

No. 24-1260

---

---

**In the Supreme Court of the United States**

---

MICHAEL WATSON, MISSISSIPPI SECRETARY OF STATE,  
*Petitioner,*  
v.  
REPUBLICAN NATIONAL COMMITTEE, ET AL.,  
*Respondents.*

---

ON WRIT OF CERTIORARI TO THE  
U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

---

**BRIEF OF AMICUS CURIAE STATE OF ALASKA  
IN SUPPORT OF NEITHER PARTY**

---

STEPHEN J. COX  
*Attorney General*

JENNA M. LORENCE  
*Solicitor General*  
*Counsel of Record*

DEPARTMENT OF LAW  
1031 W. 4th Ave., Ste. 200  
Anchorage, AK 99501  
(907) 269-5100  
jenna.lorence@alaska.gov

*Counsel for the State of Alaska*

---

---

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES.....	ii
INTERESTS OF AMICUS CURIAE .....	1
I.    Voting in Alaska.....	2
II.    Alaska's Unique Challenges .....	3
III.    Alaska's Need for Clarity .....	7
CONCLUSION .....	8

**TABLE OF AUTHORITIES****Cases**

<i>Sturgeon v. Frost,</i>	
587 U.S. 28 (2019).....	1

**Const. Provisions and Statutes**

U.S. Const. Art. I, § 4 .....	9
2 U.S.C. § 1 .....	1
2 U.S.C. § 7 .....	1
3 U.S.C. § 1 .....	1
Alaska Stat. § 15.20.010 .....	2
Alaska Stat. § 15.20.061 .....	3
Alaska Stat. § 15.20.081 .....	1, 2, 3, 4
Alaska Stat. § 15.20.170 .....	3
Alaska Stat. § 15.20.203 .....	3

**Other Authorities**

Alaska Division of Elections, <i>Absentee Board Report Details</i> (Jan. 8, 2025) .....	5
Alaska Division of Elections, <i>Alaska’s Election Process</i> (Jan. 25, 2022) .....	2, 3
Alaska Division of Elections, <i>Combined Ballot Count Report</i> (Dec. 10, 2024).....	2, 4
Alaska Division of Elections, <i>Election Night Reporting, Alaska 2024 General Election</i> (2024) .....	2

Matt Bloom, <i>If you drop off your ballot in the wrong county, these workers make sure it gets into the right hands</i> , Col. Pub. Radio News, Nov. 10, 2022.....	5
Christina Cassidy, John Hanna, & Amy Beth Hanson, <i>Multiple election offices report receiving mailed ballots misdirected from other states</i> , AP, Nov. 19, 2024.....	5
The Denali Commission, <i>A Blueprint for Alaska's Broadband Future</i> , Dec. 11, 2019 .....	7
Theo Greenly, <i>In Alaska's most remote villages, 1 missed plane can mean bare grocery shelves</i> , KUCB, Oct. 20, 2025.....	4, 5
<i>Hearing on 2024 Alaska Primary &amp; General Election before the H. Judiciary Standing Comm.</i> , 2024 Leg. 33rd Sess. (Alaska 2024) .....	6, 7
Alena Naiden, <i>Alaska is set to receive \$120M for new weather stations and aviation safety</i> , Alaska Public Media, Aug. 14, 2025 .....	4
National Conference of State Legislatures, <i>Table 11: Receipt and Postmark Deadlines for Absentee/Mail Ballots</i> .....	1
Office of the Inspector General, United States Postal Service, <i>Alaska Mail Services Report Number 22-090-R22</i> (Sept. 28, 2022).....	4
U.S. Census Bureau, <i>Population Density of the 50 States, the District of Columbia, and Puerto Rico: 1910 to 2020</i> .....	3, 4

U.S. Census Bureau, <i>QuickFacts, Anchorage Municipality (County) Alaska; Fairbanks City, Alaska</i> .....	7
U.S. Census Bureau, <i>Types of Computers and Internet Subscriptions</i> .....	7

## INTERESTS OF AMICUS CURIAE

There is no dispute that federal law sets the “election” day for federal offices. 2 U.S.C. § 7; 2 U.S.C. § 1; 3 U.S.C. § 1; *see also, e.g.*, Pet. Br. 1, RNC BIO 1. And all States require ballots to be cast by that singular election day. However, over half of the States allow some ballots cast by election day to be received after that deadline. NCSL, Table 11: Receipt and Postmark Deadlines for Absentee/Mail Ballots, [bit.ly/3MQ95N0](https://bit.ly/3MQ95N0). In Alaska, that means that so long as a valid in-state absentee ballot is received “by the close of business on the 10th day after the election,” it will be counted, and if the voter is overseas, the Division will count the ballot so long as it is received by the 15th day after the election. Alaska Stat. § 15.20.081(e), (h).

Alaska is committed to providing accurate, secure, and fair elections. Whatever the outcome of this case, Alaska will continue to require its citizens’ ballots to be cast by election day and counted in a timely fashion. But as this Court has recognized, “Alaska is different’ from the rest of the country.” *Sturgeon v. Frost*, 587 U.S. 28, 32 (2019). With over 80 percent of Alaskan communities off the road system, and extreme weather making access by boat or plane unreliable during certain months, including November, Alaska’s Division of Elections will continue to establish processes unlike any other State to ensure that its geography does not limit its citizens’ ability to vote. Alaska asks that as this Court crafts a rule in this case, it provide clear parameters for Alaska to apply.

## I. Voting in Alaska

Like many States, Alaska allows its citizens to cast their votes for federal elections in a variety of ways. However, Alaska ensures that “there is a paper trail for every ballot cast.” Alaska Division of Elections, *Alaska’s Election Process* at 1 (Jan. 25, 2022), <https://perma.cc/CPA7-BG2G>. About half of the ballots in Alaska are cast in person on election day. Alaska Division of Elections, *Election Night Reporting, Alaska 2024 General Election* (2024), <https://perma.cc/5E3V-MG56>; see also Alaska Division of Elections, *Combined Ballot Count Report* (Dec. 10, 2024), <https://perma.cc/M2TN-XJH6>. But Alaska also permits anyone to vote absentee. Alaska Stat. § 15.20.010. And over 73,000 Alaska voters used this option in the 2024 general election. *Combined Ballot Count Report*.

Voters may apply for an absentee ballot by mail, fax, or online delivery. Alaska Stat. § 15.20.081(a). To even receive a ballot, voters must provide information including their name, signature, birthdate, gender, Alaska residence address, and an identifier such as their Social Security Number. *Alaska’s Election Process* at 3. The Division begins mailing absentee ballots no later than 45 days before the election to overseas voters or those in remote areas of Alaska, and as soon as possible to other Alaskans, which often is within 25 days of the election. *Id.*

For an absentee ballot to be counted, a voter must provide a valid identifier, sign the envelope, and have that signature witnessed by an authorized official or, in some circumstances, any person over 18 years old.

Alaska Stat. § 15.20.081. A voter may either drop the ballot off at a polling location or elections office on or before election day or deliver it to the United States Postal Service for postmarking on or before election day. § 15.20.081 (d), (h).

Alaska also operates various absentee in-person locations, which may be open through election day. Alaska Stat. § 15.20.061(a). Like a by-mail absentee ballot, the voter fills out an outside envelope with her information, votes on the separate ballot, and places that ballot inside the envelope. § 15.20.061(c). She gives the envelope to an absentee voting official, who sends it to the regional Division of Elections office for review by the absentee review board. § 15.20.170. Only once the board has determined that the ballot is eligible will it be counted. § 15.20.203(a); *see Alaska's Election Process* at 4–5.

Alaska upholds these stringent standards to ensure that only eligible voters submit ballots. The State does not count ballots that fail to arrive by the deadlines or fail to meet any of these requirements. *See* Alaska Stat. § 15.20.203.

## **II. Alaska's Unique Challenges**

Alaska has the same responsibility as all other States to ensure its voters can make their voices heard at the voting booth. But it must do so facing circumstances unlike any other State. To begin with, Alaska's population is far more spread out than that of any other State or territory. For example, Mississippi, whose law is challenged here, has 63.1 people per square mile, while New York has 428.7. *See* U.S.

Census Bureau, *Population Density of the 50 States, the District of Columbia, and Puerto Rico: 1910 to 2020*, <https://perma.cc/C8ZX-4X3G>. Alaska, by contrast, has only 1.3 people per square mile—the lowest population density by far of any State. *Id.* (Wyoming, ranking second-to-last, has 5.9 people per square mile). *Id.*

Not only are Alaska’s voters sparsely distributed across its vast landscape, but Alaska’s geography and limited infrastructure further complicate the task of reaching certain voters. For absentee ballots, many voters rely on the United States Postal Service. Alaska Stat. § 15.20.081; *see also Combined Ballot Count Report* (nearly 50,000 votes cast by mail). But unlike in other states, where mail delivery can be accomplished by simply driving to someone’s house via a continuous road system, USPS must use creative solutions to reach 82 percent of Alaskan communities. Office of the Inspector General, United States Postal Service, *Alaska Mail Services Report Number 22-090-R22*, at 3 (Sept. 28, 2022), <https://perma.cc/PV6L-VS4B>. These options include including “airplanes, helicopters, hovercraft, and other modes of non-traditional transportation.” *Id.*

Even with these additional methods, mail delivery isn’t guaranteed for remote areas of Alaska. Due to bad weather and unreliable or nonexistent weather reporting, “there are times when flights can’t reach communities for a week.” Alena Naiden, *Alaska is set to receive \$120M for new weather stations and aviation safety*, Alaska Public Media, Aug. 14, 2025, <https://perma.cc/F9VE-D6EE>; *see also* Theo Greenly,

*In Alaska's most remote villages, 1 missed plane can mean bare grocery shelves,* KUCB, Oct. 20, 2025, <https://perma.cc/C77G-M5K6> (“Our weather [in Nikolski] was so bad that we didn’t see a plane for like, four months[.]”). In most States, like in Louisiana, staff can “physically take [] ballots and drive them to another [precinct] to get them there on time to make sure those votes count,” even if there are mail issues. Christina Cassidy, John Hanna, & Amy Beth Hanson, *Multiple election offices report receiving mailed ballots misdirected from other states*, AP, Nov. 19, 2024, <https://perma.cc/MVS2-QH48>; see also Matt Bloom, *If you drop off your ballot in the wrong county, these workers make sure it gets into the right hands*, Col. Pub. Radio News, Nov. 10, 2022, <https://perma.cc/4B7N-C26L> (explaining how workers in Colorado drive ballots to the correct precincts or in some circumstances, ship them overnight).

Alaska already employs effective solutions to ensure that every citizen has the opportunity to vote by election day. These include allowing Alaskans to request absentee ballots by fax or online delivery and allowing ten or fifteen days post-election (depending on the circumstances) for receipt of validly cast ballots. But as with any bright-line rule, some ballots do not meet the State’s deadline. In the 2024 election, the State rejected 83 ballots for arriving too late and 137 for being postmarked after election day. Alaska Division of Elections, *Absentee Board Report Details* (Jan. 8, 2025), <https://perma.cc/7ZQ9-E7U5>. Alaska’s deadline offers some buffer to ensure absentee ballots can make their way across Alaska, but it does not provide a blank check for delay.

Alaska's geographical challenges affect in-person voting too. In remote communities in Alaska, finding poll workers is often difficult. *Hearing on 2024 Alaska Primary & General Election before the H. Judiciary Standing Comm.*, 2024 Leg. 33rd Sess. at 2:15:00 (Alaska 2024), <https://perma.cc/U6VR-LDLE>. If a previously trained poll worker is unable or unwilling to work the polls on election day, there may be no way to recruit or send a replacement in time. *Id.* at 2:15:30, 2:20:18. For instance, in the 2024 general election, Wales—the westernmost city on the North American mainland, over 600 air miles from Anchorage—had no poll workers available on election day morning to open its in-person voting location. *Id.* Due to weather, the State could not send any trained poll workers there. *Id.* Eventually, a local teacher agreed to work with the Division to open the polls. *Id.* Such a solution is not ideal but displays the creative thinking the Division must employ to ensure that remote Alaskans are able to vote. And while ballots in these circumstances are properly cast on election day and cannot be changed, it may take additional days for them to make their way back to the Division for receipt and tabulation.

In other circumstances, even in-person votes cast at a fully staffed precinct will struggle to reach the Division due to weather- and geography-related delays. In 2024, poll workers in Atqasuk, a community above the Arctic Circle, tallied the votes cast on election day. Alaska House Judiciary at 2:09:05, 2:19:20. They would ordinarily report those tallies to the Division on election night by phone, but they could not get through. *Id.* Unable to reach the Division, the poll

workers chose what they saw as the next best solution—they placed the ballots and tally sheets into a secure package and mailed them to the Division, who did not receive them until nine days later. *Id.* at 2:09:50. This exemplifies the hurdles that the Division regularly faces to receive and count votes from rural areas.<sup>1</sup>

### **III. Alaska’s Need for Clarity**

However this Court decides this case, Alaska will rise to the task of implementing that rule. But Alaska asks for clarity on that rule’s limits. The Fifth Circuit held that ballots must “be both *cast* by voters and *received* by state officials” by election day. App.3a. While that rule may invalidate laws like Mississippi’s delayed receipt deadline, what does it do in a situation

---

<sup>1</sup> Even if the State could develop a truly secure online voting system (which, so far, is not possible), that would still not solve these logistical concerns for Alaska’s remote communities. In major cities like Anchorage or Fairbanks, most homes have internet access. U.S. Census Bureau, *QuickFacts, Anchorage Municipality (County) Alaska; Fairbanks City, Alaska*, <https://www.census.gov/quickfacts/fact/table/anchoragealaska/POP010210>. But over 20,000 households statewide have no internet access at all, U.S. Census Bureau, *Types of Computers and Internet Subscriptions*, <https://data.census.gov/table/ACSST5Y2023.S2801?q=%20ACST5Y2023.S2801&g=040XX00US02>. Many of these communities are the same areas of Alaska facing poll worker shortages or mail delays. This makes sense. The same harsh climate that makes mail delivery difficult is a “hindrance[]” to both “initial deployment of services” and “ongoing operation and maintenance” of internet infrastructure. The Denali Commission, *A Blueprint for Alaska’s Broadband Future* at 5, Dec. 11, 2019, <https://perma.cc/9P2D-8RUK>.

like Atqasuk, where votes were cast and received by some poll workers on election day, but state officials did not receive the physical ballots or vote tallies until days later? Or what does the rule mean in situations like that in Wales, where the only “state official” conducting the election was a local teacher who agreed at the last minute to open the polls for a few hours before submitting those ballots to the Division via mail?

Even more standardized voting situations in Alaska raise these questions. For example, when a voter casts an in-person absentee ballot in a remote area shortly before election day, the absentee voting official must send the ballot (in its unopened absentee ballot envelope) to the regional office, which may take some time. Is the ballot “received” the day it is turned over to the voting official? Or is it “received” only once it reaches the regional office, where, for the first time, the Division evaluates eligibility before opening the envelope and counting the ballot within?

The Fifth Circuit’s rule, whatever its merits, contemplated voting situations where it is clear once a ballot has been “received” by the State. App.13a. In Alaska, that line can be imprecise. While it is clear when a ballot is “cast” in Alaska (meaning that the vote cannot be changed), when certain ballots are actually “received” is open to different interpretations, especially given the connectivity challenges for Alaska’s far-flung boroughs.

## CONCLUSION

Election integrity requires clear standards so States can meet their responsibility to prescribe the

“Times, Places and Manner of holding Elections.” U.S. Const. Art. I, § 4. Alaska asks this Court to consider how its rule here will apply in all States—including Alaska, where “receiving” a ballot isn’t always as simple as walking to a precinct or driving a few hours to pick up a ballot box.

Respectfully submitted,

STEPHEN J. COX  
*Attorney General*

JENNA M. LORENCE  
*Solicitor General*  
*Counsel of Record*

DEPARTMENT OF LAW  
1031 W. 4th Ave., Ste. 200  
Anchorage, AK 99501  
(907) 269-5100  
jenna.lorence@alaska.gov

January 9, 2026