, reporting, and certifying procedures. Ultimately, Pennsylvania elected Biden in the presidential contest by a margin of [80,555]() votes over Trump.

Processing and Rejecting Ballots

Following nationwide trends during the coronavirus pandemic, mail, or absentee, ballots hit a record high in Pennsylvania for the November 2020 election. Of the total [6,915,283]() votes counted during Pennsylvania's general election, [37.8%]() were cast via absentee ballot. This figure marks a significant increase from the 2016 general election, in which only 4.3% of votes were cast absentee. Moreover, more than 80% of mail ballots were returned prior to Election Day in 2020.

[Fears]() of mass rejections of mail ballots because of late arrival did not materialize. Only [10,000 ballots]() arrived after November 3, and Pennsylvania had extended the ballot receipt deadline until November 6 in anticipation of the influx of mail votes. However, the extended grace period drew significant [litigation](), which yielded a U.S. Supreme Court [order]() to keep the post-November 3 arrivals separate. The 10,000 ballots received after Election Day were far fewer than previous election cycles and [not enough]() to make a difference in the final electoral results in which Biden beat Trump by more than 80,000 votes. Therefore, the disposition of the segregated absentee ballots did not delay the state's certification of the election results.

Before the election, many were concerned that the state's mandatory requirement that absentee voters use "secrecy sleeves" (inner envelopes that protect the voter's privacy while identifying information on the outer return envelope is processed) would increase the ballot rejection rate. Philadelphia's City Commissioner Lisa M. Deeley cautioned that the secrecy sleeve requirement in Pennsylvania would cause "electoral chaos" and could result in 100,000 rejected ballots statewide. However, despite the large number of first-time absentee ballot voters in 2020, just 7,411 ballots, or 0.282% of all absentee ballots, were rejected in Pennsylvania. This was a significantly lower rejection rate compared to the 2016 cycle, in which 0.95% of absentee ballots (or 2,534 ballots) were rejected, a rate roughly in line with the historical average. Extensive media coverage of the issue and nonprofit advertising may have successfully educated Pennsylvania voters to include the secrecy sleeve or to cure any "naked ballots" through provisional voting on Election Day.

Pennsylvania did not have consistent notification rules governing absentee ballots rejected for technical errors. Jonathan Marks, Pennsylvania's deputy secretary for elections and commissions, advised all counties to scan flawed ballots as quickly as possible on Election Day and mark them as canceled in order to trigger notification emails to voters. While some counties followed this guidance and took additional steps to help voters "cure" their ballot defects, other counties (such as Lycoming County), instead marked these ballots as received with no indication of any problem or ballot rejection. Allegheny County mailed flawed ballots back to voters but did not mark these ballots in the tracking system. Officials anticipated a time-crunch in ballot curing on Election Day and proactively urged voters to make use of provisional ballots if they believed that their ballot might be rejected (for instance, for failing to include the secrecy sleeve or forgetting to sign).

Pennsylvania's secretary of state also sent guidance to all county boards of elections stating that "the county boards of elections should provide information to party and candidate representatives during the pre-canvass that identifies the voters whose ballots have been rejected and should promptly update the [online ballot tracking] system." While some counties followed this guidance on Election Day, several counties—including Blair, Berks, Carbon, Clinton, Dauphin, Lancaster, Lycoming, and Perry counties—refused to accept the guidance, alleging that it violated state law. Citing Pennsylvania's election code provision that "[n]o person observing, attending or participating in a pre-canvass meeting may disclose the results of any portion of a pre-canvass meeting prior to the close of the polls," these counties failed to provide any names of voters of rejected ballots to official poll workers and later filed several lawsuits over the legality of the guidance itself. At least one of these lawsuits, filed by Republican candidates, sought to block voters whose ballots had been initially rejected from casting provisional ballots.

After Election Day, Republican party officials and the Trump campaign filed several lawsuits related to various aspects of Pennsylvania's vote-by-mail procedures. These suits included a challenge to the constitutionality of a provision of state law (Act 77) that allowed no-excuse mail voting (the lawsuit was dismissed by the Pennsylvania Supreme Court). Other legal actions made various requests to exclude absentee ballots with technical errors, such as those missing dates or addresses, or those arriving with partially unsealed envelopes (most of these were dismissed or denied). And there was litigation seeking to prevent the certification of Pennsylvania's election results, alleging mail ballot fraud (denied by the Third Circuit).

Counting Ballots

Pennsylvania counties tabulated different "computations," or buckets of votes: votes received by Election Day, including ballots cast in person and mail ballots; postmarked ballots received between 8 p.m. Election Day and Nov. 6, as ordered by the state Supreme Court; and ballots that arrived between those days with no postmark or with an illegible postmark, which the high court also permitted as long as there wasn't a preponderance of evidence to show they were sent too late. As discussed above, these distinctions ended up irrelevant given the wide margin of victory.

Shortly after Election Day, the Trump campaign brought a lawsuit against Philadelphia's County Board of Elections, seeking to stop the county from counting ballots until Republican election observers were allowed "to be present and observe the canvassing of all mail and absentee ballots." Unfortunately for the plaintiffs, a Trump campaign attorney admitted to a federal judge during oral argument that the campaign had multiple representatives present to observe the canvassing at all times. And, according to Philadelphia's city commissioners, both parties had observers present and both parties were given equal access throughout the process. The case was dismissed.

The Trump campaign did achieve one minor victory, however, securing a court order on November 5 that required poll watchers be allowed within six feet of ballot counting in the Pennsylvania Convention Center, rather than the initial 20-foot barrier. This change paused counting altogether for two hours and subsequently slowed down the counting process in Philadelphia, as poll workers could use only the tables closest to the observers' perimeter barrier, which "left the other tables empty, equipment unused, and ballots counted at a slowed pace." Trump later continued to claim on Twitter that "Pennsylvania and Michigan didn't allow our Poll Watchers and/or Vote Observers to Watch or Observe," but this claim was unequivocally false, as poll watchers were allowed to observe the canvassing of ballots in both of the implicated states.

By the morning after Election Day, roughly 75% of Pennsylvania's votes had been counted and Trump led Biden by over 600,000 votes statewide. The overwhelming majority of these votes, however, were votes cast in-person on Election Day. Because Pennsylvania law prevented officials from tabulating mail ballots until the close of polls, it took weeks to officially canvass and tally 100% of the state's votes. Over the course of the next several days, as election officials began to canvass over two million mail ballots and over 100,000 provisional ballots, the margin between Trump and Biden began to tighten. Biden's gains in the state's absentee ballots were largely expected, given widespread evidence that Democrats were overwhelmingly choosing to vote by mail. By Friday, November 6, the number of votes counted for Biden exceeded Trump's vote count. And by November 7, multiple news outlets called Pennsylvania for Biden and declared him the presumptive president-elect. Biden's final margin of victory over Trump exceeded 34,000 votes, or 0.51 percentage points—outside the margin that would trigger a mandatory recount under Pennsylvania law.

Certifying the Vote

In the several weeks following the November 2020 election, the Trump campaign and its allies pursued various efforts to delay or circumvent Pennsylvania's official certification of the election results. For example, Pennsylvania's Republican-controlled House attempted to initiate a "legislative audit" of the election. That move was rejected by the Legislative Budget and Finance Committee in a 2-1 vote due to the ongoing, legally mandated Department of State vote certification audit. In addition, Rudy Guiliani, a prominent Trump attorney, joined an existing lawsuit urging the court to prohibit the certification of Pennsylvania's results. The federal district court rejected the request, finding that the plaintiffs had presented "strained legal arguments without merit and speculative accusations … unsupported by evidence." The Third Circuit U.S. Court of Appeals also denied relief to the Trump campaign in its effort to stop certification. Despite several open cases and ongoing attempts to reach the U.S. Supreme Court, the state certified its election results on schedule.

Even with the external legal drama, the certification process in Pennsylvania proceeded on time and in accordance with state law. Counties were required to submit their certified results to Secretary of the Commonwealth Kathy Boockvar by November 24, 2020. County boards certify their results during a public meeting held before that deadline. Although minor disputes arose over the validity of small batches of ballots with certain technical flaws (such as ballots with illegible or missing printed names or dates) and delayed results in some counties, ultimately all disputes were resolved before the statutory deadline. Many boards, including those in Bucks, Lehigh, and Lackawanna counties, met the day of the deadline, Monday, November 24, to

certify their votes. Allegheny, Dauphin, Luzerne, and Montgomery counties were among those that certified their results but not unanimously.

On November 24, three weeks after Election Day, Pennsylvania officially certified the election results, securing Biden's victory. After the Department of State confirmed the county-by-county figures, Secretary Boockvar announced the final count: Biden received 3,458,229 votes, 80,555 more than Trump's 3,377,674 votes. Biden won 50.01% of the vote to 48.8% for Trump. Governor Tom Wolf then signed the Certificate of Ascertainment, a federally required document given to the national archivist, to name the 20 Biden electors who would meet in the state's capital, Harrisburg, on December 14, 2020, to formally cast their votes. When Pennsylvania's 2020 election was officially certified, Governor Wolf said that the certification "is a testament to the incredible efforts of our local and state election officials, who worked tirelessly to ensure Pennsylvania had a free, fair and accurate process that reflects the will of the voters."

After the state certified the results, 64 Republican state lawmakers signed a letter asking Congress to block Pennsylvania's slate of electors from casting their Electoral College votes for President-Elect Biden. On December 14, the Republican Party of Pennsylvania also released a statement claiming that, at the request of the Trump campaign, the Republican slate of electors met in Harrisburg to "cast a conditional vote for Donald Trump . . . [as a] procedural vote to preserve any legal claims that may be preserved going forward." Neither of these actions, however, had any practical effect on the state's official certification for Biden.

Wisconsin

After seeing an historically high number of absentee voters in its April primary, Wisconsin invested more resources in the absentee voting process, with strong results: The state reported experiencing no major issues during the November election. Statements from both county and state-level officials confirmed that the election ran smoothly, with no major problems or irregularities reported. Where minor issues did occur, poll workers were equipped to address them efficiently and effectively. Nonetheless, the Wisconsin Elections Commission (W.E.C.) and many cities across the state faced a deluge of lawsuits and accusations of fraud, as the Trump campaign and its allies attempted to discredit the administration of the election. However, these lawsuits were resolved and the election results promptly certified by the state.

Processing and Rejecting Ballots

Wisconsin saw record-high use of absentee voting in the 2020 general election. Out of the 3,297,524 people who voted in Wisconsin, more than half—1,969,274 voters (or 59.7%)—voted absentee. Of those absentee ballots, 1,346,721 (68.4%) were cast by mail and the rest (653,236 ballots) came from early voting, known as "in-person absentee voting" in Wisconsin. All absentee or early ballots remained sealed in their envelopes and secured in the local clerk's office until they were delivered to polling places or central counting facilities to be processed on Election Day. Absentee ballot use showed a significant increase from the 2016 general election, in which 819,316 (or 27%) of voters voted absentee. This surge was largely expected because of the coronavirus pandemic and attempts to make absentee voting easier. For example, in June 2020, the Wisconsin Elections Commission voted to proactively send absentee ballot applications for the general election by September 1 to all 2.7 million Wisconsin voters who had not yet applied (with the exception of 158,000 voters who were flagged as recent movers).

Wisconsin was one of only four states where state law prevented election workers from processing absentee ballots until Election Day 2020. This processing limitation meant that the ballots could not be removed from their envelopes, unfolded, or otherwise prepped to go through the counting machines until the polls opened on Election Day. With almost two million absentee ballots in the Wisconsin 2020 election, processing was a daunting task, and the state's county clerks association had asked the state legislature to allow them to begin opening envelopes earlier. This request was not met with legislative response, however, forcing clerks to process and count ballots through Election night and into the next day to finish the count.

Election clerks in Outagamie and Calumet counties had some processing concerns and sought permission from the Wisconsin Supreme Court to correct a small technical misprint on 13,500 absentee ballots. The misprint involved ballot timing marks, small black boxes printed along the edge of a ballot to ensure the ballot is aligned correctly as it is fed into counting machines. The timing marks on the defective ballots were not sufficiently inked during the printing process, and clerks proposed using black ink pens to fill in the misprinted timing marks. It was a solution backed by the Wisconsin Election Commission's six commissioners to save ballot-processing time, but the Commission does not have the authority to change election law. The Commission sent a letter to the court, urging it to allow election officials to rectify the ballots this way. The court declined to take the case, however, and election workers instead had to duplicate each defective ballot onto a properly printed ballot. Outagamie County Clerk Lori O'Bright estimated the duplication effort would take about four minutes per ballot and "slow things down."

But otherwise, the processing of ballots led to few issues and surprisingly fast returns. In Outagamie County, poll workers duplicated the misprinted ballots onto new ones with the help of additional staff from the National Guard, and there were no significant delays in processing votes. Clerks in Outagamie County said that the day "was better than expected," that they felt confident in their system and their process, and that counting the large number of absentee ballots "went as well as it could've for the amount... It was done the way it was supposed to be done and the way we've always done it." In Milwaukee, election officials finished the count around 3 a.m., November 4, 2020.

Wisconsin state law requires absentee ballots to be issued to registered voters with a valid request on file, to include completed certificates (on the return envelopes) to be signed by the voter and a witness, and to be received by election officials by the close of polls. If any of these elements are missing, the ballot is rejected.

Rejection of ballots for late arrival was a significant concern. Wisconsin state law does not allow ballots to be counted if they were received after Election Day, regardless of whether they were postmarked on or before Election Day. This law led to multiple lawsuits, notably *DNC v. Bostelmann*. Though a federal judge in the spring extended the ballot receipt deadline by six days for the primary election, the issue made it to the U.S. Supreme Court in October, where the Court blocked the prior court-ordered extension for the general election.

Obtaining the required witness signature presents a potential barrier for absentee voters in every election, but the escalating coronavirus pandemic made it a particular challenge for voters living alone—or who did not live with other adult citizens—in 2020. The Wisconsin Elections Commission provided additional guidance for securing a ballot witness while social distancing, suggesting voters ask mail delivery persons, grocery or food delivery persons, and medical professionals to serve as potential witnesses. While a federal district court suspended Wisconsin's witness requirement during the pandemic, the Seventh Circuit U.S. Court of Appeals overturned that decision in *DNC v. Bostelmann*, prioritizing the state's interest in preventing potential voter fraud.

Reports indicate that Wisconsin's absentee voting process went fairly smoothly. The *Wisconsin State Journal* reported on October 28 —less than a week before the general election—that county elections clerks had found problems with only 1,506 absentee ballots out of the 1.45 million already returned. Most of those ballots were returned to voters so they could be corrected, but contacting voters to correct or "cure" their ballots was optional for clerks in Wisconsin. Milwaukee election officials cured 1,063 ballots in November that were missing the city and state part of the voter's address. Officials either filled in "Milwaukee, WI" after confirming the voter's address was in Milwaukee or called the voter to cure the ballot by mail.

Because absentee ballots could not be opened until Election Day, these errors found prior to Election Day could only be ones that were visible on the outer envelope, such as a missing witness signature or incomplete voter information.

Rejection rates were lower than feared. A total of 4,270 (0.2%) of absentee ballots were rejected in the November 2020 general election. Of those, 1,434 were rejected for insufficient certification, and 1,045 were not returned before the close of polls. An additional 1,151 were rejected because the voter was not eligible to vote, and 640 were rejected for various other reasons. However, these rejection figures may be deceptively low. Marking an absentee ballot as "rejected" is only one way to handle flawed absentee ballots. Some county election clerks recorded flawed ballots as an "administrative ballot cancellation" instead of as a "rejected ballot," though the underlying flaw may be the same — the assignment of these labels was entirely at the discretion of local clerks. Therefore, the "rejected ballots" number is an imperfect measure of how many absentee ballots ultimately did not count. While the number of absentee ballot rejections dropped from the April presidential primary to the November 2020 general election, the number of "administrative ballot cancellations" nearly quadrupled.

The reportedly low absentee ballot rejection rate in November 2020 is consistent with recent trends in Wisconsin. The rejection rate fell between the 2016 and 2020 primaries: In the April 2020 Wisconsin primary, about 1.8% of total ballots were rejected (23,196 absentee ballots), compared to a 2.5% rejection rate in the April 2016 primary. November elections see lower rejection rates than primaries because a higher percentage of absentee votes are delivered through in-person early voting, where clerks assist in the process and serve as witnesses. November absentee ballot rejection rates have trended steadily downward since 2008, except for an increase in November 2016 after a new state law required ballots without witness addresses not to be counted. Rates resumed their downward trend after the Wisconsin Election Commission advised clerks to fix missing addresses based on "reliable information." Rejection rates were 0.23% in November 2018 and 0.2% in November 2020.

November 2020 saw a decrease in rejection rates in part because of an extensive effort by election administrators and community groups to educate voters on how to properly cast an absentee ballot. For example, the exterior of ballot drop boxes sported large stickers with STOP signs, asking voters to check that they had satisfied the signature and witness requirements. In addition, news reports of postal service issues may have contributed to a shift away from voting by mail; voters cancelled 52,148 mail ballot requests in favor of voting in person.

Counting Ballots and Reporting Results

Despite state laws that prevent election officials from processing or counting absentee ballots before Election Day, a herculean effort by Wisconsin election workers provided the public with an unofficial final vote tally by the early hours of November 4. Election officials in Wisconsin worked all night and into the early morning of November 4 to count more than 3.2 million ballots, including the 1.9 million absentee ballots that workers could not start processing or counting until November 3. Wisconsin Elections Commission Administrator Wolfe called it "a smooth day with no widespread issues reported."

This incredible effort by Wisconsin election officials to complete the count was used by the Trump campaign and conservative media to fuel suspicions about the process, leading to lawsuits and a partial recount. Trump and his allies used the influx of absentee ballot tallies after midnight on Election Night as a major driver of misinformation claiming voter fraud that resulted in numerous (unsuccessful) lawsuits.

The late influx of absentee ballot totals occurred because Wisconsin uses two different counting systems. Different localities employ different approaches to count their absentee ballots in Wisconsin. While most, including Madison, process them at the polls, 39 municipalities, including Milwaukee, count them at a central counting location. Those with a central count system post initial results representing in-person voting totals on Election Day and add absentee ballot tallies later. Those with decentralized counting post a report that includes a tally of both in-person votes and absentee ballot figures. Therefore, unlike reports from the rest of the state, early reports from localities with a central counting system did not include the large number of absentee ballots cast. Because several municipalities could not finish processing their absentee ballots by the time the polls closed at 8 p.m. on Election Day, there was a delay in reporting those results to county clerks. This was especially true in major cities, including Milwaukee, Green Bay, and Kenosha, where final unofficial results were reported after 3 a.m. on November 4.

The reporting delays were expected. "It does not mean something went wrong – it means election officials did their jobs and made sure every valid ballot was counted," said Meagan Wolfe, Wisconsin's chief election official. To bolster transparency in the counting process, some central count municipalities, including Milwaukee and Green Bay, provided the public and the media with live webcams of the absentee ballot tabulation. Central count locations were also open to the public, the media, and representatives of both major political parties, as well as independent poll watchers.

After the central count locations reported, the early "red mirage" dissolved. Trump had been in the lead by more than 100,000 votes early in the night, but the picture changed after the City of Milwaukee's central count finished processing its 170,000 absentee votes around 3:30 a.m. Those votes were overwhelmingly Democratic. The late boost for Biden from Milwaukee was expected —absentee ballots tended to skew toward Democrats and Milwaukee was historically a Democratic stronghold. After Milwaukee reported those returns, Biden jumped ahead of Trump by about 8,000 votes. His lead widened to around 20,000 after Green Bay reported its in-person and absentee results and Kenosha finished its tally. Shortly after, on Wednesday, November 4, the Associated Press declared Biden the winner in Wisconsin.

The Trump campaign and conservative groups immediately looked for ways to challenge Wisconsin's results. One conservative website made a claim, later repeated by Trump, that the sharp uptick in votes for Biden around 4 a.m. on November 4 (when Milwaukee released its absentee ballot results) was evidence of voter fraud. Another widely shared post on Facebook called it a "ballot dump," while another post referred to the votes as being "found." Trump followed the same narrative when he tweeted around 9 a.m. that his lead in key states "started to magically disappear as surprise ballot dumps were counted." Other widely repeated claims included that Wisconsin election officials "took a break" from counting votes at some point during the night and, when they returned, they "suddenly came up with" hundreds of thousands of votes for Biden. There was also a claim made that there were more votes than registered voters in the state. All of these theories were quickly disproven, but the Trump campaign and other sympathetic plaintiffs forged ahead with filing a recount petition and numerous lawsuits. These lawsuits did not have any success in Wisconsin.

The first post-election lawsuit in Wisconsin was filed November 12. In *Langenhorst v. Pecore*, three Wisconsin voters sought to exclude all of the votes cast in Menominee, Milwaukee, and Dane counties from Wisconsin's total based on differences in absentee voting rules among the counties. Plaintiffs objected to the counties' policies of allowing voters who say they are "indefinitely confined" to cast ballots without providing photo identification. The complaint also cited a handful of voters who said they received absentee ballots without requesting them, and three absentee ballots were allegedly completed after they were mailed to deceased people. However, the plaintiffs voluntarily dismissed the suit four days later.

Before certification occurred, conservative Wisconsin Voters Alliance sued to block certification of the results and give the Republican-controlled legislature the power to appoint presidential electors to cast the state's 10 Electoral College votes. The Wisconsin Democratic Party had previously selected Biden's 10 electors as prescribed by law. This lawsuit became moot upon certification, which confirmed that Biden received the state's 10 Electoral College votes from those electors.

Because the number of votes for Trump was within one percentage point of those for Biden, Trump was entitled to, and petitioned for, a recount. Most legal challenges filed after the state had already conducted this recount and certified its results, leveled broad allegations that election officials had improperly expanded mail voting. In each suit, courts held that state election officials had lawfully administered Wisconsin's election, as per the directives of the state legislature.

Certifying the Vote

The win for Biden in Wisconsin was marked by a record turnout. In total, 3,278,963 Wisconsinites (72.3% of the voting-age population in 2019) voted in the 2020 general election, up from 3,004,501 (67.3%) in 2016. President-Elect Biden won the presidential contest with 1,630,866 —or 49.57% of the votes; Trump received 1,610,184 votes, thereby losing by 20,682 votes, a margin small enough to qualify for a recount in the state. The partial recount only added to Biden's margin over Trump, increasing it by 74 votes.

Joe Biden's victory in Wisconsin was certified on November 30, 2020, following the partial recount. The victory became official after Governor Tony Evers and Ann Jacobs, chairperson of the Wisconsin Elections Commission, approved the canvass report showing Biden as the winner. Jacobs, a Democratic appointee to the bipartisan commission, signed the canvass statement over objections from Republicans on the commission who wanted to wait until legal challenges were exhausted. In doing so, she affirmed the presidential election results from all 72 counties, including the recounts conducted in Dane and Milwaukee counties. Shortly after that, Governor Evers, a Democrat, signed a certificate that completed the process and cleared one of the last hurdles for Wisconsin's 10 electoral votes to go to Biden. Wisconsin sent its certificate of ascertainment for the 2020 election to the National Archives on November 30, stating that Biden defeated Trump.

The certification on November 30 kicked off a five-day deadline for Trump to file a lawsuit, which he promised would come the following day. Trump mounted a longshot attempt to overturn the results by disqualifying as many as 238,000 ballots by alleging, without evidence, that there was widespread fraud and illegal activity. Trump's litigation strategy involved requesting, as a remedy for the alleged fraud, that the state's election results be decertified (e.g. *Trump v. Evers*). In more audacious lawsuits, plaintiffs requested courts to throw out the Electoral College slates chosen by popular vote and instead remand the issue to the Republican-controlled state legislature in Wisconsin, so that the legislature could appoint its own slate of electors (e.g. *Trump v. Wisconsin Elections Commissions*).

Many of the lawsuits specifically involved rules regarding "indefinitely confined" voters. While no excuse was required to receive and cast an absentee ballot in Wisconsin, there was some dispute over who was permitted to request an absentee ballot as an "indefinitely confined" voter during the coronavirus pandemic. A designation of "indefinitely confined" excuses the voter from having to submit a copy of their photo ID with their ballot application. According to statistics kept by the Wisconsin Elections Commission, nearly 216,000 voters said they were indefinitely confined in the 2020 election—up from under 57,000 in 2016. This led to assertions that voters were misclassifying themselves as indefinitely confined because of the pandemic. It also triggered lawsuits over whether the Wisconsin Elections Commission had given adequate guidance as to who was eligible in the midst of the pandemic.

The day after the November 30 certification, Trump and his campaign asked the Wisconsin Supreme Court to reverse the election certification, claiming more than 200,000 mail ballots were illegally counted. According to the lawsuit, *Trump v. Evers*, election boards in Democratic-leaning Milwaukee and Dane counties failed to follow proper procedures for issuing mail ballots and accepted tens of thousands that should have been rejected. The Wisconsin Supreme Court denied immediate review of the case but permitted Trump to file his challenge in circuit court. The lower court's decision on Friday, December 11 dismissed the Trump campaign's claims that election officials in two counties failed to follow state law regarding absentee ballots during Wisconsin's recount. "The certification of the results of the 2020 Wisconsin presidential election, after the Dane County and Milwaukee County recounts, is affirmed," ruled Reserve Judge Stephen Simanek, adding, "I believe the recount was transparent and open—I believe it may have even been live-streamed. There is no dispute in that regard."

Also on December 1, 2020, conservative attorney Sidney Powell, who was at times identified as part of the Trump campaign's legal team, filed another lawsuit. In this case, *Feehan v. Wisconsin Elections Commission*, a Republican presidential elector, William Feehan, and the Republican nominee for Wisconsin's Third Congressional District seat, Derrick Van Orden, sued the Wisconsin Elections Commission with numerous allegations. Among other things, they alleged the commission had violated state law in its guidance for submitting an absentee ballot application as an "indefinitely confined voter" and in their guidance permitting clerks to contact absentee voters to cure a missing witness address on their return certification envelope. The plaintiffs sought to decertify the election results and to force the state to perform a recount or a statistically valid sampling of voter signatures to investigate whether ineligible absentee ballots had been counted. Two days later, plaintiff Feehan filed an amended complaint, removing Van Orden as a plaintiff. On December 9, the federal district court held that it lacked the jurisdiction to grant the relief that the remaining plaintiff sought because "federal judges do not appoint the president in this country." The court also held that the plaintiff lacked Article III

standing to sue in federal court over a state election claim, but went on to dismiss the claims as moot.

On December 2, 2020, Donald Trump's lawyers filed *Trump v. Wisconsin Elections Commissions*, a lawsuit in federal district court against the Wisconsin Elections Commission, alleging that absentee voting discriminated against "able-bodied" voters. It alleged that the widespread availability of voting by mail contradicted the Wisconsin Legislature's disfavor of absentee voting policies. The suit also alleged that the commission "eliminated state laws requiring that voters provide information on the mail ballot envelope" and permitted election workers to alter ballots, among other claims. The suit challenged the validity of 17,000 absentee ballot votes that had been collected at "Democracy in the Park" events sponsored by the City of Madison. Trump requested that the result of the Wisconsin election be remanded to the Wisconsin State Legislature. On December 12, the court denied the petition with prejudice. The court found that the Wisconsin Election Commission's guidance on indefinitely confined voters, the use of absentee ballot drop boxes, and election workers' corrections to witness addresses were not challenges to the "Manner" of Wisconsin's appointment of presidential electors, but rather disagreements over election administration. The court also found the Commission conducted the election in the manner directed by the state legislature, in accordance with the Electors Clause. U.S. District Court Judge Brett H. Ludwig, a Trump appointee, opened his order noting, "This is an *extraordinary* case" (emphasis in the original) because the President is "[h]oping to secure federal court help in undoing his defeat." After surveying the evidence, Judge Ludwig concluded that "[t]his Court has allowed plaintiff the chance to make his case and he has lost on the merits."

Appendix of State Laws

Below is a detailed description of state laws in eight battleground states related to counting the vote. While not all of these laws were invoked or came into play during the 2020 election, they frame the context in which the counting and certification of votes took place.

Arizona

Arizona is among the few battleground states that allow early scanning of ballots, including mail ballots. The count in Arizona starts 14 days before the election, such that partial results were available on Election Day despite the increase in mail ballots in 2020. Some Arizona election rules were litigated in the months leading up to the 2020 election, including the deadline for curing mail ballots without signatures and the treatment of provisional ballots cast in the wrong precinct. However, few of these cases impacted how ballots were counted in the 2020 election.

Processing Mail Ballots

A 2019 law (Ariz. Rev. Stat. § 16-550) extended the period in which election officials may open and count ballots, from seven days to 14 days before Election Day, helping to ensure smooth and timely processing of ballots for the 2020 elections. Despite early tabulation, officials could not release the results until all precincts had reported or until one hour after the polls closed on Election Day. All mail ballots had to be received by 7 p.m. on Election Day to be counted. A case filed in August 2020, *Yazzie v. Hobbs*, challenged this requirement that mail ballots be *received* by election officials —rather than just postmarked—before 7 p.m. on Election Day, but a federal district court denied the request to extend that deadline, and the Ninth Circuit affirmed. Therefore, the Election Day ballot receipt deadline remained in place for the 2020 election.

Mail ballots are certified through signature verification. Though such ballots cannot be counted earlier than 14 days before Election Day, they can be cleared through a signature verification process that can begin when the ballot and ballot affidavit are received by the county recorder or official in charge of the election. (For 2020, this was approximately the week of October 12, as ballots were mailed beginning October 7.) The process involves comparing the signature on the ballot affidavit envelope with the signature on the voter's registration record. If a signature cannot be verified because it is inconsistent with the signature on the voter's registration record, election officials are required to make "reasonable efforts" under Arizona Revised

Statutes § 16-550 to contact voters and give them an opportunity to correct the signature. Voters had until the fifth business day after the election to correct any mismatched signatures. If the signature on the ballot envelope was not verified by that time, the ballot was not counted. If the signature was verified, the county recorder marked the unopened affidavit envelope as verified and kept the ballot and affidavit unopened in the return envelope until transfer to the election officer for further processing and tabulation.

By contrast, if the ballot was *missing* a signature, voters had only until 7 p.m. on Election Day to fix the error before their ballot would be rejected. Arizona law is silent on the procedure for missing signatures (see Ariz. Rev. Stat. § 16-550), but the Elections Procedures Manual does address this issue. According to the Manual, "[i]f the early ballot affidavit is not signed, the County Recorder shall not count the ballot. The County Recorder shall then make a reasonable and meaningful attempt to contact the voter via mail, phone, text message, and/or email, to notify the voter the affidavit was not signed and explain to the voter how they may cure the missing signature or cast a replacement ballot before 7 p.m. on Election Day. The County Recorder shall attempt to contact the voter as soon as practicable using any contact information available in the voter's record and any other source reasonably available to the County Recorder. Neither replacement ballots nor provisional ballots can be issued after 7p.m. on Election Day."

The Arizona Democratic Party sued over the disparity in procedures for missing and mismatched signatures. *Arizona Democratic Party v. Hobbs* challenged the procedure that allowed voters with mismatched signatures five days after the election to verify their ballots, while allowing those with missing signatures only until 7 p.m. on Election Day to fix their mistake. Plaintiffs argued that the Election Day deadline made voters with missing signatures more likely to have their vote rejected, as they would be far less likely to receive notice in time to correct the error. In addition, there was a risk that the inconsistency between the deadlines could be a source of confusion for voters. Plaintiffs prevailed at the district court level, but the U.S. Court of Appeals for the Ninth Circuit overturned the district court ruling in October 2020, finding that the Election Day deadline created only a minimal burden.

Arizona had a controversial policy of rejecting provisional ballots cast in the wrong precinct, a policy that generated concern because so many precinct locations had been relocated or closed in 2020 to accommodate pandemic circumstances. In *Brnovich v. DNC*, plaintiffs sought to eliminate the policy, claiming that it violated Section 2 of the Voting Rights Act. They proposed instead that votes for county, state, and national offices on ballots cast in the wrong precinct should be counted, but that votes for precinct-specific offices should not be counted. The Ninth Circuit struck down the out-of-precinct policy for provisional ballots in January 2020, finding that it was enacted with the intent to discriminate against minority voters. The Arizona attorney

general appealed the case to the Supreme Court of the United States, which granted certiorari but set argument to hear the case in March 2021. The law, therefore, remained in effect during the 2020 general election and had the potential of disqualifying a large number of provisional ballots.

Tabulating the Vote

Arizona requires all of its election equipment to be tested and certified before an election, using logic and accuracy tests. Under Arizona Revised Statutes § 16-449, this testing and certification process must take place both before and after each election to ensure machines are counting votes accurately and attributing them to the correct candidates and ballot measures. Each county is required to test all of its election equipment (i.e. voting machines) before any tabulation can begin. These tests must be overseen by at least two election staff or inspectors of different political parties. In addition, the testing must be observed by representatives of political parties, candidates, the press, and the public. For any election that includes a federal, statewide, or legislative office, the secretary of state must conduct additional logic and accuracy tests on equipment from various counties.

In-person early voting begins 27 days before Election Day and continues through the Friday before the election. The election officer may begin tabulating early ballots after confirmation from the secretary of state that all voting equipment has passed any required logic and accuracy test. Ariz. Rev. Stat. § 16-552(A). Tabulation of early ballots can start 14 days before the election. A.R.S. § 16-550(B). Once the signature on an early ballot affidavit is verified by the county recorder, the ballot is sent to the early ballot board, which is made up of staff members who are required to be affiliated with different political parties. The early ballot board removes the ballots from their envelopes and transports them to the tabulation room where election officials run them through tabulators. The ballot tabulation room is required by law to have live video feed so voters are able to watch ballot tabulation occur.

Counties vary in where they process ballots. Some counties use the central count method in which voters put their completed ballots in a "secured ballot bin" which is transported to the county's ballot tabulation center after the polls close. This transportation is carried out by "election workers" of different political parties.

Other counties use the precinct tabulation method, in which voters or poll workers feed the completed ballots into a tabulation machine located at the voting location. The machine tabulates the ballots immediately and saves the vote count to a removable media device which is stored inside the tabulator. After the polls close, the poll workers or sheriff's deputies bring

the removable media devices to the central counting location for the county. At the central counting location, an election official loads the results from the removable media device into the secure election management system and combines the vote totals for all the polling locations.

All counties must follow chain of custody protocols. This includes requirements for documentation on the handling of every ballot, storage of ballots in secure locations, and the live video feed on the ballot tabulation rooms. Counties must also follow protocols for ensuring the security of all ballots, including the use of tamper-evident seals, identification badges, and having two or more election officials of opposing political parties present.

Reporting the Vote

Under Arizona Revised Statutes Title 16 Section 623, unofficial tabulated results may be released after all precincts have reported or one hour after the closing of polls, whichever comes first. It appears that the latter is the de facto default, as the official secretary of state (SOS) website indicates that the first results would be released at 8 p.m., which is one hour after the polls closed at 7 p.m. These first results included early ballots, such as mail ballots, which can be counted starting 14 days before election night. After that, these results were updated "sporadically" as counties received information from voting machines at their polling locations. These results were unofficial, as they had not yet been certified by the board of supervisors or other officers in charge. Results were simultaneously shared with the secretary of state via phone, fax, or other electronic means as they were tabulated at each precinct.

Arizona uses software from BPro, a private company that operates the TotalVote Election Software, for its state election night reporting (ENR) system, which most counties also rely on to display their results for the public. On election night, the state updates election results on its ENR website as information is sent in from all counties. The state ENR website allows the public to view results by county, and 13 out of the 15 counties rely on this as their main ENR system. In most cases, the individual counties also upload results to their own websites as .pdf or .txt files. Two counties, Greenlee and Pinal, use Scytl, another private company's election software, to post their results on their individual county websites.

Certifying the Vote

To certify the election results, election officials must canvass the election results of each precinct or election district. The Secretary of State Election Services Division is in charge of

certifying on the state level, while the Board of Supervisors for each county certifies the results at the county level. The canvass verifies vote totals, including write-ins, for all contests.

At the county level, a board of supervisors, made up of county officials elected to a four-year term, carries out the canvass in a public meeting six to 20 days after the election. The official election results must include a Statement of Votes Cast, a cumulative Official Final Report, and a Write-Ins Vote Report. As required by state law, the official election results must include a Statement of Votes Cast, a cumulative Official Final Report, and a Write-Ins Vote Report. The Statement of Votes Cast includes the number of ballots cast in each precinct and county, the titles of offices up for election, the name of the people up for election, the number and title of each ballot measure, and the number of votes cast for and against each ballot measure. The Official Final Report includes the total number of precincts, total number of ballots cast, total number of registered voters eligible for the election, and number of votes cast for each candidate by district or division. The Write-Ins Vote Report includes the name and number of votes for each authorized write-in candidate by precinct. Once the board of supervisors completes the election results certification, the Official Final Report and Statement of Votes Cast are published on the website of the officer in charge of the election. Under Arizona Revised Statutes § 16-645, if the election includes a federal, statewide, or legislative office or a statewide ballot measure, the board of supervisors or elections officer in charge is required to transmit the official canvass to the secretary of state electronically and by mail.

Florida

A significantly higher number of Floridians were expected to vote by mail in the 2020 general election compared to previous years. In the 2016 and 2018 general elections, vote-by-mail ballots constituted approximately 30% of total ballots cast in Florida. By mid-September 2020, Florida voters had requested nearly 5 million vote-by-mail ballots, approximately a 40% increase over the number of vote-by-mail ballots requested in 2016.

Florida's vote-counting process consists of opening the ballots, tabulating the ballots, reporting the results, and certifying the results. All tabulation systems used in Florida must undergo a rigorous logic & accuracy test before public use. While the state's process bears general similarities to that of other states, some salient features of Florida's vote-counting process include its voter signature verification process and its tabulation system approvals process.

Processing Mail Ballots

The timeline and procedure for opening and counting mail ballots is specified under Florida Statutes Title IX §§101.657, 101.68. Signature verification and counting can begin at 7 a.m. on October 12, 22 days before Election Day; releasing the results early is a felony. However, in 2020, in response to the COVID-19 crisis, Florida Governor Ron DeSantis issued an Executive Order that permitted Florida counties to begin processing and tabulating vote-by-mail ballots immediately after the tabulation machines had completed the public logic & accuracy tests (described below). Therefore, because the Florida Supervisors of Elections began sending mail ballots to voters on September 24, a county could, in theory, begin counting mail ballots on September 24, so long as its tabulation machines had been certified. Also, counties could not begin tabulating the vote *later* than noon on the day following the election.

In processing mail ballots, the canvassing board must compare the voter's signature on a mail ballot envelope with the voter's signature in the precinct register to see that the voter is registered in the county and to determine the legality of that vote-by-mail ballot. The canvassing board can only determine that the signatures do not match if a majority of the canvassing board arrives at that conclusion and if the signature mismatch is "beyond a reasonable doubt." The supervisor must then notify the voter as soon as possible, both by first-class mail and by email, text message, or telephone. To cure the defect, the voter must submit a cure affidavit, certifying that they submitted their vote-by-mail ballot and attaching documents that confirm their identity. The voter has until 12 p.m. on the second day after the election to either mail or email their cure affidavit to the county supervisor of elections.

A September 2020 empirical study on uncounted mail votes in Florida (based on reasons such as lateness or signature mismatches) revealed statistically significant differences in rejection rates among various cohorts of the population. For instance, in 2018, Jefferson County rejected 0% of its mail ballots while large counties like Broward and Miami-Dade rejected nearly 3%. One reason for this difference in rates among counties is an inconsistency in how various counties process ballots. For instance, different election offices in Florida use different methods to contact voters to cure their ballot. Some counties contact voters over the phone, by email, and even through Facebook, while other offices simply mail a notice. A federal judge called Florida's statute governing rejected vote-by-mail ballots "a crazy quilt of conflicting and diverging procedures," with the "canvassing boards across the state employing a litany of procedures when comparing signatures."

Once the supervisor of elections confirms that the signature on the voter's ballot envelope or the cure affidavit matches the voter's record, the voter's ballot envelope is opened. The election staff will then mix the enclosed secrecy envelope together with other secrecy envelopes to make it impossible to determine which secrecy envelope came out of which signed mailing envelope. The county is then ready to tabulate the vote.

Tabulating the Vote

Florida precincts tabulate their votes using machine counting systems that digitally scan voter ballots, capture voter selections, and enable precincts to evaluate and download the aggregate results. Under Florida Statutes Title IX Chapter 101, all voting systems used for tabulation must be certified by the state. As a threshold matter, voting systems must meet various hardware and software requirements set forth in §101.5606. For instance, among other requirements, a voting system must be capable of automatically producing precinct totals in printed form.

A voting system must also undergo a rigorous public "Logic & Accuracy (L&A)" Test under §101.5612. For any given precinct, the canvassing board can publicly test either all or a subset of voting systems used in the precinct. In this public test, officials use a "test deck" set of ballots that model real ballots voters may use in casting their votes. For instance, the test deck uses actual ballots that are hand-marked or marked with balloting devices. This test deck is run through the voting system. If a tested tabulation device produces an error in tabulating the test deck, the device is deemed unsatisfactory. The canvassing board must then determine the cause of the error; identify and test other devices that could reasonably be assumed to have the same error; and test a sufficient number of devices to determine that all other devices are satisfactory.

The canvassing board must keep records for all of the public L&A tests. Currently, all certified voting systems are listed on the Florida Division of Elections website, along with each system's corresponding certification memos and certification test reports. Democracy Suite and EVS are the two certified tabulation systems being used in Florida. Democracy Suite is used by 30 States, and EVS by more than 40 States.

Finally, according to Florida Statutes Title IX Chapter 102, results of all tabulated early voting and absentee voting must be entered into the county's election management system. The county's election management system is responsible for aggregating data on verification, tabulation, and reporting, and it enables the county to export that data and to view ballot images. All early and absentee ballots that have been tabulated and canvassed must be

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entered into the system by 7 p.m. the day before the election as unofficial results. These results must remain private until the close of the polls on Election Day.

Reporting the Vote

Election Night Reporting (ENR) procedures for Florida are dictated by Florida state law, though the specific reporting mechanisms can vary by county. As discussed above, while counties must tabulate early voting by 7 p.m. the day before the election, it is illegal to publicize these results at that time. Results must be reported to the Florida Department of State (DOS) 30 minutes after polls close and are subsequently updated every 45 minutes "in a format prescribed by the DOS." All results must be submitted to the DOS by noon on the fourth day after the election.

On election night, voters can visit a homegrown site, Florida Election Watch, to view results. The vast majority of counties use a commercial product from the company VR Systems for election night results. VoterFocus, the Election Management System (EMS) developed by VR Systems, is used by 65 of 67 counties in Florida (it appears that Palm Beach County has recently also adopted VoterFocus). While the Democracy Suite and EVS hardware and software packages are responsible for tabulating the ballots, the VoterFocus software is responsible for organizing and managing election data. The election night results component reports votes per candidate (which can further be broken down into Vote By Mail, Early Voting, and Election Day) and results by precinct. Sarasota County uses the ENR system from Scytl, another large voting technology company, while Orange County appears to post its results on its website as .xls files. All counties simultaneously report their results to the Florida Department of State to update the state's Florida Election Watch website.

Florida has official processes for correcting reporting errors and responding to close results. As dictated in Florida Statutes Title IX Chapter 102 Section 6, if "unofficial returns"—votes that have been canvassed but not certified—contain any counting errors, counties must correct the errors and retabulate. The DOS will then verify the tabulation and compare the tabulation software with the software "filed with the department," thus checking that both the software and results were accurate. Critically, if unofficial results indicate that a candidate or ballot measure has lost by less than 0.5%, a recount is ordered of the votes for that specific election. Moreover, if the margin of victory is equal to or less than 0.25 percent, the recount must be performed manually.

Certifying the Vote

Florida has different timelines for counties to submit their unofficial election results and to certify their official election results. Under Florida Statute Title IX § 102.141(5), all Florida counties must submit *unofficial* results to the DOS by noon on the fourth day after the election. Under § 102.112(2), counties then have until 12 days after the general election to canvass and certify their *official* results to the DOS.

Once counties have canvassed and certified their results, the Florida Elections Canvassing Commission, made up of the governor and two members of the cabinet selected by the governor, certify all of the counties' votes. The state Canvassing Commission convenes at 9 a.m. 14 days after the general election to certify all of the votes. If, within five days after the certification of votes by the Elections Canvassing Commission, a county canvassing board determines that it has found an error in the official returns it reported to the state, and that a correction of that error could result in a change in the outcome of an election, the county canvassing board must certify corrected returns to the Department of State within 24 hours. The Elections Canvassing Commission must then correct and recertify the election returns as soon as practicable.

Georgia

Even before the pandemic, Georgia was well-suited to accommodate a largely vote-by-mail election. Of the state election laws on the books before the pandemic, two important provisions this cycle were GA Code § 21-2-380, which permits no-excuse absentee voting, and GA Code § 21-2-385, which provides for "advance" voting (a term that encompasses both absentee balloting and in-person early voting). The absence of other restrictive provisions for absentee balloting in Georgia law—such as a witness or notary requirement—ensured that Georgians concerned with the coronavirus transmission risks of in-person voting faced minimal barriers to casting a mail ballot. While other states had to adjust absentee ballot eligibility rules or launch last-minute early voting options in response to the pandemic, Georgia's election officials and voters alike already had some familiarity with mail voting and early voting under existing law.

Processing Mail Ballots

Georgia election officials can begin pre-processing mail ballots for signature verification and voter identification upon receipt. (GA Code § 21-2-386). When ballots are received, a registrar or

clerk writes the day and hour of receipt, then checks identifying information and validates the voter's signature (GA Code § 21-2-386). If the signature and identifying information appear to be correct, the clerk certifies the ballot by signing or initialing their name below the voter's oath and lists the elector's name on the numbered list of absentee voters in the precinct (GA Code § 21-2-386).

During the identity and signature verification process, the clerk compares the voter's signature to those on file with the office, such as the voter's registration card and their absentee ballot application. Clerks will reject a ballot if the elector has failed to sign the oath, if the signature does not appear to be valid, if the elector has failed to furnish required information, if the voter's information does not conform with that on file, or if the elector is otherwise found disqualified to vote (§ 21-2-386). According to a March 2020 settlement in *Georgia Democratic Party v. Raffensberger* that amended the ballot verification procedure, a majority of three registrars must determine that the signature does not match any of the voter's signatures on file or on the absentee ballot application in order to reject the ballot. The registrars then mark the ballot rejected and note the reason for rejection.

Voters in Georgia do have an opportunity to cure rejected ballots. Due to changes in Georgia election law (GA Code § 21-2-386) enacted through House Bill 316 in 2019, the registrar or absentee ballot clerk is required to "promptly notify" the voter of their ballot's rejection so that the voter can take steps to cure the issue. The voter may cure a failure to sign the oath, an invalid signature, or missing information by submitting an affidavit to the board of registrars or absentee ballot clerk along with a copy of their photo ID (GA Code § 21-2-386).

Georgia rejects all absentee ballots received after 7 p.m. on November 3, regardless of when the ballot return envelope was postmarked. In the months before Election Day, the receipt deadline had been extended to November 6 due to litigation but then reversed back to 7 p.m. on Election Day. Democratic plaintiffs in *New Ga. Project v. Raffensperger* had secured a preliminary injunction extending Georgia's Election Day ballot receipt deadline by three days, but a three-judge panel on the 11th Circuit granted a stay of the extension on October 2, returning the deadline to November 3.

Officials could begin opening and processing absentee ballots earlier than usual for the 2020 elections. The State Election Board passed a new rule in February ahead of the June presidential primary (later made applicable to the November general election) which moved up processing of absentee ballots. The rule permitted county election officials to process absentee ballots starting at 8 p.m. the third Monday before Election Day (October 19) instead of waiting for Election Day. While signature verification processes could always start upon receipt, the new rule authorized county election superintendents to *open* the outer envelope of accepted

absentee ballots, remove the contents including the absentee ballot, and scan the absentee ballot using one or more ballot scanners. However, election officials were not permitted to count the absentee ballots, or cause the scanning equipment to produce any tally or tabulation of the ballots, until the closing of the polls on Election Day. (Rule 183-1-14-0.9-.15). If a county chose to implement this rule to begin processing ballots prior to Election Day, the county election superintendent would have to notify the secretary of state in writing at least seven days prior to processing absentee ballots (Rule 183-1-14-0.9-.15).

Early ballot processing under the 2020 rule, just like regular Election Day processing and tabulation (GA Code § 21-2-483), is open to public observation and monitoring by political parties. For counties using the early processing rules outlined in Rule 183-1-14-0.9-.15, the county superintendent could designate locations where public observers may view the process, while ensuring that the process maintained the security and secrecy of the ballots at all times. Each political party also has the right to have two persons present as monitors for the ballot processing, which are distinguished from public observers by nametags (Rule 183-1-14-0.9-.15). Monitors and observers may view the "batching of the ballots, reconciliation of envelopes to ballots, scanning the ballots, duplication of ballots, adjudication of ballots by vote review panels, sealing the ballots after scanning, and other such areas as the superintendent may deem necessary to the assurance of fair and honest procedures" (Rule 183-1-14-0.9-.15). But observers and monitors may not touch, photograph, communicate any information they see, or interfere in any way with the process (Rule 183-1-14-0.9-.15). If observers interfere with ballot processing, they will be removed and the incident will be referred to the secretary of state's office for investigation (Rule 183-1-14-0.9-.15).

Tabulating the Vote

Ballots in Georgia can be counted at the precinct in which they were cast or at a tabulating center, under the direction of the county election superintendent (GA Code § 21-2-483). All tabulation proceedings are open to viewing by the public, but only election officials may touch any ballot or ballot container (GA Code § 21-2-483).

A Georgia mail ballot is fully processed once election officials have removed the ballot from its envelope, sorted it into a group, and scanned it into a machine. Officials may duplicate any ballot that can not be scanned because it is torn, bent, or otherwise defective; all duplicate ballots are clearly labeled by the word "duplicate" (GA Code § 21-2-483). A bipartisan vote review panel adjudicates any ballot with an overvote to determine the voter's intent (GA Code § 21-2-483).

As of the March 2020 primary, all in-person voting in Georgia has used Dominion Voting Systems direct-recording electronic voting machines, though polling places are required to have a sufficient number of blank paper ballots on hand in case of emergency (Rule 183-1-12-.01). The voting machines employ user-friendly touchscreen systems and produce a secure, paper ballot. After voting on a touchscreen and printing their completed ballot, the voter feeds their own ballot into a scanner, which tallies the votes to be printed later. The paper ballot is secured for later and may be used to verify or audit results. Immediately after the polls close and the last voter has voted, the poll manager and two witnesses close down the ballot scanner so that no further votes are cast and then print three tapes of the tabulated results. One of the tapes is affixed to the door of the polling place for the public to view, one tape is placed in a sealed envelope with the scanner memory cards, and the third goes into an envelope with the polling place recap form.

When all ballots have been scanned, the tabulating machine prints the official returns of the votes cast on ballots at each polling place (GA Code § 21-2-483). Officials file and retain all ballots and returns, as well as the spoiled, defective, and invalid ballots (GA Code § 21-2-483).

Reporting the Vote

Once the tabulating machine has printed the results from a polling place, election officials certify the results and post them "promptly" (GA Code § 21-2-483)—or as soon as possible after the closing of the polls (Rule 183-1-12-.12). All absentee ballots are tabulated so that returns may be reported by precinct (GA Code § 21-2-386). However, the 159 Georgia counties are inconsistent in their method of reporting: Some post only their early in-person votes shortly after the polls have closed, while others are faster at reporting results from mail ballots. Fulton County, which includes Atlanta, has a reputation for being slow at reporting vote totals.

Election night results are uploaded onto a state-run Election Night Reporting website as they come in. Election Night Reporting (ENR) allows county election officials to upload election results for display on the state website. The vendor that provides ENR in Georgia is Scytl. The Georgia secretary of state's office works closely with Scytl to ensure that ENR is set up correctly and operates smoothly on election night. State Election Board Rule 183-1-12-.12(c) requires that each county submit at least three uploads throughout the night: the first upon one-third of the precincts reporting results, the second upon two-thirds of the precincts reporting results, and the third upon all precincts reporting results, including absentee ballots within all precincts. Counties are encouraged to do more than three uploads.

Certifying the Vote

In Georgia, the 159 individual counties have [10 days](#) after the Election Day to certify the results of the vote. That date for the 2020 election cycle was November 13. As soon as the secretary of state receives the certified returns from county election superintendents, the secretary proceeds to tabulate, compute, and canvass the votes cast across the state. In the event an error is found in the certified returns presented to the secretary of state or in the tabulation, computation, or canvassing of votes, the secretary notifies the county submitting the incorrect returns and directs the county to correct and recertify such returns ([GA Code § 21-2-499](#)).

The deadline for the secretary of state to certify results in Georgia is 5 p.m. on the 17th day following Election Day ([GA Code § 21-2-499](#)). In 2020, that date fell on November 20. The secretary of state delivers certified results to the governor, who enumerates and ascertains the number of votes for each presidential candidate and then certifies the slates of presidential electors receiving the highest number of votes ([GA Code § 21-2-499](#)). The governor has one extra day to certify the slates of presidential electors—the deadline for the governor's certification is 5 p.m. on the 18th day following Election Day ([GA Code § 21-2-499](#)).

A candidate can request a recount within two days of election certification, if the voting margin is less than or equal to 0.5% ([GA Code § 21-2-495](#)). [Taxpayers](#) fund any recounts in Georgia.

Michigan

Since the 2016 election, Michigan has greatly expanded voting accessibility. In 2018, voters passed a series of [statewide ballot proposals](#) that eliminated the need for voters to provide an "excuse" to vote by mail. As a result, state voters entered the election season with full and easy access to mail voting newly enshrined in the state constitution. Michigan Secretary of State Jocelyn Benson also [mailed out](#) absentee ballot applications to all registered voters in the state in May 2020. Due to these changes and the coronavirus pandemic, Michigan officials anticipated a record-breaking number of mail ballots in the 2020 general election, with mail ballots expected to comprise [60-70%](#) of all votes in the state. Because mail ballots [cannot be processed](#) until Election Day, it was expected that Michigan would not be called on election night. Secretary Benson [warned in September](#)that, due to the flood of mail and early ballots, the state was expecting to take a week to determine its election results: "We should be prepared for this to be closer to an Election Week, as opposed to an Election Day." Despite some [late legislative changes](#) that allowed for certain municipalities to begin processing ballots the day before Election Day, it was expected that the count would take some time.

Processing Mail Ballots

Under MCL §168.764a-b, voters must submit their marked absentee ballots before polls close at 8 p.m. on November 3, either by mail or hand-delivered to their city or township clerk. A September ruling by the Michigan Court of Claims had extended the deadline for the November 2020 election, allowing all mail ballots postmarked by November 2, 2020, to be counted, as long as they arrived within 14 days of Election Day. But the Michigan Court of Appeals overturned the decision, stating that there was no need for the extension given the number of ballot delivery options available to voters.

Once election precincts receive their absentee ballots, they can employ one of two options: (1) the clerk may deliver the ballot to the absentee voter's precinct, where it will be processed and counted by election inspectors (MCL 168.765) or, (2) if the city or township election commission has established an absent voter counting board (AVCB), then the ballots must be taken to the AVCB for processing and counting (MCL 168.765a,168.765d). AVCBs are dedicated election counting boards that meet at a separate location away from the polls and focus solely on processing absentee ballots under the supervision of election inspectors. For reporting purposes, AVCBs are precincts, so their results are reported separately from the precincts established for in-person voting. In contrast, ballots delivered directly to the absent voter's precinct are included as part of the precinct's total (Elec. Offs. Manual, Ch. 8). On June 23, 2020, Governor Gretchen Whitmer signed into law an amendment that gave municipalities the option to combine resources with other cities and townships in the county to create centralized AVCBs, whereas the law had previously only allowed AVCBs to serve an individual precinct.

According to MCL §168.765a(8), absentee ballots cannot be processed until 7 a.m. on Election Day. A bill with bipartisan support was signed into law on October 6, 2020, expanding work shifts for absentee ballot counting and allowing municipalities with populations of at least 25,000 to process absentee ballots the day before the election, from 10 a.m. to 8 p.m. Another Michigan bill would have extended the pre-processing period up to seven extra days before Election Day, but that bill was shot down by Republican leadership who said it would create a "dangerous precedent" and allow for the possibility of voter fraud. Many states, such as Florida, did allow election officials to begin processing ballots more than a week in advance of Election Day.

There is a multi-step procedure for processing of ballots in Michigan. Processing a mail ballot requires satisfaction of various formalities, including that the local clerk has completed relevant portions of the return envelope and that a poll worker has checked for a match between the ballot stub number and the number recorded for that voter. According to MCL §168.766, the

board of inspectors must then verify the voter's signature on the ballot envelope against their signature in the qualified voter file, registration record, or master card (depending on their method of voter registration). See the Healthy Elections Signature Verification report for more details on Michigan's verification process. If the signature is verified, the ballot is then removed from its exterior return envelope. Election workers must open the ballot envelope and tear off the ballot stub. Then, the ballot 'processing' is complete. In Ann Arbor, Michigan, processing a single ballot takes an estimated 45 seconds.

Tabulating the Vote

Only after a mail ballot has been fully processed can it be removed from its secrecy envelope and prepared for tabulation. Poll workers remove the ballot from its secrecy sleeve, put the sleeve in a box, inspect the ballot for any errors, back-fold the creases, put the ballots in stacks of 10, and place them into a tabulator for counting. If a ballot cannot be read by a tabulator, the ballot proceeds to the duplicator table, staffed by one Democrat and one Republican who then copy over that ballot's markings onto a fresh ballot, even if there are overvotes or other mistakes. Under MCL §168.798c(1), absentee ballots may be cast as paper ballots, ballot cards, or a combination thereof, depending on the precinct. If an absentee voter submits a paper ballot, election inspectors are authorized to record the ballot on a paper ballot card that is then fed into the tabulator.

Each Michigan county has the discretion to choose its own electronic voting system, so long as it meets all of the rigorous requirements outlined in MCL §168.795(1). The statute states the system must include: (1) usage of paper ballots for tabulating purposes (§168.795(1)(b)); (2) electronic tabulation equipment that automatically rejects all choices recorded on an elector's ballot if the elector votes for more choices than they are allowed (also known as overvoting) (§168.795(1)(c)); (3) electronic tabulating equipment that can reject a ballot if no valid votes are cast (known as undervoting) (§168.795(1)(g)); and (4) electronic tabulation equipment that can alert the elector if their ballot is spoiled and give them the opportunity to cast another ballot (§168.795(1)(c)). Additionally, the tabulators must provide a method for the machine to be rendered 'inoperable' if vote totals are revealed before polls close (§168.795(2)). Under MCL §168.803(2), a vote will count only if the voter places a mark properly in the predetermined area. Lastly, if the counting center is separate from the precinct, and a ballot being fed into the tabulator is rejected because of physical damage or defect, election officials can duplicate the damaged ballot and re-feed it into the tabulator under MCL §168.798a. There are currently three companies that supply tabulators that meet these requirements of the state.

Every electronic tabulating system is tested at least twice under Michigan law. According to the Test Procedure Manual, both tests must confirm that "1) the equipment is performing properly, 2) the ballots have been properly prepared for each precinct, and 3) that the programs will accurately count votes." The first test is known as the "preliminary accuracy test" and must be run as soon as clerks receive the tabulator and ballots. The second test, known as the "public accuracy test," is mandated by MCL §168.798(1). Election officials must give the public at least 48 hours notice of the time and place of the test and such notice must be placed in a newspaper "published in the county, city, village, township, or school district where the electronic tabulating equipment is used." Both of these tests run a series of ballots through the tabulator, checking to make sure that the tabulator accurately counts the ballots and rejects ballots that are blank or overvoted as outlined in MCL §168.795(1).

Under MCL §168.798b, once the vote count is fully tabulated and write-in and absentee votes are separately added (if necessary), the count reported by the electronic tabulating equipment constitutes the official return of each precinct or election district, once it has been duly certified. Per MCL168.809(2), after the precinct or AVCB completes its vote count, a sealed statement of returns is reported to the county clerk, who may then provide an unofficial tabulation of the returns to the public, pending an official canvass by the county canvassing board.

Reporting the Vote

Michigan state law requires county clerks to tabulate unofficial results and report them to the public upon receipt of the statement of returns. According to MCL §168.798b, unofficial results of Michigan elections must be made available to the public. Additionally, according to MCL §168.809, upon receipt of the sealed statement of returns from the county election inspectors, county clerks must compile unofficial results for the county and make them available to the public. However, no timeline is placed on the public reporting requirement by law so, while unofficial results are often available on election night, counties seem to publicly post unofficial results anywhere from hours to months after the close of polls.

Election night results are reported at the state and local level in Michigan. The Michigan secretary of state's office reports unofficial results on its webpage. Only after a county has all jurisdictions reporting are its results added to the secretary of state's website. Many counties also directly post their unofficial results on their designated websites as PDFs. A list of those county websites can be found here. Additionally, a few counties employ ElectionSource, a local Michigan company, as an Election Management Service (EMS) vendor. ElectionSource provides an unofficial results reporting site for county-level results, found here. However, Michigan's

largest county, Wayne County, cut ties with ElectionSource's results reporting service shortly before the 2018 general election, due to operational mishaps during the 2018 primary.

Certifying the Vote

Each of Michigan's 83 boards of county canvassers is responsible for certifying its county's votes to the Michigan Board of State Canvassers. Under MCL §168.822, a board of county canvassers must certify that county's votes within 14 days of the election. The county boards "canvass" (certify) elections by carefully reviewing and authenticating various forms and certificates completed to document the votes cast at the polls. Once a county has finished its certification, it must then prepare a sealed statement containing data on the county's votes, including the number of votes cast for each office (MCL §168.824). If the board of county canvassers fails to certify its votes and prepare this sealed statement within 14 days, it must deliver all relevant voting records on hand to the Michigan Board of State Canvassers, and the Board of State Canvassers will finish certifying that particular county's votes within 10 days of receiving those records. Under MCL §168.842(1), the Board of State Canvassers must begin the state certification process within 20 days after the election and finish certification within 40 days after the election.

Michigan can also require counties to certify their votes on an expedited basis. Under MCL §168.842(2), if the unofficial election returns show that the vote differential between the first-place and second-place candidates for the presidential election is fewer than 25,000 votes, the secretary of state may direct the boards of county canvassers to finish certification more quickly. In fact, the secretary of state may require the boards of county canvassers to finish certification and prepare their sealed statements between 7 and 14 days after the election.

Candidates can also petition the Michigan secretary of state to conduct a vote recount in certain counties. Under Michigan Coded Laws §168.879, the candidate must petition for a recount within 48 hours of the completion of certification. The candidate must be able to allege a good-faith belief that, but for voter fraud or mistake, the candidate would have had a reasonable chance of winning the election. The petition must allege specific instances of wrongdoing and indicate whether the candidate has evidence of such wrongdoing, and the candidate must specify the counties in which they are requesting a recount. Under Michigan Coded Laws §§168.867 and 168.881, the candidate requesting a recount must pay a $25 deposit per precinct. This fee is raised to $125 per precinct if the pre-petition margin of victory for the winning candidate over the petitioner is greater than 50 votes, or 0.5 percent of all votes cast, whichever is greater. If the outcome of the election is altered as a result of the recount, the deposit is refunded. Notably, under Michigan Coded Laws §§168.880 and 168.880a, registered

voters in Michigan can also petition for a vote recount, and the state itself will automatically trigger a statewide recount if the winning candidate's lead is 2,000 votes or fewer.

Nevada

As early as March 2020, Nevada officials made the call to conduct their June primary election mostly by mail. Nevada's pre-pandemic election laws proved to be useful in ensuring voter access during the health crisis. For example, Nevada election laws already provided no-excuse vote-by-mail and same-day voter registration. The state sent mail ballots to all active registered voters, an inclusive category containing all voters with a current address on file (as determined by election mail that had been returned as undeliverable and voter failure to respond to update requests). Nevada was prepared for increased mail ballot turnout compared to previous elections, while also providing in-person polling availability. By August, the Nevada State Legislature passed Assembly Bill 4, which provided for special election procedures as long as a state of emergency was in effect. AB 4 provided helpful changes that increased in-person voter accessibility, created changes that made it easier for voters to cast ballots, and helped election officials verify and count ballots.

Processing Mail Ballots

Voters need no excuse to vote by mail in Nevada (NRS 293.309) and may apply for an absentee ballot until 14 days before Election Day (NRS 293.313). By May 2020, Nevada had authorized automatically sending registered voters mail ballots for the primary election, and the passage of AB 4 in August 2020 authorized state officials to send mail ballots to every registered voter for the 2020 general election and any future elections conducted during an "affected election." An "affected election" occurs when there is a declaration of emergency in effect on March 1 for a primary election, or July 1 for a general election.

Absentee ballots submitted by mail must be postmarked by Election Day and received not more than seven days after Election Day (NRS 293.317)—a more permissive deadline than states like Arizona and Wisconsin that required receipt by close of polls. mail ballots with indeterminable postmarks that arrive no later than three days after the election are also counted. Voters can also submit their absentee ballots in person until the close of polls on Election Day at a designated county location; but early voting sites and Election Day Vote Centers cannot accept a voted absentee ballot (NRS 293.353). Before 2020, only the voter or their family member could deliver an absentee ballot (NRS 293.353), but AB 4 permitted third-party ballot collection. Third-party ballot collection is a permanent change for all future elections.

Once mail ballots are received and recorded in the mail ballot record, the county clerk checks the voter's signature on the return envelope against all signatures of the voter available in the records of the county clerk. Most mail ballots are first processed through a [machine](#) that verifies signatures, such as the [Agilis Ballot Sorting System](#). Election staff manually examines signatures not verified by the machine. A signature is rejected if at least two employees in the office of the county clerk agree that there is a reasonable question of fact as to whether the signature on the absentee ballot matches the signature of the voter, and the signature differs in multiple, significant and obvious respects from the signatures on record. This stringent rejection standard, requiring "multiple, significant, and obvious" differences, was passed as part of [AB 4](#) in August to clarify the process and help officials determine whether to invalidate mail ballots. The county clerk must contact the voter and ask him or her to confirm the signature ([NRS 293.325](#)). The clerk must contact the voter as soon as possible after receipt of the ballot deadline by mail, phone, or email ([NRS 293.325](#)). Voters have the opportunity to "cure" signature deficiencies until [seven days](#) after the election or, in affected elections governed by AB 4, nine days after the election ([NRS 293.8874](#)).

Ballots are rejected if an identifying mark appears on the ballot which leads to the reasonable belief that the ballot has been tampered with, such that the outcome of the election would be affected (NRS [293.367](#)). An error in marking one or more votes does not invalidate any votes marked properly on a ballot (NRS [293.367](#)). Moreover, a soiled or defaced ballot is counted if it appears that the soiling or defacing was inadvertent (NRS [293.367](#)). It is unlawful for any election board member to place a mark upon any ballot other than a spoiled ballot. Election officials must instead seal rejected ballots in an envelope and write on the envelope the reason for rejection (NRS [293.367](#)).

After verifying that the absentee voter is entitled to cast a ballot, the county clerk is responsible for delivering the mail ballots to the proper location for counting ([NRS 293.325](#)). Clerks deliver the ballots using secure containers to either the appropriate election board or an absentee ballot central counting board, depending on the county ([NRS 293.325](#)). The transit, storage, and processing procedures ensure the confidentiality of the prepared ballots until after the polls have closed ([NRS 293.325](#)).

Tabulating the Vote

After processing, the ballots are [reviewed](#) to make sure the total number of ballots processed matches the number of ballots received. Election boards receiving the absentee voters' ballots from the county clerk, remove the ballots from their secure transport boxes, then double-check

the name of the voter, verify the signature on the back of the envelope, and compare the numbers on the ballot and envelope to make sure they match (NRS 293.333). Once verified, those ballots are counted.

Before the passage of AB 4, election officials were able to process ballots upon receipt but could begin *counting* mail ballots only four days before the election (NRS 293.363). AB 4 allowed election officials conducting an election under a declaration of an emergency to start counting returned mail ballots 15 days before the election, making the counting process more efficient. However, results are kept under wraps until Election Day—any person who disseminates to the public in any way information pertaining to the count of absentee ballots before the polls close is guilty of a misdemeanor (NRS 293.385).

The counting procedure must be public and continue without adjournment until completed (NRS 293.363). Members of the general public (but not the press) are allowed to observe the conduct of voting at the polling place, including counting, as long as they do not photograph or record the procedures (NRS 293.274). Nevada law requires all ballots to be counted within seven days of election day or, for affected elections, within nine days of Election Day (NRS 293.333).

Reporting the Vote

When all the votes have been counted, the counting board officers produce a tally list organized by precinct and ballot type indicating the number of votes that each candidate received (NRS 293.370).

In Clark County, for example, after the polls close at 7 p.m., polling place officials bring the results to central tabulation at the Election Center for processing. The Election Day results are tabulated along with early voting and mail ballot results. After 7 p.m. on election night, or whenever the last voters in line have finished casting their ballots, unofficial election night results are posted on the Nevada Elections Division website. Clark County also posts election night results as they are tabulated on Clark County Television (CCTV) cable Channel 4.

Provisional ballots are not included in the unofficial results on election night. Provisional ballots will be counted only after verification of applicable voter information and that the voter did not cast multiple ballots in the same election. Provisional ballots are counted in the days following the election. This procedure stems from a recent law. In 2019, the Nevada Legislature authorized same-day registration to vote in-person during early voting and on Election Day (with certain identification). Because the county voter registration systems do not communicate

with each other in real time, an individual who registers to vote at a polling place cannot be verified in real time as not having already voted in the election. For this reason, state law requires that same-day registrants use provisional ballots. These provisional ballots are counted only after it is verified post-election that the voter has not voted more than once in the election.

Certifying the Vote

Until the canvass of the vote occurs, reported election results are unofficial. Election results become official upon the canvass of the vote by the county election official. The canvass of the vote was required to take place on or before November 16 for the 2020 general election. For regular elections, the canvass must occur by the 10th day after the election, but for affected elections governed by AB 4, the board of county commissioners had 13 days post-election to canvass results (NRS 293.393). The board of county commissioners canvasses the results in its county by creating an "abstract of votes"—that is, a compilation of votes cast for a particular candidate by office and precinct (NRS 293.016). After making the abstract of votes as provided in NRS 293.393, the county clerk certifies the abstract and transmits it to the secretary of state (NRS 293.395). Starting in January 2022, each county clerk will also conduct a risk-limiting audit of the results of an election prior to certifying the results (NRS Chapter 293).

On the fourth Tuesday of November after each general election, the Nevada Supreme Court meets with the secretary of state to open and canvass the vote. The meeting formally certifies the results and grants the winner in the presidential race the number of presidential electors to which Nevada is entitled (NRS 293.395).

North Carolina

The use of mail ballots was expected to reach new records in the North Carolina 2020 general election. As of September 30, 2020, North Carolina had already experienced an approximately ten-fold increase in absentee ballot requests over the number requested at the same date in 2016. North Carolina election law allows officials some flexibility to deal with an increase. For instance, local election officials have the authority to begin opening and preparing absentee ballots for counting on the fifth Tuesday before Election Day. They may also count late-arriving absentee ballots. Pre-election litigation changed the procedures for how absentee ballots can be processed and counted in the state.

Although some aspects of North Carolina election law require statewide uniformity, others allow a degree of discretion for individual counties. North Carolina statute lays out some general principles for how ballots should be counted. It also requires the North Carolina State Board of Elections to adopt uniform standards and procedures for how counties should count votes and how individual counties may make use of different vote-counting systems, such as electronic, mechanical, or hand-to-eye counts. All counties may be required to engage in hand-to-eye counts or recounts of at least some of their paper ballots or records. The results from all counties are viewable on election night on the North Carolina Election Results Dashboard. Later, the canvassing and certification of votes take place both at both the county and state level, with the potential for mandatory and discretionary recounts to delay the completion of the canvass at each level.

Processing Mail Ballots

Before beginning to count mail ballots (which North Carolina election officials often refer to as "absentee ballots"), county boards of elections may begin scanning each approved absentee ballot, a process which consists of opening approved absentee ballots, removing them from their envelopes, and inserting them into the tabulator. At this time, the county boards may use the tabulators to "read" the ballots, but the tabulators do not count the ballots until Election Day. This early preparatory step allows election officials to identify which ballots cannot be read by the tabulator machine, perhaps because of damage, and to make duplicate copies of the unreadable ballots that can be read by the tabulator machine. That way, election staff can avoid having to manually input each voter's selections from a ballot into the reporting software, which can save time on Election Day. All approved absentee ballots must be scanned by the tabulator machine.

North Carolina election law and guidance provided flexibility for county boards of elections to deal with the anticipated significant increase in mail ballots for the November 2020 election. Each county board of election could decide, by majority vote, to begin the scanning process during each absentee board meeting. A September 22, 2020, memo from North Carolina State Board of Elections Executive Director Karen Bell noted that, due "to the significant increase in absentee ballots this election, it is strongly recommended that county boards authorize the scanning of approved ballots during absentee board meetings instead of waiting until Election Day." Therefore, county boards could begin scanning absentee ballots as early as September 29, 2020, during the first required absentee board meeting for the 2020 general election. County boards also had the authority to delegate additional preparatory steps for staff to perform before absentee board meetings. Preparatory steps included tasks such as inspecting

the ballot return envelopes for deficiencies and, if any deficiencies were discovered, to notify voters within one business day.

The process for how county boards and their staff should evaluate and address deficiencies in absentee return envelopes was the subject of litigation. The aforementioned September 22, 2020, memo from the North Carolina State Board of Elections, for instance, was at issue in the lawsuit _Arnett v. North Carolina State Board of Elections,_ which may require the State Board to provide greater access to the public to observe and provide input to the absentee return envelope evaluation process. An August 2020 memo from State Board Executive Director Bell—a memo later revised in September and again in October following a settlement and rulings in _N.C. Alliance for Retired Americans v. North Carolina_ and _Democracy NC v. North Carolina State Bd. of Elections_—also provided guidance on how the county boards and their staff were to evaluate and address deficiencies in absentee return envelopes. Notably, in verifying the voter's signature on the return envelope, the county board was instructed to presume that the signature is that of the voter, absent clear evidence to the contrary, if the signature "appears to be the name of the voter." Furthermore, the signature would be accepted even if it was illegible. There was no legal requirement to compare the voter's signature on the absentee return envelope "with the voter's signature in their registration record." If an absentee return envelope lacked a witness signature, however, then the voter could no longer cure the deficiency and save the ballot by submitting a certification over mail or email. Instead, the voter's ballot would be rejected and county boards and their staff would reissue the voter a new ballot.

Pre-election litigation, _Wise v. North Carolina State Board of Elections_ and _Moore v. Circosta,_ unsuccessfully challenged the State Board's rules for evaluating and addressing deficiencies in absentee return envelopes, as well as its revision of the absentee ballot deadline. And, the State Board continued to enforce the rules for absentee return envelopes that it outlined in its recent memos, and absentee ballots could be received and counted nine days after Election Day, so long as they were mailed on or before Election Day. Plaintiffs in both _Wise_ and _Moore_ filed a request with the U.S. Supreme Court for an emergency injunction, but on October 28, the Court denied the requests.

The State Board of Elections set out rules for evaluating and addressing deficiencies in absentee return envelopes in a August 2020 memo (revised in October 2020). Generally speaking, some deficiencies could be cured by the submission of a certification from the voter addressing the deficiency, whereas other deficiencies required the reissuance of a ballot, and still others required board action. If a deficiency was discovered in a board meeting, then it could not be resolved by staff and would instead require board action to evaluate the deficiency. If the board rejected the envelope by majority vote, then it must notify the voter within one business day. If the envelope indicates that the voter is requesting a replacement

ballot, lacked the signature of a witness or assistant, or was unsealed when it arrived at the county board office, then staff would reject the ballot and reissue a new ballot along with a notice to the voter within one business day. By contrast, the following deficiencies could be fixed by sending the voter a cure certification through mail or email:

- Voter did not sign the Voter Certification
- Voter signed in the wrong place
- Witness or assistant did not print name
- Witness or assistant did not print address
- Witness or assistant signed on the wrong line

Although North Carolina election law does not allow county boards of elections to begin counting mail ballots until Election Day, it does provide some flexibility to allow additional time for counting. Under N.C. Gen. Stat §163-234, each county board of elections is required to meet at 5 p.m. on Election Day to begin counting all mail ballots, except for late-arriving ballots or those challenged before 5 p.m. on Election Day. However, §163-234 also allows county boards to begin counting absentee ballots from military personnel and overseas voters as early as 9 a.m. on Election Day. In addition, §163-234 allows county boards to begin counting other mail ballots as early as 2 p.m. on Election Day, as long as they adopt a resolution at least two weeks prior to Election Day that states the place and time they will begin counting.

Election law also provided county boards of elections additional time to deal with an influx of late-arriving absentee ballots. For instance, county boards of elections can adopt a resolution to hold additional meetings after Election Day and before canvassing to count absentee ballots. If a county board adopts such a resolution, then §163-234 requires them to publicly publish its contents. State law §163-234 also requires county boards to meet after Election Day and before the start of canvassing to determine if all late-arriving absentee ballots have been assessed and counted. Any late-arriving ballots not counted before the day of canvass will be counted on the day of canvass.

Finally, North Carolina election law allows some flexibility in who can count absentee ballots, even while setting requirements for how they can count them. Each county board of elections may hire staff to help them count the absentee ballots, but the board must observe and supervise the staff. As staffers open each ballot envelope, the county boards will record the names of each voter in a paper or computer pollbook, then place each ballot in the appropriate box according to ballot type. Only after all ballots have been placed in their respective boxes can the counting process begin.

Tabulating the Vote

North Carolina election law lays out requirements regarding the timing and organization of the counting of ballots. Under §163-182.2, vote counting at each precinct begins immediately after the closing of its polls on Election Day and continues until it is completed. The law also requires that vote counting in each precinct be conducted with the participation of precinct officials from all political parties present. And, it allows for any member of the public to witness the counting process but forbids them from participating or otherwise interfering.

State law §163-182.1 lays out some of the general principles and rules for counting ballots. For instance, under §163-182.1, no ballot can be rejected because of technical errors made in marking the ballot, unless it is impossible to determine the voter's choice. Furthermore, if a ballot is rejected by a scanner or other counting machine but election staff can clearly discern the voter's choice, then the ballot will be counted by hand. In addition to the general principles provided directly in the statute, §163-182.1 requires the North Carolina State Board of Elections to adopt "uniform and nondiscriminatory procedures and standards" for vote counting. These include rules such as 08 NCAC 06B .0105, which indicates that provisional ballots will be counted before canvass. 08 NCAC 06B .0105 also prohibits county boards from discarding a voter's entire ballot if they are ineligible to vote for some items on the ballot; boards are required to count the items for which the voter is eligible.

Although counties may make use of different vote-counting systems, all counties may be required to engage in hand-to-eye counts of at least some of their paper ballots or records. §163-182.2 notes how, in addition to hand-to-eye counts of paper ballots, counties may make use of "any certified mechanical or electronic voting system," including optical scan and direct record electronic voting systems. Any counties that use a system other than hand-to-eye counts of paper ballots, however, are required to hold a hand-to-eye count of a random sampling of their paper ballots. The sampling may include all paper ballots from one or more precincts, mailed absentee ballots, and ballots from early voting sites (where absentee voters are allowed to vote in person before Election Day). It must also be of sufficient size to produce a statistically significant result. If there is a "material discrepancy" between the mechanical or electronic count and the hand-to-eye count, and there is no reason to doubt the accuracy of the hand-to-eye count, such as because paper ballots have been lost or destroyed, then the hand-to-eye count takes precedence. If the discrepancy is "significant," then a complete hand-to-eye count will be conducted.

Reporting the Vote

The process for reporting the unofficial results is straightforward. After the counting is completed at the precincts, the chief judge or someone they designate will verbally announce the precinct's unofficial results. Following the requirements of the recently rewritten §163-182.2, precinct officials will then transmit the results in an unofficial report to the county board of elections as quickly as possible. This unofficial preliminary report will include the number of provisional ballots cast in that precinct and will not have a binding effect on the official county canvass. Immediately after the precinct reports are received, the chair, secretary, or their designee will publish the unofficial results to the news media.

County boards are in charge of reporting election returns. Under §163-132.5G, county boards are required to report returns by precinct within 30 days after the election. The 30-day deadline does not, however, "relieve the county board of the duty to report returns as soon as practicable after the election." Executive Director Bell extended the reporting deadline of §163-132.5G by an additional 30 days, effective March 20, 2020, but her emergency amendment authorizing the extension expired in June 2020. In reporting the returns, the county boards must also report, by precinct and by ballot item in each precinct, how many voters did not select any choice for a ballot item and how many voters selected too many choices for a ballot item.

On election night, the State Board of Elections is required to maintain an Election Results dashboard. The dashboard must be updated as precincts report results to the State Board of Elections (SBE) and must include data, in the form of maps, tables, and charts, and enable visitors to download election results spreadsheets. After polls close, the state is expected to update the dashboard every five to 10 minutes.

Certifying the Vote

Under §163-182.5 and §163-182.6, canvassing and certification take place at both the county and state level. At the county level, each county board of elections will meet at 11 a.m. 10 days after the election to conduct the official tally of votes (or canvass) in precincts in that county and to ensure that all votes have been counted and tabulated correctly. If the initial canvass has not been completed by that time, the board may hold the canvass meeting at "a reasonable time thereafter." After completing the canvass, the county board will prepare "abstracts" (defined under §163-182 as "a document signed by members of the board of elections showing the votes for each candidate") in the uniform format requested by the State Board of Elections. The abstract, at a minimum, must state each candidate's name and the number of votes received.

Each county board prepares three originals of the abstract, retaining one for itself, submitting one to the clerk of the superior court for that county, and submitting one to the State Board of Elections. Six days after the completion of the canvass, if there is no election protest pending, then the county board will issue a certificate of election.

At the state level, the State Board of Elections must meet at 11 a.m. on the Tuesday three weeks after Election Day to complete its statewide canvass and ensure that the votes have been counted and tabulated correctly. If, at the time of its canvas meeting, the State Board has not yet received abstracts from some county boards, the State Board can temporarily adjourn the meeting for up to 10 days while it obtains the missing abstracts. In obtaining the abstracts from the county boards, the State Board is authorized to obtain one of the triplicate originals at the expense of the county. Immediately after completing the canvass, the State Board will prepare two original copies of its composite abstracts, retaining one for itself and submitting the other to the secretary of state, which the secretary is then required to keep accessible to the public. Six days after the completion of the State Board canvass, if there is no election protest pending, then the State Board will issue a certificate of election.

Recounts have the potential to delay the completion of a canvass, and there are two types: discretionary and mandatory. When necessary to complete its canvass, the State Board has discretion to order a recount, and a county board may do the same if the State Board has not already denied a recount in that county. A losing candidate on a statewide ballot has the right to demand a recount if the margin of votes between the losing and the prevailing candidate is less than 0.5% of the votes cast or fewer than 10,000 votes. If the losing candidate wants to exercise this right, they must submit their demand in writing to the State Board by "noon on the second business day after the county canvass." If the executive director later revises the initial results and concludes that the winning margin qualifies the losing candidate to demand a recount, then the executive director is required to notify the losing candidate immediately. After being notified, the losing candidate has 48 hours to exercise the right to a recount.

Following an initial recount, candidates have the right to demand an *additional* recount if the initial recount did not use hand-to-eye counting and did not reverse the results for the losing candidate. In these circumstances, the losing candidate may, within 24 hours of completion of the initial recount, demand a hand-to-eye recount in a sampling of precincts. If the initial recount was not hand-to-eye and it does overturn the election results for the candidate who had initially been declared the winner, then *that* candidate has the same right to a hand-to-eye recount in a sampling of the precincts. Such a sampling must include all ballots in 3% of the precincts casting votes in each county, rounded up to the nearest whole number of precincts. For the purposes of this calculation, each one-stop (early) voting site would be considered a precinct. If extrapolating the discrepancy between the initial recount and the hand-to-eye

recount in the sampling would lead to a reversal of the election results, then the State Board of Elections will order a hand-to-eye recount in the entire jurisdiction in which the election is held.

Pennsylvania

It was well-known before November 3, 2020, that Pennsylvania would not be able to report its complete results on election night, due to the large number of expected absentee ballots, combined with legal requirements that prohibited processing absentee ballots before Election Day. The coronavirus pandemic and new legislation exacerbated those anticipated delays. In 2019, the state legislature passed a law allowing all voters to vote-by-mail without providing an excuse. As a result of this new law and the pandemic, a record number of Pennsylvania voters planned to vote by mail in 2020. Pennsylvania does not permit the tabulation of mail ballots to begin until after the close of polls on Election Day. Thus the final results of the statewide Pennsylvania elections were not expected until days later, depending on the results of a few key counties. In fact, after the primaries in June, around half of the state's counties were still tabulating votes a week later.

The tabulation and canvassing system in Pennsylvania is fairly standardized. Unlike other states where ballots are counted at polling places, ballots in Pennsylvania are counted centrally using an industrialized process. District-level tallies are physically delivered to county offices, where they are aggregated, along with mail ballots and provisional ballots. Discrepancies and challenges over provisional ballots are reconciled and decided on at the county level. As the returns come into the counties and as counties process mail ballots, they report the unofficial count to the Department of State. The unofficial counts are updated on the statewide election night reporting site. The third day after the election, the counties begin canvassing returns. Once the official county count is certified, a sealed copy is physically delivered to the Department of State.

The scope and process for counting mail ballots in Pennsylvania (Title 25 P.S.) changed significantly over the course of the year leading up to the 2020 general election. Act 77, passed by the state legislature in October 2019, expanded vote-by-mail to any registered voter who requests a ballot. The law also centralized the processing of mail ballots at the county level. Act 12, passed in March 2020, responded to the public health concerns surrounding the coronavirus pandemic during the primaries and updated the procedural timeline for pre-canvassing and canvassing mail ballots. Subsequent to those changes, the Pennsylvania Supreme Court in September ruled on Act 77 ([J-96-2020] and [J-97-2020]), allowing for receipt of mail ballots up to three days after Election Day and permitting the use of secure drop-off

locations for mail ballots. On October 19, 2020, the U.S. Supreme Court let stand the ruling that Pennsylvania could count ballots received in the three-day grace period after Election Day, so long as the ballots were postmarked on or before Election Day. In addition, the state supreme court ruled in September 2020 that Pennsylvania cannot count mail ballots sent in without their state-provided inner envelope (referred to as a "secrecy envelope") intended to protect the privacy of mail votes. (Ballots without the "secrecy envelope" are sometimes referred to as "naked ballots.") There was concern that these changes might significantly impact the results of the November 2020 election in this key swing state, though the margin of victory turned out wide enough that that did not happen.

Processing Mail Ballots

The county boards of election are responsible for processing mail ballots. They cannot begin opening and counting ballots until the morning of Election Day and can record and publish results only after the close of polls. Pre-canvassing, the process of inspecting, opening, and taking ballots out of their inner "secrecy envelopes," may begin once polls open on Election Day, at 7 a.m. (25 P.S. §3146.8(1.1)). After the polls close at 8 p.m., counties can begin canvassing (counting) all ballots, and this process continues until all valid mail ballots have been counted (25 P.S. §3146.8(2)). After polls close on election night, the vote counts can be recorded or published (25 P.S. §3146.8(2)). Once canvassing starts, each county board meets to verify and tabulate ballots, with one representative from each candidate's campaign and one representative from each party allowed to observe (25 P.S. §3146.8(1.1)).

Mail ballots sent on or before Election Day are counted so long as they are received within three days after Election Day and there is no evidence that they were mailed after Election Day. In addition, military ballots received seven days after Election Day can be counted and, thus, the pre-canvassing and canvassing period must continue until at least eight days after the election.

While the official pre-canvassing process cannot begin until Election Day, county boards of elections collect and record mail ballots that have been returned. According to Department of State guidance, once receiving mail ballots, officials stamp the date of when a ballot was received and scan the "correspondence ID barcode" that is found on the outer envelope. Each issued mail ballot has its own unique correspondence ID, and Pennsylvania's Statewide Uniform Registry of Electors (SURE) will not accept the same ID twice. The SURE system also records when a ballot is received and if a ballot has been cancelled. All ballots are then stored in a secure location until they can be pre-canvassed and canvassed on Election Day.

During the pre-canvassing and canvassing process, there are several reasons why ballots may be set aside and not counted. Voters using a Pennsylvania mail ballot are instructed to place their ballots into two envelopes. The ballot goes first into the smaller envelope, labeled "Official Election Ballot," which is designed to hide the identity and party of the voter (25 P.S. §1304-D). If the ballot arrives without this "secrecy envelope," it is set aside and not counted, as ordered by a September 2020 Pennsylvania Supreme Court ruling. Furthermore, if there is any indication of the voter's identity or party on the "Official Election Ballot" envelope, the ballot is set aside and not counted (25 P.S. §3146.8(4)(ii)). The voter is also instructed to place the smaller envelope with the ballot into the larger envelope that has the voter's declaration and the voter's county, district, and signature (25 P.S. §1304-D). Any deceased voters' ballots are set aside, as well as any ballots that are blank.

The county board of election then checks the name on the ballot envelope against the "Registered Absentee and mail Voters File" and/or the "Military Veterans and Emergency Civilians Absentee Voters File" through the SURE system to verify that the individual is registered and has a right to vote (25 P.S. §3146.8(3)). During this time, a member of the board may challenge a ballot "on the basis that the applicant is not qualified to vote," according to a directive from the Department of State, but cannot challenge the ballot "based on signature analysis." Secretary Boockvar clarified in September 2020 that the Pennsylvania Election Code does not provide clear standards for assessment of signatures, and it does not authorize the county board of elections to reject mail ballots based solely on signature analysis. If not challenged or discarded, the inner envelope is opened and the ballot is tallied (25 P.S. §3146.8). Ballots that have been challenged are set aside for a hearing (25 P.S. §3146.8(5)), and the challenge is recorded in the SURE system.

Although individual county boards of election in Pennsylvania have much discretion when it comes to canvassing methods and the use of technology, they generally apply a similar process. For each mail ballot, a clerk scans the outer envelope, opens and scans the inner "secrecy" envelope, then finally opens the inner envelope and scans the ballot into a county tabulation system. For example, in Montgomery County, clerks scan outer envelopes as well as the ballots within and have invested in "ballot extraction devices and high-density scanners." Philadelphia County has also invested in "high-speed scanners and other equipment." Philadelphia's 22 extraction desks can remove 12,000 ballots from their envelopes per hour. The outer envelope must be opened without being damaged, as they must be stored for two years after the election (25 P.S. § 3150.17).

Tabulating the Vote

Pennsylvania's tabulation of in-person ballots begins in each district when polls close at 8 p.m. on election night (25 P.S. §3031.13). In districts with paper ballots or ballot cards, officials announce the vote totals, compare them with a voting checklist to check for any discrepancies, and input the tabulation into a voting system, if they have one (25 P.S. §3031.13(g)). For the most part, voting machines tabulate the district's votes, printing out a summary of the returns for each individual machine. If the district tabulates votes through a voting system directly, then the automated tabulation process begins at the close of polls (25 P.S. §3031.13(f)). Pennsylvania recently required all counties to upgrade their voting systems to a new safety standard, outlined by the Department of State, that mandates "voter-verifiable paper records" be printed from each machine, so that there is a paper trail for votes.

Individual districts are responsible for delivering a copy of their vote counts to their counties. When the district has a system to tabulate votes, two copies of the results in the form of "district total cards" (i.e., memory cards) and "reporting forms" are made (25 P.S. §3031.13(b)(f)). These are sealed in envelopes; one copy stays in the district and one is physically delivered to the county board of election (25 P.S. §3031.13(f)(g)). In Allegheny County, however, the physical returns are transferred from precincts to regional centers and then electronically relayed to the county, according to a January 2019 study by the Blue Ribbon Commission at the University of Pittsburgh. Returns, supplies, and provisional ballots must be delivered to county offices by 2 a.m. the day after the election (25 P.S. §3031.13(j)). It is also the responsibility of districts to publicly post the results at the district polling place (25 P.S. §3031.13(f)).

County boards are responsible for aggregating district results, through tabulation machines at a "central tabulation center" (25 P.S. §3031.14). Although counties have a wide array of election voting and management systems that they can use to tabulate and create records of the vote, all such systems must satisfy a statewide set of security requirements. For instance, county vote tabulation systems cannot be "connected to or permitted on internet-facing networks." In addition to aggregating results, county boards canvass and count write-in ballots and provisional ballots.

There are a few cases when a voter may cast a provisional ballot. If an individual comes to the polls and their identity is not verifiable and their proof of identity and right to vote is challenged (perhaps because their name does not appear on the list of registered electors), then they may cast a provisional ballot (25 P.S. §3050). In addition, if an individual requested a mail ballot but goes to vote at the polls on Election Day and does not bring their mail ballot to be discarded, then their vote is cast as a provisional ballot. (Polling locations' lists of voters will include those

who have applied for but not returned a mail ballot.) Officials also encouraged voters to use provisional ballots on Election Day if they believed that their mail ballot was rejected—for example, if they realized they omitted their secrecy sleeve or signature. Within seven days of the election, county boards of election evaluate the provisional ballots and make a determination on each provisional ballot's validity (25 P.S. §3050.4). If the board determines the ballot is valid, it will be included in the tabulation (25 P.S. §3050.4(5)(i)). Otherwise, the ballot is securely stored and, within seven days of the challenge, a hearing will be held where the voter can object to the decision (25 P.S. §3050).

Reporting the Vote

The regulation of election night reporting comes mostly from Pennsylvania Department of State directives. Under 25 P.S. § 3031.14(e), counties "*may* unofficially report the progress of the count." The Department of State (DOS) points voters to a designated public website where county boards of election submit uncertified election counts by uploading exported files from their election management system to the SURE portal. Although most counties directly submit election night returns to the DOS electronically, a few counties report them via fax, and some counties allow the DOS to manually "scrape" election returns from the county's website (according to a January 2019 study by the Blue Ribbon Commission at the University of Pittsburgh). This study further claims that, for counties that submit returns electronically, the computer they use to transmit the results should be completely separated from other computer components connected to the election management system. Some counties also have their own public-facing web portals where they announce uncertified vote counts on election night and in the days following. Allegheny County, for example, has a designated website for election night reporting.

An August 2020 directive from the Department of State laid out additional guidelines for how and when to submit returns, given the potential for a drawn-out tabulation period. The Department of State directed county boards to label counting groups and report them as falling under one of three categories: "Election Day, Mail (combination of absentee and mail ballots), Provisional." County boards of election must submit the following counts on election night to the Department of State, along with a daily updated version, after election night: "1) a precinct-level results file; 2) a county-level summary report from the EMS system; and 3) a precinct-level summary report from the EMS system." This same directive asks counties to submit updated reports at the close of polls, daily as the canvassing process continues, during certification, and when they submit the final results per county.

Certifying the Vote

County boards of elections are legally required to receive precinct results and certify them to the Department of State by the third Monday after the election. County boards of elections are usually made up of three county commissioners. Boards must include someone from both the majority and minority parties, unless the county has a home rule charter with a different setup. Members sign a form certifying the results during a public meeting before the certification deadline.

County boards of election start the process of canvassing and certifying the vote count at 9 a.m. the third day after the election (25 P.S. §3154 (a)). This process has been outlined by a DOS checklist. First, the commissioners retrieve and check the total registration number of each district and verify that it aligns with the elector lists and voting machine lists. If the commissioners find discrepancies, then this triggers an investigation by the return board (25 P.S. § 3154(b)) which, barring special circumstances, consists of two or more judges from the court of common pleas (25 P.S. § 3153(b)). The number of ballots, extra ballots, spoiled ballots, and absentee ballots are then verified and discrepancies accounted for (25 P.S. § 3154(c)). Finally, the paper ballot returns for each district (from district totals cards) are read out loud and checked for discrepancies (on the general returns sheet) (25 P.S. § 3154(d)). If a district used machines, the individual machine's registration number and returns are read out loud and checked for discrepancies. Lastly, the board conducts "a statistical recount of a random sample of ballots" (25 P.S. § 3031.17), which must be a manual recount of ballots or "e-ballot images contained in the system" (according to a 2011 directive). Official results, "certified under the seal of the county," are delivered to the Department of State in physical form.

Wisconsin

Like Michigan and Pennsylvania, Wisconsin did not expect to announce a winner of its statewide vote on election night 2020 due to the volume of absentee ballots. The state cannot begin processing absentee ballots until Election Day and cannot begin counting votes until the polls close at 8 p.m. CT. Wisconsin's decentralized election administration system allows municipalities significant flexibility in choosing procedures, including how mail ballots are processed. This flexibility may result in some localities being able to report results sooner than others. Wisconsin issued 845,243 absentee ballots in the 2016 general election and 2,068,464 absentee ballots in the 2020 election (a 145% increase).

Wisconsin law provides the basic structure for processing, counting, and certifying election results. Ballots cannot be opened and counted until Election Day. After ballots are returned, clerks must verify that the ballot envelopes have both voter and witness signatures and that address requirements have been met. Clerks contact voters who did not meet requirements. Then clerks open approved ballot envelopes, feed ballots through voting machines, and, finally, tally the votes. Tallying the votes can occur only after the close of polls.

The steps in processing mail ballots can be time-consuming and can create a backlog of millions of votes, which could delay reporting of results. Officials must verify signatures, open envelopes, and flatten ballots crumpled in transit so that they can be fed into voting machines (this video demonstrates the process). A key step of this process, checking for voter and witness signatures, was expected to hold significant influence over the final election result in 2020. Thousands of mail ballots have been rejected for missing signatures in past elections. In the April 2020 primary election, 14,042 ballots were rejected for missing signatures (out of 23,196 total rejected absentee ballots). To understand the significance of that total, the 2016 election in Wisconsin was decided by only 22,748 votes.

Processing Mail Ballots

Absentee ballots in Wisconsin are carefully collected and securely stored until Election Day, when they are transported to local polling places or, in some communities, a central counting facility. Most localities in Wisconsin, including most rural areas and small municipalities, as well as some larger cities such as Madison, intermingle mail ballots and in-person ballots at the polling places. Ballot processing and counting procedures at polling place locations are defined by Wis. Stat. 6.88. All ballots are counted together so that, when the precinct count is released, it contains both in-person and mail ballots.

Other localities, such as Milwaukee, Kenosha, Waukesha, and Janesville, process mail ballots at a central counting location, following state law Wis. Stat. § 7.52. Thirty-nine municipalities in 2020 processed mail ballots at a "Central Count Absentee Ballot site." A municipal board of absentee ballot canvassers, composed of the municipal clerk (or a qualified elector designated by the clerk) and two other qualified electors of the municipality appointed by the clerk, convene at a public location any time after the opening of the polls and before 10 p.m. on Election Day to count the absentee ballots for the municipality. The board of absentee ballot canvassers follows the same procedures as those used at the polling place when processing, counting, and securing absentee ballots. Just like at regular polling places, election observers from political parties and other organizations may observe the processing and counting of absentee ballots at these designated sites (Wis. Stat. § 7.41).

Wisconsin waits until after the polls open on Election Day to begin processing mail ballots. Processing is the act of verifying the identity of the voter who returned the mail ballot. There are multiple steps to processing a ballot before counting begins. The election inspectors must ensure that:

1. the voter's certification has been properly executed,
2. the voter is a qualified elector of the ward or election district,
3. the voter has not yet voted in the election,
4. the ballot has been endorsed by the issuing clerk,
5. the voter has enclosed proof of residence, if required under Wis. Stat. § 6.34, and such proof matches the name and address on file (if not enclosed, the ballot is marked as provisional), and
6. the voter's name does not appear on the poll list as ineligible to vote by reason of a felony conviction. If the voter does have a felony conviction, the inspectors will challenge the ballot as provided in Wis. Stat. § 6.92.

If the election inspector or board of absentee ballot canvassers finds no reason to reject the absentee ballot, they mark the elector's name on a poll list and deposit the voter's ballot into the proper ballot box. But inspectors reject a ballot if they find one of the following issues:

1. A certification is insufficient: the ballot envelope has no voter signature, no witness signature, no witness address, both special voting deputies failed to sign, and / or no certification language;
2. the applicant is not a qualified elector in the ward or election district;
3. the ballot envelope is open or has been opened and resealed;
4. the ballot envelope contains more than one ballot of any one kind;
5. the certificate is missing for a military or overseas elector who received an absentee ballot by fax or email; or
6. there is proof that an absentee ballot has been submitted for a voter who has since died.

When an absentee ballot is rejected, an inspector endorses the rejected ballot on the back of the return envelope, giving the reason for rejection. They will then reinsert the rejected ballot into the certificate envelope and securely seal the ballot in the envelope inside an envelope marked for rejected absentee ballots. The inspectors then endorse a "rejected ballots" envelope with a statement of the ward or election district and date of the election, and the envelope is signed by the chief inspector and one of the inspectors representing each of the two major

political parties (or every member of the board of absentee ballot canvassers). They send the envelope to the municipal clerk in the same manner as official ballots voted at the election.

Ballots rejected because of issues with certification, such as no voter signature, may be returned to voters on Election Day to cure the certification defects before the polls close at 8 p.m. But notice and cure practices across Wisconsin vary widely. In some counties, election officials make an effort to call every voter whose ballot does not meet witness requirements and help them fix the ballot. Despite the rule that ballots may not be processed before Election Day, county clerks may inspect the outside of a mail ballot as soon as it is received to notify a voter of a missing signature. In other counties, only a small number of ballots that fail to meet the witness and signature requirements make it to the eventual count.

Rejection of absentee ballots was a major concern for November 2020. In the past, deficiencies in the absentee ballot's certification form, which requires the signature of the voter and a witness, have been responsible for the majority of rejections. In the April 2020 primary elections, more than 23,000 absentee ballots were invalidated—14,042 due to voters or their witnesses failing to sign the absentee ballot envelope. Anticipating that these high rejection rates might cause issues in November, the Wisconsin Elections Commission launched a public relations campaign to provide better instructions to voters on filling out a ballot, fulfilling the witness requirement, correcting mistakes, and returning the ballot once completed. (See Healthy Election's Signature Verification Memo for a discussion of Wisconsin ballot rejection rates due to ballot defects, the witness form verification process, ballot cure, and related litigation.)

Absentee ballots must be received by the close of polls on Election Day in order to be counted. This law was recently the subject of litigation as Democrats sought a more flexible deadline. On September 21, 2020, U.S. District Judge William Conley ruled that ballots that arrive up to six days after Election Day would count as long as they were postmarked by Election Day; but, on October 8, the Seventh Circuit blocked the extension of Wisconsin's absentee ballot deadline, and the U.S. Supreme Court agreed on October 26 to uphold the Wisconsin law. As a result, voters had to get their ballots to the polls by Election Day to be counted. However, at the 39 municipalities, including Milwaukee and Green Bay, that count absentee ballots at a central location, rules about where voters should return their ballots on Election Day varied.

Tabulating the Vote

In Wisconsin, no ballots may be counted until the polls close. This late start to the counting process elicited concerns that the results of the 2020 election would not be known for days. Yet

the Wisconsin Elections Commission maintained that the system of counting votes on Election Night and canvassing votes in the following days was designed to ensure an "accurate, honest, and transparent tabulation and reporting of the people's will at the ballot box, as well as to detect actual fraud."

Wisconsin legislators have debated allowing votes to be tabulated before polls close but did not enact any changes for the 2020 general election. The Assembly approved a bill in 2019 that would have allowed some in-person votes cast early to be counted sooner, but that bill died in the Wisconsin Senate. A Senate committee heard testimony in 2020 on a bill that would have allowed clerks to count absentee ballots early, but it, too, failed to pass. Therefore, for the November 2020 election, the counting of votes occurred after the polls closed at 8 p.m. on Election Day.

Vote counting at polling places is performed by the election inspectors, otherwise known as "poll workers." Each polling place generally has seven inspectors, though more can be appointed. The governing body of a municipality may also appoint tabulators to assist election inspectors in the counting of votes after polls close.

Immediately after the polls close, the inspectors proceed to canvass all votes received at the polling place. The canvass, whether conducted at the polling place or at a central counting location, must continue without adjournment until the canvass of all ballots cast and received on or before Election Day is completed and the results are reported (Wis. Stat. 7.51(1)).

The process of counting ballots is detailed in the Wisconsin Election Day Manual (2020), which includes detailed procedures for hand-counted paper ballots, optical scan ballots, and Direct Recording Electronic Voting Equipment (DRE). For example, the hand-counted ballot procedure follows these basic steps ("Counting Ballots"):

1. If there are multiple ballot boxes, open boxes one at a time.
2. Count the ballots in each box (without examining them) to determine the total number.
3. Determine if the number of ballots is equal to the number of voters. (If not, and there is no alternative reason for the ballot overage, election officials randomly withdraw the number of ballots equal to the excess number of ballots and set those aside.)
4. Count and record the votes on two separate tally sheets. Reconcile the tally sheets when the counting for each office is complete.
5. Announce the results of the votes cast at the polling place and prepare all election materials for delivery to the municipal clerk.

Wisconsin law does not specify the manner for actually counting paper ballots. The Election Commission recommends a process in which one election official reads each ballot, a second official observes, and two other election officials mark the votes on tally sheets, which are then compared for accuracy at the end of counting.

Most Wisconsin polling locations use optical scanning devices or voting machines for tabulating ballots, which record the votes and drop the marked ballots into a locked container. Verified Voting offers a detailed breakdown of election ballot-marking and tabulation equipment by county.

For locations that tabulate votes using Direct Recording Electronic Voting Equipment (DRE), the counting process is straightforward. All votes, including write-in votes, are automatically tabulated by the DRE equipment. After the polls close, election workers print out a tape which lists the tabulated vote totals. Inspectors then record the serial numbers on the security seals and secure a copy of the results (plus the memory cards, unless they remain sealed in the machines) in a sealed envelope bearing the signatures of the chief election inspector and two additional inspectors across the seal. The machine-produced record of the total votes cast for each candidate is presumed correct, unless an error in the record is clearly apparent or unless a candidate requests that the machine be viewed. Voting machines provide three redundancies: the original ballots in their secured container, the print-out tape from the machine, and the electronic memory device from the machine. Wisconsin creates a paper record of every vote that is cast, no matter what kind of ballot or equipment voters use.

In addition to following the steps for DRE equipment, locations using optical scanning devices must be aware of extra procedures to tabulate ballots that were not legible to the machine. For example, a ballot rejected by the machine must be examined by two election officials from different political parties to determine the cause for rejection. The officials can then make a duplicate ballot to correct the problem (see "Remaking Ballots" in the WEC Election Day Manual). For some machines, write-in ballots must be tabulated by hand, which may require an edit to the printed results if, for instance, an elector fills in an oval next to a candidate's name and also writes in a candidate for that office but fails to complete that oval. Write-in votes, even if the arrow/oval is not completed, are counted instead of the vote for the candidate on the ballot if the write-in is a registered candidate. Therefore, the returns may need to be amended to reflect the correct number of votes.

The Wisconsin Elections Commission (WEC) offers extensive instructions for counting irregular ballots in accordance with Wis. Stat. § 7.50(2). When a voter has marked a ballot in a way that does not clearly indicate their voting objective, such as when an elector has overvoted an office on the ballot, the election inspectors must attempt to determine the voter's intention. All

inspectors must be part of the determination process, and the majority must agree that the voter's intention can or cannot be determined. Rules for counting write-in votes also prioritize voter intent—for example, an irregular write-in vote may be counted if the intent of the voter can be determined, even if a name is misspelled. A ballot that is damaged, overvoted, or otherwise unclear as to voter intent is called a "defective" ballot. Whenever a ballot is found to be defective, cast by a challenged elector, or rejected (e.g. for missing a signature), the ballot must be identified with a number and set aside, and a notation about the rejected ballot must be made on the Inspectors' Statement.

Reporting the Vote

Wisconsin law specifies the process of election night reporting. After tallying the votes, election officials announce the results of the votes cast at the polling places and prepare all election materials for delivery to the municipal clerk. On election night, election inspectors must report the returns, by ward or returning unit, to the county clerk no later than two hours after the votes are tabulated (Wis. Stat. § 7.51(4)(c)). Wisconsin does not have an official statewide Election Night reporting system. According to Wis. Stat. § 7.60(1), the clerks must post all returns received from election inspectors, by ward or reporting unit, on an internet site maintained by the county no later than two hours after receiving the returns on election night. Some counties (such as Adams County) post results via Google Drive folders linked from their county website, while others report results directly on their websites. The Wisconsin Elections Commission advises voters to refer to this list of Wisconsin county election websites on election night to find unofficial results from Wisconsin's 72 county clerks or to look for reporting by local news outlets, which aggregate and report statewide results.

Certifying the Vote

Vote totals in Wisconsin are triple-checked. Election results from municipalities are not official until they have been double-checked by the county and certified by the bipartisan Wisconsin Elections Commission. The tally from election inspectors on election night is the unofficial election result; the official results of the elections are not finalized until later (see "Post Election Activities"). To certify the vote, each official board of canvassers must meet to complete the official canvass (certification) of their respective offices (at the municipal, county, state, or other level). The canvass statement is the official determination of the outcome of the election. The election is not complete, and no recount can be requested, until the canvass has been completed (Wis. Stats. §§ 7.53(4), 9.01(1)(a)).

The canvass for the presidential race takes place at the county level. Immediately following the county canvass, the county clerk delivers to the Elections Commission the certified statements from the county board of canvassers, with the election returns recorded by ward. County canvassers must certify their results to the Wisconsin Election Commission ("WEC") 14 days after the election (Wis. Stat. § 7.60(5)). The WEC must certify the statewide results by December 1 (Wis. Stat. § 7.70(3)(a)).

Candidates and electors may petition for a recount until 5 p.m. on the third business day following certification by the official board of canvassers. As soon as this deadline for filing a petition for a recount has passed, the municipal clerk issues a Certificate of Election to each person elected to any municipal office. When a valid petition for a recount is filed, the municipal clerk must wait to issue the certificate of election for the office in question until the recount has been completed and the time allowed for filing an appeal has passed or, if appealed, until the appeal is decided (Wis. Stat. § 7.53(4)). Wisconsin recount laws are summarized in detail by the Citizens for Election Integrity Minnesota.