

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
UNITED STATES COURT OF APPEALS FOR THE FIFTH
CIRCUIT*

**BRIEF OF THE STATES OF MONTANA,
ALABAMA, IDAHO, IOWA, KANSAS,
NEBRASKA, SOUTH CAROLINA, AND SOUTH
DAKOTA AS *AMICUS CURIAE* IN SUPPORT
OF RESPONDENTS**

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INTEREST OF *AMICI CURIAE*

Amici are eight States, each of which has a strong interest in uniform and clear national election rules, efficient administration of their elections, and voter confidence. Because the States administer elections, they are well-positioned to advise the Court about the most efficient rules and the best ways to increase access and confidence for voters.

INTRODUCTION & SUMMARY OF ARGUMENT

Since 1875, Congress has mandated that both congressional and presidential elections take place on “the Tuesday next after the first Monday in the month of November” (“Election Day”). 2 U.S.C. § 7; 3 U.S.C. § 1. The purpose of requiring one Election Day was to ensure uniformity in federal elections and to avoid chaos from states have all different election timelines.

Having a firm and uniform deadline is not only mandated by statute, and permitted by the Constitution, but it is also sound policy. Contrary to the arguments of some *amici*, setting a firm and explicit voting deadline does not hamper States’ ability to administer elections, nor does it make it more difficult for voters to vote. Having a firm deadline benefits both state election officials and voters. It helps election officials administer elections more efficiently, and it makes voting more straightforward for voters because, put simply, it is easier to understand. With complicated rules and varying deadlines, voters are *more* likely to misunderstand voting processes. Accordingly, and contrary to some *amici*’s dire warnings, setting a firm deadline will not result in mass “disenfranchisement” of voter groups, including service members and Native

Americans. Ultimately, there must be *a* final deadline, and some voters will ultimately miss that deadline if it is not extended for them. But announcing the deadline on specific day in November will make it *more* likely that voters meet it. And, it will have the salutary effect of boosting public confidence in elections. The decision of the Fifth Circuit should be affirmed.

ARGUMENT

I. Clear Deadlines Make Elections Easier for States to Administer

As of this writing, thirty-six states¹ allow mail-in ballots and require that, for most or all voters, those ballots arrive by Election Day to be counted. While several states experimented with post-Election-Day balloting during COVID-19, the number of states adopting the congressionally mandated Election Day counting is now at thirty, which is above even pre-pandemic levels. *See Ne. Ohio Coal. for the Homeless v. LaRose*, 767 F. Supp. 3d 585, 609 n.29 (N.D. Ohio 2024) (thirty states as of January 2024 that did not accept absentee ballots received after Election Day).²

¹ *Table 11: Receipt and Postmark Deadlines for Absentee/Mail Ballots*, NAT'L CONF. OF STATE LEGISLATURES (Dec. 24, 2025), <https://www.ncsl.org/elections-and-campaigns/table-11-receipt-and-postmark-deadlines-for-absentee-mail-ballots>.

² *See also* U.S. ELECTION ASSISTANCE COMM'N, MAIL BALLOT DEADLINES, 2012 TO 2022, https://www.eac.gov/sites/default/files/2024-05/Mail_Ballot_Deadlines_2012_to_2022.pdf (last visited Feb. 9, 2026) (showing that thirty states statutes required mail-in ballots to be received on or before Election Day in 2018, twenty-seven in 2020, and twenty-nine in 2022).

Indeed, of the nineteen states whose *amicus* brief argues that a uniform Election Day will complicate or burden election administration, *more than half* require ballots from all or almost all voters to arrive by Election Day. *See* Brief *Amici Curiae* of District of Columbia *et al.*³ It is no secret why those states and others are increasingly moving back to an Election Day cutoff for mail-in ballots: Having a clear, uniform deadline makes administering elections much easier and more predictable, without disenfranchising voters. This is true for several reasons.

A. Uniform Deadlines Are More Easily, Accurately, and Efficiently Applied

Every State allows some voters to cast their ballots by mail. And every State sets deadlines for when those ballots must be transmitted, received, or both. Of course, in any election, there must be *some* deadline, otherwise it would be impossible to declare a winner and seat an elected official. And the date when that deadline is set is going to be, to some extent, arbitrary. Some voters will always want or need extensions.

Nonetheless, most States have set Election Day as that deadline in accordance with federal law. In those States, at least some votes are received late and not counted. But the same is true of States that set a

³ Connecticut, Delaware, Hawaii, Minnesota, New Mexico, and Vermont do not count any ballots that arrive after Election Day, while Colorado, Michigan, North Carolina, and Rhode Island count only a tiny fraction of votes from voters covered by the Uniformed and Overseas Citizens Absentee Voting Act. *See* NAT'L CONF. OF STATE LEGISLATURES, *supra* note 1; U.S. ELECTION ASSISTANCE COMM'N, *infra* note 34 at 224 (documenting only 772,579 UOCAVA votes counted in the 2024 election).

deadline after Election Day—excluding some votes that would have been counted under a more permissive rule is a necessary consequence of setting *any* deadline.

Thus, for example, a four-day late ballot would be counted in California but not Virginia; an eight-day late ballot would be counted in Maryland but not California; and, an eleven-day late ballot would be counted in Illinois, but not Maryland.⁴ Any time voting by mail is an option, it is inevitable that some portion of voters who choose that method will miss the applicable deadline, however lenient. But that portion of voters is vanishingly small—only 1.2% of absentee/mail-in ballots were rejected in the 2024 election, and only 17.8% of those (i.e., .22% total) were due to missed deadlines.⁵

As this Court has recognized, voters are adults whom every State reasonably expects to be aware of the applicable deadline and act accordingly to ensure their vote is counted. *See Burdick v. Takushi*, 504 U.S. 428, 438 (1992) (“Reasonable regulation of elections . . . require[s] [voters] to act in a timely fashion if they wish to express their views in the voting booth.”).

Given that States must set some ballot receipt deadline, there are many practical reasons why a national, across-the-board deadline of Election Day is preferable to a range of deadlines varying by State. The fact that there are 3,069 different counties in the United States administering elections under fifty

⁴ NAT’L CONF. OF STATE LEGISLATURES, *supra* note 1.

⁵ *Election Results, 2024: Analysis of Rejected Ballots*, BALLOTPEDIA, https://ballotpedia.org/Election_results,_2024:_Analysis_of_rejected_ballots (last visited Feb. 10, 2026).

States' laws makes the need for some measure of uniformity to promote simplicity, accuracy, and efficiency in elections readily apparent.⁶ Requiring ballots to arrive by Election Day to be counted advances each of these principles.

A rule that mail-in ballots must *arrive* by Election Day to be counted is inherently simpler to apply than rules that turn on when the ballot was *transmitted*. Timely receipt is readily verifiable while the timeliness of transmission must be estimated using proxies such as postmarks or voter-written dates. An Election Day deadline obviates the need not only to track and log postmark dates or other indicia of when a ballot was mailed, but also to conduct individualized verification steps using that information to ensure that late-arriving ballots are eligible to be counted.⁷

This not only simplifies the process of counting ballots but makes it more accurate because it leaves no room for the possibility of error from, for instance, a “fraudulent or mistaken ‘backdate’ on the envelope.” *Election Integrity Project Cal., Inc. v. Weber*, 113 F.4th 1072, 1092 (9th Cir. 2024). A more cut-and-dry ballot receipt rule is also more likely to be consistently and accurately applied by local officials across jurisdictions because it is less open to varying legal interpretations. *See Republican Nat’l Comm. v. Aguilar*, 558 P.3d 805 (Nev. 2024) (table) (dispute over whether Nevada’s law counting certain mail-in ballots

⁶ *What Are Counties*, NAT’L ASS’N CNTYS., <https://www.naco.org/page/what-are-counties> (last visited Feb. 7, 2026).

⁷ NAT’L CONF. OF STATE LEGISLATURES, *supra* note 1 (showing that most states that accept ballots after Election Day require postmarks proving they were timely mailed).

for which “the date of the postmark cannot be determined” covered only ballots whose postmark had an illegible date or also those that lacked a postmark entirely).

Next, requiring mail-in ballots to arrive by Election Day creates a more efficient counting process. It is much slower and burdensome to conduct individualized analyses of each ballot or envelope received after Election Day to determine whether it was timely mailed. Moreover, it creates a known universe of ballots by the close of polls and a consolidated timeline for counting them. This avoids a staggered vote-counting process in which election officials and their staff must divide their efforts between counting ballots already received and processing newly received ballots. It allows election officials to more accurately calibrate staffing levels for timely ballot counting. And it means shorter timeframes during which ballots must be kept secure and monitored. The result is a more efficient ballot-counting process.

The efficiencies enabled by an Election Day ballot receipt deadline are not conjectural but have been borne out in recent elections. During the 2020 election, the deadlines for late-arriving mail-in ballots were extended in several States by election officials or courts. Three of the five states that took longest to be called that year had extended their mail-in ballot deadlines: North Carolina took ten days to be called with a nine-day extension,⁸ Nevada took four days

⁸ See Shane Savitsky, *How Long It Took Each State to Be Called in 2020*, AXIOS (Oct. 25, 2024), <https://www.axios.com/2024/10/25/how-long-states-called-election>; Graham Kates, *Supreme Court Rules Ballots in North Carolina Can Be Received up to Nine Days After Election Day*,

with a seven-day extension,⁹ and Pennsylvania took four days with a three-day extension.¹⁰ And well after the COVID-19 pandemic ended, eight of the twelve congressional races that took a week or more after Election Day to be called in 2024 were in states that count late-arriving mail-in ballots.¹¹ These findings suggest that counting only ballots that arrive by Election Day is much more efficient.

B. A Uniform Deadline Also Simplifies Messaging to Voters

Nearly as important as the substance of states' voting laws and procedures is how effectively they can be explained to the voting public. Voters need to know their options to vote and what rules they must follow to ensure that their vote is counted. A standardized rule requiring mail-in ballots to arrive by Election

CBS NEWS (Oct. 29, 2020), <https://www.cbsnews.com/news/north-carolina-election-ballots-supreme-court-ruling/>.

⁹ Nicole Meir, *Calling the 2020 Presidential Race State by State*, ASSOCIATED PRESS (Nov. 8, 2020), <https://www.ap.org/the-definitive-source/behind-the-news/calling-the-2020-presidential-race-state-by-state/>; Press Release, Nev. Sec'y of State, Secretary Cegavske Issues FAQ To Address Post-Election Questions (Nov. 4, 2020), <https://www.nvsos.gov/sos/Home/Components/News/News/2885/309>.

¹⁰ Meir, *supra* note 12; Amy Howe, *Supreme Court Leaves in Place Order Requiring Pennsylvania to Count Absentee Ballots After Election Day*, SCOTUSBLOG (Oct. 20, 2020), <https://www.scotusblog.com/2020/10/supreme-court-leaves-in-place-order-requiring-pennsylvania-to-count-absentee-ballots-after-election-day/>.

¹¹ See Appendix Table 1.

Day is simpler for election officials not only to apply but to communicate to voters. It makes for a clear, straightforward, and universal message: make sure your vote gets to election officials by Election Day. *See Democratic Nat’l Comm. v. Wis. State Legis.*, 141 S. Ct. 28, 28 (2020) (Gorsuch, J., concurring) (“Elections must end sometime, a single deadline supplies clear notice, and requiring ballots be in by election day puts all voters on the same footing.”).

This stands in stark contrast to the numerous details that election officials in the minority of states that accept late-arriving mail-in ballots from most or all voters must effectively convey to avoid confusing or even disenfranchising voters. *See* Jason Nagel, Note, *Standardizing State Vote-by-Mail Deadlines in Federal Elections*, 2022 CARDOZO L. REV. DE NOVO 1, 37 (2022) (arguing that a uniform federal rule will reduce the “amount and complexity of [state] deadline rules”).

First, election officials in such states must explain to voters why and how they are subject to *two* deadlines—the date by which the ballot must be mailed and the date by which it must be received.¹² Voters may otherwise assume that their ballot will be counted as long as it is mailed by Election Day.

Second, officials must advise voters of the need for a postmark or other reliable indicia of the date mailed, and the fact that without such indicia, their ballot may be rejected outright or subject to a stricter deadline. *See, e.g.*, Nev. Rev. Stat. § 293.269921(2) (un-postmarked ballots not counted if received later than three days after Election Day). It may alarm

¹² NAT’L CONF. OF STATE LEGISLATURES, *supra* note 1.

voters to realize that a technical error outside of their control may prevent their vote from being counted.

Third, officials must tell voters that simply placing a ballot in their mailbox or even dropping it off at a post office on Election Day may not result in their ballot being postmarked by that day.¹³ These complications must be effectively communicated by any state that counts votes received after Election Day. The substantial variation between each states' law on this point means there are numerous other state-specific nuances that must also be addressed. For instance, officials in states that allow absentee ballots via drop box must communicate that an absentee ballot placed in a drop box after polls close on Election Day is not timely, even if it still would be accepted and dated by a private carrier before the end of the day.¹⁴

In sum, efforts to expand voting access by counting late-arriving ballots complicate messaging and likely end up disenfranchising voters who are confused by the various nuances described above or feel reassured to wait until the last minute to vote by mail.

C. Late-Arriving Ballot Rules Lead to Legal Uncertainty and Litigation

In recent years, states have faced several lawsuits challenging their election laws and procedures, and

¹³ Hansi Lo Wang, *Your Ballot or Other Mail May Not Get Postmarked by USPS the Day It's Dropped Off*, NPR (Oct. 23, 2025), <https://www.npr.org/2025/10/23/nx-s1-5582370/mail-in-ballot-postmark>.

¹⁴ NAT'L CONF. OF STATE LEGISLATURES, *supra* note 1; *Table 9: Ballot Drop Box Laws*, NAT'L CONF. OF STATE LEGISLATURES, <https://www.ncsl.org/elections-and-campaigns/table-9-ballot-drop-box-laws> (last visited Feb. 10, 2026).

specifically around counting late-arriving ballots. Uniform rules will reduce litigation around elections.

In many cases, litigants challenged laws that direct elections officials to count certain ballots received after Election Day because they believed they were *not lenient enough*. See *Democratic Congr. Campaign Comm. v. Kosinski*, 614 F. Supp. 3d 20, 56–58 (S.D.N.Y. 2022) (enjoining disqualification of timely cast but un-postmarked ballots without opportunity to cure as impermissibly burdening their right to vote); *Ne. Ohio Coal. for the Homeless*, 767 F. Supp. 3d at 609 (rejecting undue burden challenge to Ohio’s law shortening deadline for receipt of absentee ballots from ten days to four). In others, litigants challenged such laws because they believed they were *too lenient*. See *Weber*, 113 F.4th at 1091–92 (rejecting challenge to California’s seven-day ballot receipt window); *Carson v. Simon*, 978 F.3d 1051, 1056, 1062–63 (8th Cir. 2020) (granting challenge to Minnesota secretary of state’s guidance directing local officials to accept ballots received within seven days after Election Day).

Often, these cases are decided close in time to elections, raising the prospect of election officials having to race to comply with adverse rulings. Having to constantly defend these laws against attacks from both sides of the election accessibility-election integrity spectrum is expensive and burdensome. And the constant resort to and intervention by federal courts in elections is itself harmful to the democratic process. See *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006) (“Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls.”); see also *Democratic Nat’l Comm.*, 141

S. Ct. at 28 (Gorsuch, J., concurring) (observing that the Constitution vests state legislatures and Congress—not judges—with “primary responsibility for setting election rules”). The adoption of a uniform, received-by-Election-Day rule would dramatically curtail such litigation.

II. Because of *Amici* States’ Investment in Voting Access, A Uniform Deadlines Would Not Disenfranchise Any Groups

A. States Make Voting Easy for Everyone, Both Before and on Election Day

Am I registered to vote? How do I register to vote? Where do I go to vote? Which candidates and initiatives are on the ballot? Answers to these and countless other common voting questions are now just a click away. States’ election websites provide a plethora of voting resources and information to anyone who can access the internet—96% of the population by last count.¹⁵ These websites have all the information voters need about voting and elections, such as detailed calendars with relevant dates, search tools to see whether and where they are registered to vote, voter registration applications, county election office information, absentee ballot details, answers to frequently asked questions, and military and overseas voter resources, to name a few categories. These websites ensure that voters have plenty of notice of ballot receipt deadlines already, but that information can be made even more prominent if States are concerned about voters overlooking it. Given the easy

¹⁵ *Internet, Broadband Fact Sheet*, PEW RSCH. CTR. (Nov. 20, 2025), <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>.

access to voting rules, firm and uniform deadlines can be easily communicated.

Moreover, states increasingly allow voters to handle more of the logistical aspects of voting online. Every state makes their voter registration application available online. For instance, Montana provides links to the voter registration application form¹⁶ and a list of names and addresses of county election officials to whom a completed form must be returned.¹⁷ Forty-two states go even further, allowing a voter to access, fill out, and submit a voter registration application entirely online.¹⁸

Likewise, voters can access an absentee ballot application online in every State, and they can apply for an absentee ballot online in most States. Twenty-eight states either offer online portals through which a voter can request an absentee ballot or permit voters to submit absentee ballot applications by other electronic means.¹⁹ Meanwhile, no request is needed in the eight states that automatically mail registered voters mail-in ballots and North Dakota, which does not require voter registration to vote.²⁰ In the remaining fourteen states, voters must still only

¹⁶ *Montana Voter Registration Application*, MONT. SEC'Y OF STATE, <https://tinyurl.com/5c76ztwu> (last visited Feb. 7, 2026).

¹⁷ *Montana Election Administrator Contact Information*, MONT. SEC'Y OF STATE, <https://tinyurl.com/5n6hnj9u> (last visited Feb. 7, 2026).

¹⁸ *Online Voter Registration*, NAT'L CONF. OF STATE LEGISLATURES (Jan. 23, 2025), <https://www.ncsl.org/elections-and-campaigns/online-voter-registration>.

¹⁹ See Appendix Table 2.

²⁰ *Id.*

download a form, fill it out, and mail it in to obtain an absentee ballot.²¹

Ubiquitous internet access has helped States remove informational barriers to voting. Increasingly, States have also reduced logistical barriers to voting by providing opportunities for citizens to vote early. At this point, all but three states offer early voting in some form.²² Many votes are cast in the early voting period. In 2018, 59.6% of votes were cast in person on Election Day and only 16.6% in person before Election Day.²³ By 2024, votes cast in person on Election Day had fallen to 39.6% of the total while votes cast in person before Election Day had nearly doubled, to 30.7%. *Id.*

Early in-person voting has many advantages. It gives voters flexibility to vote at a convenient time over a matter of days or weeks leading up to the election and a greater opportunity to correct any issues with their registration or ballot. This reduces the need for mail-in ballots that might run afoul of receipt deadlines. It also reduces strain on polling

²¹ *Id.*

²² In thirteen states, early voting is limited to those who received an absentee ballot. See table. But ten of those states provide voters to obtain absentee ballots without an excuse. See Appendix Table 3. See also Kira Flemke, *The Growing Use of Voting Before Election Day*, CTR. FOR ELECTION INNOVATION & RSCH. (Sep. 2024), <https://electioninnovation.org/research/voting-before-election-day-resources/use-voting-before-election-day/> (“In the 2024 general election, nearly 97% of voting-age citizens will live in a state that offers at least one option to vote before election day.”)

²³ *How Many Voters Cast Ballots Early and by Mail?*, USAFACTS (Sep. 8, 2025), <https://usafacts.org/articles/how-many-voters-cast-ballots-early-and-by-mail/>.

places and election workers by spreading voting traffic across a longer period. And all these benefits are obtained without any concerns about election integrity introduced by mail-in ballots.²⁴ It is no wonder so many states, and voters, have embraced this form of voting.

In addition to early voting, states offer absentee ballots to many voters. In eight states, every registered voter is automatically mailed a ballot.²⁵ Twenty-eight more, including Montana, Idaho, Iowa, Kansas, Nebraska, and South Dakota do not require any excuse for a voter to obtain an absentee ballot.²⁶ Of the fourteen States that require an excuse, all provide absentee ballots to those who will be out of the county on Election Day or who cannot make it to a polling place due to illness or disability.²⁷ And anyone can vote early without an excuse in eight of those States.²⁸

²⁴ NATIONAL COMMISSION ON FEDERAL ELECTION REFORM, BUILDING CONFIDENCE IN U.S. ELECTIONS 43, <https://capitalresearch.org/app/uploads/baker-carter-commission-2005-election-doc.pdf> (last visited Feb. 9, 2026) (noting that voting by mail “increases the risk of fraud”)

²⁵ *States With Mostly Mail Elections*, NAT’L CONF. OF STATE LEGISLATURES (Oct. 11, 2024), <https://www.ncsl.org/elections-and-campaigns/table-18-states-with-all-mail-elections>.

²⁶ *Table 1: States with No-Excuse Absentee Voting*, NAT’L CONF. OF STATE LEGISLATURES (Dec. 20, 2023), <https://www.ncsl.org/elections-and-campaigns/table-1-states-with-no-excuse-absentee-voting>.

²⁷ *Table 2: Excuses to Vote Absentee*, NAT’L CONF. OF STATE LEGISLATURES (Aug. 26, 2025), <https://www.ncsl.org/elections-and-campaigns/table-2-excuses-to-vote-absentee>.

²⁸ *Early In-Person Voting*, NAT’L CONF. OF STATE LEGISLATURES (Nov. 6, 2025), <https://www.ncsl.org/elections-and-campaigns/table-18-states-with-all-mail-elections>.

Requiring mail-in ballots to arrive by Election Day poses no real hardship for absentee voters. The Postal Service delivers the vast majority of absentee ballots extremely quickly. In the 2024 election, it took on average only one day to deliver ballot mail to election officials.²⁹ The Postal Service delivered 97.73% of ballot mail within three days, and 99.88% within a week. Put differently, a voter who mailed their absentee ballot a week before Election Day would have only a 1/833 chance of their ballot not being received in time. A voter who waited until three days before the election would still only run a 1/44 risk of their ballot being untimely. And if a voter was not comfortable with those odds, they could simply vote in person or (in all but two states) deliver their absentee ballot by hand to their local election office or polling place.³⁰ Moreover, as earlier noted, the overwhelming majority of U.S. states already require ballots from most or all voters to arrive by Election Day to be counted, so the impact of requiring mail-in ballots to arrive by Election Day would be quite limited.

campaigns/early-in-person-voting; NAT'L CONF. OF STATE LEGISLATURES, *supra* note 29.

²⁹ U.S. POSTAL SERV., 2024 POST-ELECTION ANALYSIS REPORT: DELIVERING THE NATION'S ELECTION MAIL SECURELY AND EFFECTIVELY 1, <https://about.usps.com/what/government-services/election-mail/pdf/usps-post-election-report-2024-12-02.pdf> (last visited Feb. 9, 2026).

³⁰ THINK TENNESSEE, ENHANCING VOTER ACCESS: ALLOW ABSENTEE BALLOTS TO ALSO BE RETURNED IN PERSON, <https://www.thinktennessee.org/wp-content/uploads/2025/02/allow-absentee-ballots-to-also-be-returned-in-person.pdf> (last visited Feb. 9, 2026).

B. Military Service Members and Other Overseas Voters Are Not Disadvantaged by Clear Deadlines

Several *amici* also warn of negative impacts on specific voter populations, including military service members and Americans overseas. While members of these groups face unique challenges in voting, state and federal authorities have implemented robust measures to protect their right to vote—measures which would not be hampered by a uniform deadline.

In 1986, Congress enacted the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) to ensure that members of the U.S. uniformed services and merchant marine, their family members, and U.S. citizens living abroad could register to vote and obtain absentee ballots. 52 U.S.C. § 20302(a). Congress expanded voting access for voters covered by UOCAVA with the Help American Vote Act (2002) and Military and Overseas Voter Empowerment Act (“MOVE Act”) (2009).³¹

Together, these laws not only confer the right to register to vote and cast a vote from overseas but they also set helpful procedures to protect that right.

Section 20302, as amended by the MOVE Act, sets a date forty-five days in advance of Election Day by which States must transmit absentee ballots to voters covered by UOCAVA who validly requested them by that date. *See* 52 U.S.C. § 20302(a)(8)(A). If those voters validly request absentee ballots after that date,

³¹ *Amici* take no position on the authority of States to implement Congress’s protections in UOCAVA by recognizing a narrow exception for ballots cast by servicemembers. *Cf.* Pet. App. 22a (recognizing that Congress can provide additional protections for servicemembers without abrogating the “uniform federal Election Day” more generally).

States must still transmit them “in a manner that expedites the transmission of such absentee ballot.” *Id.* § 20302(a)(8)(B). In conjunction with the electronic request and delivery requirements and estimated mailing times discussed below, this provides plenty of time for UOCAVA voters, including service members and their families, to cast an absentee ballot that arrives on or before Election Day.

Section 20302 also makes it easy for these voters to timely request an absentee ballot by requiring States to let them do so entirely online. The MOVE Act’s amendments to 52 U.S.C. § 20302 require States to permit UOCAVA voters “to request by mail *and electronically* voter registration applications and absentee ballot applications.” *Id.* § 20302(a)(6)(A) (emphasis added). States must permit them to “designate whether [they] prefer[] that such voter registration application or absentee ballot application be transmitted by mail *or electronically*.” *Id.* § 20302(a)(6)(C) (emphasis added). And the state must transmit the voter registration application or absentee ballot application electronically if the voter designates that its preferred method of transmission. *Id.* § 20302(a)(6)(B). Reflecting broad utilization of this option, over 67% of absentee ballots were electronically transmitted to UOCAVA voters, including service members and their families, for the 2024 general election.³²

Not only can voters covered by UOCAVA register to vote and request an absentee ballot entirely online,

³² U.S. ELECTION ASSISTANCE COMM’N, ELECTION ADMINISTRATION AND VOTING SURVEY 2024 COMPREHENSIVE REPORT 220, https://www.eac.gov/sites/default/files/2025-07/2024_EAVS_Report_508.pdf (last visited Feb. 9, 2026).

52 U.S.C. § 20302 requires states to electronically deliver blank absentee ballots to these voters upon request. *Id.* § 20302(f)(1). Thus, the voting process for all UOCAVA voters involves at most a single link in which physical transmission is necessary—the actual filled-out ballot. As demonstrated below, Postal Service mail transit times provide more than enough time for a mail-in ballot to make it back to the relevant election office by Election Day. Moreover, twenty-five states allow all UOCAVA Voters to return their absentee ballots electronically and another seven let at least some do so.³³

Many Americans are sent to foreign lands by our government to advance U.S. interests and keep our country safe. The U.S. government offers Americans in military and diplomatic service abroad free first-class mail from military and diplomatic posts. The Postal Service’s posted mail transit times for first-class mail, reproduced in Figure 1 below, are expeditious, and even at the longest (Africa) still leave plenty of time for voters to return their ballot.

*Figure 1*³⁴

Military APO/FPO/DPO Mail Transit Times		
Europe/Atlantic APO/FPO/DPO AE	Express Mail® Military Service	3 Days

³³ *Electronic Ballot Return*, NAT’L CONF. OF STATE LEGISLATURES (Jan. 14, 2026), <https://www.ncsl.org/elections-and-campaigns/electronic-ballot-return-internet-voting>.

³⁴ *Sending Military and Diplomatic Mail*, U.S. POSTAL SERV. (Feb. 2025), <https://faq.usps.com/s/article/Sending-Military-and-Diplomatic-Mail>.

ZIP™ Codes beginning with 090-092 and 094-099	First-Class Mail® Priority Mail®	7-9 Days
	Parcel Select* USPS Ground Advantage®*	30-45 Days
Iraq/Afghanistan/ Middle East APO/FPO/DPO AE ZIP™ Codes beginning with 093	Express Mail® Military Service	N/A
	First-Class Mail® Priority Mail®	7-13 Days
	Parcel Select* USPS Ground Advantage®*	20-24 Days
Japan/Korea/Pacific Islands/Far East APO/FPO/DPO AP ZIP™ Codes beginning with 962-966	Express Mail® Military Service	3 Days
	First-Class Mail® Priority Mail®	7-9 Days
	Parcel Select* USPS Ground Advantage®*	30-45 Days
Central America/ South America/ Caribbean APO/FPO/DPO AP	Express Mail® Military Service	N/A
	First-Class Mail® Priority Mail®	7-9 Days

ZIP™ Codes beginning with 340	Parcel Select* USPS Ground Advantage®*	18-21 Days
Africa	Express Mail® Military Service	N/A
	First-Class Mail® Priority Mail®	15-18 Days
	Parcel Select* USPS Ground Advantage®*	N/A

Free and fast ballot mailing is not confined to service members and their families. Any American registered to vote abroad can submit their absentee ballot via first-class mail free of charge simply by traveling to the nearest U.S. embassy or consulate.³⁵

Finally, voters living or stationed abroad have online access to all relevant information about the overseas voting process and many resources to assist them. The Department of Defense's Federal Voting Assistance Program operates a website that serves as a comprehensive voting assistance guide for voters covered by UOCAVA—FVAP.gov. This site provides

³⁵ *U.S. Embassy and Consulate Email Addresses*, FED. VOTING ASSISTANCE PROGRAM, <https://www.fvap.gov/guide/appendix/embassy-consulate> (last visited Feb. 9, 2026) (showing that many countries have more than one embassy/consulate); *FPCA Envelope*, FED. VOTING ASSISTANCE PROGRAM, https://www.fvap.gov/uploads/FVAP/Forms/fpca_envelope.pdf (last visited Feb. 7, 2026).

information about voters' rights under UOCAVA, links to each State's voting rules and resources, necessary forms, and location and contact information of U.S. embassies and consulates, among other resources.³⁶ Several other nongovernmental websites also inform overseas voters about voting in U.S. elections.³⁷

C. Native Americans Are Not Disadvantaged by Clear Deadlines

A group representing Native Americans has filed an *amicus* brief arguing that Native communities' voting access would be threatened by requiring mail-in ballots to arrive by Election Day. *See* Brief *Amici Curiae* of National Congress of American Indians, et al. While some Native Americans, especially those residing on remote reservations, face logistical hurdles to voting, States have made significant efforts to reduce these hurdles. an Election Day cutoff would not hinder those efforts.

Native Americans compose 2.12% of the U.S. population.³⁸ Twenty States have a Native American

³⁶ *Traveler Advisories Map*, U.S. DEP'T OF STATE, <https://travelmaps.state.gov/TSGMap/> (last visited Feb. 7, 2026) and FED. VOTING ASSISTANCE PROGRAM, *supra* note 38.

³⁷ *See, e.g., Overseas Vote – Everything You Need to Vote From Abroad*, <https://www.overseasvotefoundation.org/> (last visited Feb. 9, 2026); *Turnout Project*, CENTER FOR U.S. VOTERS ABROAD, <https://usvotersabroad.org/> (last visited Feb. 9, 2026); and *U.S. Citizen Living Abroad? You Can Vote!*, VOTE FROM ABROAD, <https://www.votefromabroad.org/> (last visited Feb. 9, 2026).

³⁸ Counting residents who identify as biracial or multiracial with Native American and another race or races. *See Native American Population by State 2026*, WORLD POPULATION REV.,

population equal to or greater than the national average.³⁹ Of those, nineteen already have either all-mail elections or, like Montana, no-excuse absentee voting.⁴⁰ This removes a significant obstacle to voting for voters residing in remote, inaccessible areas like many Native American reservations. Moreover, fifteen of those states already require mail-in votes to arrive by Election Day and thus would be entirely unaffected by a ruling in favor of Respondents.⁴¹

Federally recognized reservations with large Native American populations are clustered in a few, mostly western States.⁴² In addition to mail-in voting, many of these states have expanded voting access for these populations in other ways, as shown in Figure 2 below.

*Figure 2*⁴³

Voting access measure	States
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<https://worldpopulationreview.com/state-rankings/native-american-population> (last visited Feb. 7, 2026).

³⁹ See Appendix Table 4.

⁴⁰ *Id.*; NAT'L CONF. OF STATE LEGISLATURES, *supra* at note 29. The remaining state, Arkansas, does not have any Native Americans residing in reservations.

⁴¹ NAT'L CONF. OF STATE LEGISLATURES, *supra* note 1.

⁴² *American Indians and Alaska Natives in the United States*, UNITED STATES CENSUS BUREAU, https://www2.census.gov/geo/maps/DC2020/AIANWall2020/2020_AIAN_US.pdf (last visited Feb. 9, 2026).

⁴³ See Appendix Table 5.

Accept tribal identification cards for voter verification	Arizona, Idaho, Montana, Nevada, North Dakota, Oklahoma, South Dakota, Utah, Washington, Wyoming
Offer accommodations for voters who have only a physical description of their home location	Arizona, Colorado, North Dakota, Washington, New Mexico
Enable Native American political units to have drop boxes placed on tribal lands	Nevada, New Mexico, Washington
Provide satellite election offices on reservations	Montana, South Dakota

Each of these measures improves voting access for Native American populations. Accepting tribal identification cards means Native American voters without a separate state ID do not have to obtain one to vote in states that require identification to vote. Because many Native Americans living on reservations lack a typical street address,⁴⁴ providing accommodations such as allowing them to provide a description of the location of their home or place a tribal building as their home address makes it easier

⁴⁴ Matt Vasilogambros, *For Some Native Americans, No Home Address Might Mean No Voting*, STATELINE (Oct. 4, 2019), <https://stateline.org/2019/10/04/for-some-native-americans-no-home-address-might-mean-no-voting/>.

for them to vote. So does placing drop boxes or satellite election offices on reservations. No one state has taken all of these steps, and in a federalist system like ours, none has to. The states, after all, are laboratories of democracy. *See New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932). States are taking significant steps toward ensuring that Native American communities can participate in our nation's democracy and that these steps would not be undermined by requiring mail-in ballots to arrive by Election Day.

III. Clear Deadlines Enhance Voter Confidence Nationwide

Other *amici* have raised concerns about harm to all voters from a uniform Election Day deadline for mail-in votes. Those concerns are overblown.

First, and most obviously, the logistics of holding an election necessitate setting temporal bounds on receiving votes. If a candidate is to be seated by a certain date, vote counting must be completed at some point before that, which cannot happen until the window for new votes to be submitted has closed. Voters understand and can appreciate this. Second, States have a compelling reason for not simply placing deadlines as late as logistically feasible: doing so would detract from voter confidence in elections.

This Court has long emphasized the importance of this seemingly intangible factor. It stated years ago that “[c]onfidence in the integrity of our electoral process is essential to the functioning of our participatory democracy,” *Purcell*, 549 U.S. at 4, and “has independent significance, because it encourages citizen participation in the democratic process.” *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181,

197 (2008) (opinion of Stevens, J.). Just this Term it reiterated that “[r]ules that undermine the ‘integrity of the electoral process’ . . . erode[] public confidence that the election results reflect the people’s will.” *Bost v. Ill. State Bd. of Elections*, 607 U.S. —, No. 24-568, 2026 WL 96707, at *4 (U.S. Jan. 14, 2026) (quoting *Crawford*, 553 U.S. at 197); *see also* *Bush v. Gore*, 531 U. S. 1046, 1047 (2000), (“democratic stability” requires “public acceptance” of “election results”) (Scalia, J., concurring).

Delays in counting ballots and announcing election results have been shown to decrease voter confidence in elections. A 2023 MIT Election Lab report observed that a majority of Americans in a 2020 poll expected “the winner of a presidential election to be announced within three days of the election” and “that it would be hard for them to trust the final results” if it took a week or more.⁴⁵ Perhaps this is because, as election integrity groups across the world have warned, delays are perceived to “allow incumbents more opportunities to manipulate the vote count.”⁴⁶ A 2024 National Academy of Sciences study found that “informing voters about longer-than-expected vote counting time induces a large, significant decrease in trust in the election,” from 66.7% trusting an election’s outcome to just 60.2%.⁴⁷ Continuing to

⁴⁵ OLIVIER BERGERON-BOUTIN ET AL., COMMUNICATING WITH VOTERS TO BUILD TRUST IN THE U.S. ELECTION SYSTEM: BEST PRACTICES AND NEW AREAS FOR RESEARCH 13 <https://electionlab.mit.edu/sites/default/files/2023-10/voter-trust.pdf> (last visited Feb. 9, 2026).

⁴⁶ *Id.*

⁴⁷ Mackenzie Lockhart et al., *Voters Distrust Delayed Election Results, But a Prebunking Message Inoculates Against Distrust*,

accept ballots past Election Day, all else being equal, delays completion of vote counting. Thus, although many races are called before counting is complete, counting post-Election Day mail-in ballots can be expected to decrease trust in elections.

Conversely, counting only ballots received by Election Day can be expected to increase voter confidence in elections by speeding vote counting. It may also increase confidence by other means. For instance, researchers have found that candidate margins shifting as late-arriving ballots are counted surprises voters and likely drives distrust in elections.⁴⁸ This effect is particularly strong among Republican voters, given that such shifts have primarily benefited Democratic candidates.⁴⁹ An Election Day cutoff for counting ballots would avoid these scenarios. Additionally, it would minimize the ability of parties or candidates to try to strategically manipulate the counting of certain categories of votes via litigation, which minimizes the need for courts to intervene in elections. *See, e.g., Bush v. Gore*, 531 U.S. 98, 100–03 (2000).

* * *

After a temporary relaxation of ballot-receipt deadlines in many States during the pandemic, and a torrent of lawsuits and plummeting voter confidence,

3 PNAS NEXUS 414 (2024),
<https://pmc.ncbi.nlm.nih.gov/articles/PMC11459078/>.

⁴⁸ *American Democracy and the 2022 Midterm Elections*, BRIGHTLINE WATCH, <https://brightlinewatch.org/american-democracy-and-the-2022-midterm-elections/> (last visited Feb. 7, 2026).

⁴⁹ BERGERON-BOUTIN ET AL., *supra* note 50 at 15.

most States again require votes to arrive by Election Day.

Confirming that the Constitution requires a uniform Election Day deadline for votes in federal elections would not only make administering elections and educating voters easier, but improve voter confidence in elections, all without unfairly restricting access to the vote by groups that disproportionately rely on mail-in voting.

CONCLUSION

This Court should affirm the decision of the Fifth Circuit.

Respectfully submitted,

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