

In the Supreme Court of the United States

U.S. DEPARTMENT OF HOMELAND SECURITY; *et al.*,
Applicants,

v.

LEAGUE OF WOMEN VOTERS; *et al.*

On Application to Stay the Order
of the United States District Court
for the District of Columbia

**BRIEF OF ARIZONA SENATE PRESIDENT WARREN PETERSEN AND
SPEAKER OF THE ARIZONA HOUSE OF REPRESENTATIVES STEVE
MONTENEGRO AS AMICI CURIAE IN SUPPORT OF APPLICANTS**

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INTEREST OF AMICI CURIAE*

Amici Curiae are Warren Petersen, President of the Arizona Senate, and Steve Montenegro, Speaker of the Arizona House of Representatives (together, the “Legislative Leaders”). The Legislative Leaders file this brief in support of the stay application of the U.S. Department of Homeland Security (DHS) in their official capacities as the presiding officers of their respective chambers. *See* Ariz. Const. art. IV, pt. 2, § 8; Ariz. State Senate R. 2(N); Ariz. House of Reps. R. 4(K).

The Legislative Leaders have two interests here. First, they have an interest in maintaining public confidence in Arizona elections. That interest includes ensuring that federalism functions properly and that federal courts fully understand state election laws. As their voters’ representatives, state legislators like the Legislative Leaders devote significant time and resources to proposing, revising, and enacting election-related legislation to guide state officials trying to run fair and smooth elections. Upending state election laws and related processes can shake voters’ confidence and thus frustrate States’ interests in maintaining public trust.

Second, the Legislative Leaders also have an acute interest in avoiding changes to election processes during election season. Like many States, Arizona has incorporated the federal Systematic Alien Verification for Entitlements (SAVE) system into various aspects of its election laws, as well as into other areas of law. *See, e.g.,* Ariz. Rev. Stat. § 16-121.01(D) (requiring election officials to use SAVE for

* No party’s counsel authored this brief in whole or in part; and no person other than Amici Curiae and their counsel contributed money that was intended to fund the preparation or submission of this brief. *See* Sup. Ct. R. 37.6.

certain voter registration procedures), *distinct but related provisions held invalid by Mi Familia Vota v. Fontes*, 129 F.4th 691, 732 (9th Cir. 2025), *cert. granted sub nom. Republican Nat’l Comm. v. Mi Familia Vota*, No. 25-1017 (U.S. June 29, 2026); *see also* Ariz. Rev. Stat. § 1-504 (statute requiring local officials to use SAVE for benefit inquiries). And some Arizona election officials have contracted with DHS regarding SAVE’s updated features that are the subject of this case.¹

As this case proceeded through the lower courts, Arizonans voted in a primary election. And Arizona election officials are now focused on ensuring that the general election runs smoothly. Federal court orders that change election infrastructure in the middle of election season risk creating confusion for election officials and the public.

Because of the Legislative Leaders’ unique insight into the practical reality of the issues presented here, they submit this brief in support of DHS’s stay application to argue that the public interest weighs in favor of maintaining stable election-related processes during election season.

SUMMARY OF THE ARGUMENT

Granting DHS’s stay application would serve the public interest.

States have an interest in promoting—indeed, a *duty* to promote—public confidence in electoral outcomes. This Court has long recognized that interest. And

¹ *See, e.g.*, Joseph K. Giddens, *Yavapai County Board of Supervisors vote 4-1 to verify voter data with DHS*, Sedona Red Rock News (Mar. 13, 2026), <https://www.redrocknews.com/2026/03/13/yavapai-county-board-of-supervisors-vote-4-1-to-verify-voter-data-with-dhs/>; Manuelita Beck, *Maricopa County signed agreement with DHS to check voters’ citizenship, documents show*, ABC 15 (May 13, 2026, at 8:22 MST), <https://www.abc15.com/news/politics/maricopa-county-signed-agreement-with-dhs-to-check-voters-citizenship-documents-show>.

consistent with that interest, many state legislators like the Legislative Leaders prioritize legislation to ensure election integrity. When state political processes result in election-integrity efforts, federalism principles support respecting those efforts.

Here, granting DHS’s stay application would provide clarity to States and localities, which are already administering primary elections and will soon administer the general election. In that way, a stay would serve the States’ interest in promoting confidence in the electorate. And given that this litigation has already created potentially conflicting orders by courts in different circuits, this Court’s guidance would provide the predictability necessary to competent election administration.

ARGUMENT

I. States have an important interest in maintaining public confidence in elections.

Upholding public confidence in election processes is an important state interest. For decades, this Court has recognized the importance of that interest. *Purcell v. Gonzalez*, for example, said that “[c]onfidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy.” 549 U.S. 1, 4 (2006). And *Crawford v. Marion County Election Board* confirmed that while States indeed have an interest in preventing voter fraud, States also have an independent interest in “public confidence in the integrity of the electoral process.” 553 U.S. 181, 197 (2008); *see also Burson v. Freeman*, 504 U.S. 191, 199 (1992) (recognizing that “a State has a compelling interest in protecting voters from confusion”).

Consistent with States’ interest in promoting confidence among the electorate, many state legislatures make election legislation a top priority. Indeed, “there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Storer v. Brown*, 415 U.S. 724, 730 (1974). The National Conference of State Legislators (NCSL) reported that, in 2025, state legislators introduced over 3,000 election-administration-related bills.² Legislatures around the country, including in Arizona, have assembled legislative committees tasked specifically with reviewing election-related bills, listening to expert and public testimony, and revising and refining those bills throughout the legislative process to best meet the needs of their States and citizenries. Because polls show that safeguarding elections is a top concern amongst voters,³ state legislatures’ commitment to maintaining public confidence in elections is unsurprising.

When enacting laws to ensure that voters trust election outcomes, state legislatures expect those laws to be honored. That is a key aspect of federalism. Federalism allows local lawmakers to “be more sensitive to the diverse needs of a heterogeneous society; it increases opportunity for citizen involvement in democratic processes; it

² NCSL Staff, *Can States and the Feds Strike a Balance on Election Roles?*, NCSL (Nov. 11, 2025), <https://www.ncsl.org/state-legislatures-news/details/can-states-and-the-feds-strike-a-balance-on-election-roles>.

³ See Travis N. Taylor, *September 2024 Election Integrity Poll Summary*, Ctr. for Excellence in Polling (Sep. 13, 2024), <https://excellenceinpolling.com/poll/september-2024-election-integrity-poll-summary/> (“[A]n overwhelming majority (86%) of voters are concerned with safeguarding American elections.”); Pew Rsch. Ctr., *Confidence in voting access and integrity; expectations for whether and when the election results will be clear* (Oct. 24, 2024), <https://www.pewresearch.org/politics/2024/10/24/confidence-in-voting-access-and-integrity-expectations-for-whether-and-when-the-election-results-will-be-clear/>.

allows for more innovation and experimentation in government; and it makes government more responsive by putting the States in competition for a mobile citizenry.” *Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991). Federalism also “allows States to respond, through the enactment of positive law, to the initiative of those who seek a voice in shaping the destiny of their own times without having to rely solely upon the political processes that control a remote central power.” *Bond v. United States*, 564 U.S. 211, 221–22 (2011). So when a State is prevented from acting on or enforcing duly enacted election-related laws, the State’s “legitimate interest in the continued enforceability of its own statutes” is frustrated, *see Maine v. Taylor*, 477 U.S. 131, 137 (1986), as is the State’s interest in securing “public confidence in the integrity of the electoral process,” *Crawford*, 553 U.S. at 197.

This Court has repeatedly recognized States’ interest in election integrity. To promote that interest, state legislators across the Nation have introduced and enacted election-integrity bills. When weighing whether the public interest supports the stay application, the Court should keep in mind the States’ efforts to ensure their citizens trust election outcomes. “[R]espect for the place of the States in our federal system calls” for nothing less. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 75 (1997).

II. A stay would provide clarity to the States, ensuring public confidence in the result of the ongoing elections.

The public interest favors maintaining existing election-related processes and systems for States while the appeal proceeds, because elections are already underway. Although “States are free to decide for themselves whether last-minute

changes to an election are in their best interests,” this Court has repeatedly made clear that “federal courts should not impose changes close to an election.” *Allen v. Milligan*, 146 S. Ct. 1377, 1381 (2026) (per curiam). To respect that principle, the Court should grant the application.

Here and in the courts below, DHS has emphasized the reliance of state and local agencies on SAVE to check eligibility to vote and receive public benefits, among other matters. (See Stay App. 34 (noting that “[a]round 1350” such agencies rely on SAVE); *accord* D. Ct. Doc. 116-1 at 12.) “Prior to the Court’s order, the modified SAVE system processed over one million status-verification requests each day.” (D. Ct. Doc. 116-1 at 3.) According to a declaration submitted by DHS, “states such as Iowa, Utah, Ohio, Mississippi, and Wyoming have enacted legislation requiring the use of SAVE for regular maintenance of voter registration lists.” (D. Ct. Doc. 116-2 ¶ 7.)

At the state level, the use of SAVE for voter verification is widespread. The NCSL recently reported that “[a]t least 10 states statutorily authorize or require voter list comparison with the [SAVE] database ... , and an additional 15 states without direct statutory authorization currently use the system.”⁴ Additionally, many state legislators have considered bills that would increase the States’ use of the SAVE system.⁵

The related litigation between Florida, Indiana, Iowa, and Ohio and DHS further demonstrates how denying the stay application will frustrate state laws that

⁴ Katie King, et al., *Election Legislation Trends to Watch in the Coming Months*, NCSL (Mar. 30, 2026), <https://www.ncsl.org/state-legislatures-news/details/election-legislation-trends-to-watch-in-the-coming-months>.

⁵ *Id.*

incorporate SAVE. *See Florida v. U.S. Dep’t of Homeland Sec.*, __ F. Supp. 3d __, No. 3:24-CV-509, 2026 WL 1968339, at *4 (N.D. Fla. July 7, 2026) (granting States’ motion to enforce settlement agreement against DHS), *appeal filed sub nom. Florida v. League of Women Voters*, No. 26-12533 (11th Cir. docketed July 21, 2026). The district court there concluded that DHS’s attempt to comply with the decision below in this case had “harm[ed] ... those states” because they could not “utilize the disabled features of the SAVE system.” *Id.* at *2.

If States rely on the SAVE system to perform election-related functions, then a stay surely favors the public interest. *See Allen*, 146 S. Ct. at 1381 (holding that State had “made a strong showing” that the “public interest favor[ed] it,” where a district court had “impose[d] changes close to an election”). Major national media platforms have covered the extended use of SAVE for voter-roll maintenance.⁶ Likewise, local media outlets have reported on States’ use of SAVE and legislative efforts to incorporate it into state law.⁷ Halting a widely used—and widely reported upon—election-related system in the middle of election season harms public confidence in elections.

⁶ *See, e.g.*, Jude Joffe-Block & Miles Parks, *33 million voters have been run through a Trump administration citizenship check*, npr (Sept. 11, 2025, at 1:37 ET), <https://www.npr.org/2025/09/10/nx-s1-5477367/save-election-citizenship-data-trump>.

⁷ *See, e.g.*, Cameron Smith, *New Mississippi laws bring teacher raises and voter verification changes*, WJTV (July 1, 2026, at 8:02 CDT), <https://www.wjtv.com/news/politics/mississippi-politics/new-mississippi-laws-bring-teacher-raises-and-voter-verification-changes/> (discussing Mississippi’s new law using SAVE); Wesley Muller, *Louisiana adopts stricter voter ID rules that suffrage advocates call unneeded*, Louisiana Illuminator (June 10, 2026, at 5:00 MST), <https://lailluminator.com/2026/06/10/louisiana-voter-id/> (discussing Louisiana’s new law using SAVE).

Nearly every State has already finished its primary elections, and the final primary begins in just a few days.⁸ The general election is in less than two months. A decision like the one below creates exactly the risk of voter confusion—and consequent lack of electoral confidence—that this Court has long sought to avoid.

As a result, principles similar to those underlying *Purcell* should apply here. There, the Court said that “[c]ourt orders affecting elections, *especially conflicting orders*, can ... result in voter confusion and consequent incentive to remain away from the polls,” noting that this risk only increases “[a]s an election draws closer.” 549 U.S. at 4–5 (emphasis added). Although the district court here did not enjoin an election law, its vacatur of the modified SAVE system profoundly affects election administration. So principles similar to those that motivated *Purcell* should apply as this Court considers the stay application. While election officials across the country are currently administering elections, any change to election-related processes that States have relied on imposes an extra administrative burden on those local officials and risks voter confusion. “[A]ll of that further underscores the wisdom of the *Purcell* principle, which seeks to avoid this kind of judicially created confusion.” *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 589 U.S. 423, 425 (2020) (per curiam).

⁸ See *2026 State Primary Elections*, Vote 411, <https://www.vote411.org/primaries2026> (last visited Sept. 10, 2026).

* * *

“It is one thing for state legislatures to alter their own election rules in the late innings and to bear the responsibility for any unintended consequences,” but “[i]t is quite another thing for a federal district court to swoop in and alter carefully considered and democratically enacted state election rules when an election is imminent.” *Democratic Nat’l Comm. v. Republican Nat’l Comm.*, 592 U.S. 1039, 1044 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). The decision below altered an election-related process in the middle of elections around the Nation and thus harms the States’ interest in maintaining voters’ confidence in the electoral process. As a result, the public interest favors granting a stay while that order is on appeal.

CONCLUSION

For the foregoing reasons, the application to stay the order of the district court should be granted.

Respectfully submitted,

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