



BIPARTISAN POLICY CENTER

April 8, 2020

Chair of Subcommittee on Elections Representative Raymond Dehn
Republican Lead of Subcommittee on Elections Representative Jim Nash

CC: Secretary of State Steve Simon

Dear Chair Dehn and Republican Lead Nash:

Elections are fundamental to American democracy. Americans expect to cast their ballots freely and fairly. Yet the COVID-19 pandemic has revealed weakness in election statutes across the country, leaving election administrators in many states vexed when it comes to conducting legitimate elections during this crisis.

The Minnesota Legislature is to be commended for addressing head on the limitations in the state's code with respect to election emergencies. Minnesota officials must not be left grasping for the least bad, potentially undemocratic option, when it matters most. The state should adopt appropriate measures to respond to the current pandemic.

The Bipartisan Policy Center (BPC) is a nonprofit organization that combines the best ideas from both parties to promote health, security, and opportunity for all Americans. BPC drives principled and politically viable policy solutions through the power of rigorous analysis, painstaking negotiation, and aggressive advocacy.

BPC maintains a nationally recognized team of experts focused on election administration, and we recently led the Task Force on Elections. The Task Force, comprised of 21 state and local election officials representing 17 states—including Minnesota—released its [report](#) in January 2020 with recommendations that, taken as a whole, would improve voting nationwide. Multiple recommendations agreed to by this bipartisan group of election administrators would benefit Minnesota given 2020's unique challenges, and legislation in line with the recommendations has recently been introduced in the state legislature.

COVID-19 Response Legislation before the Minnesota House of Representatives is a step toward acknowledging that certain realities on the ground require extraordinary measures to ensure citizens can vote. The proposed allowance to shift to—among other options—a largely vote by mail election while maintaining some in-person voting options solves the very problem many other states are experiencing right now: How can voters cast ballots in-person during a deadly pandemic requiring social distancing? The legislation smartly

maintains in-person voting options, albeit likely limited, to allow voters who cannot so easily cast ballots by mail to exercise their democratic rights.

The legislation would allow vote-by-mail as one option in a manner consistent with existing Minnesota statute, which provides for, among other things, the ability to drop off ballots in person, to cure signature issues on absentee ballots, and to provide election officials sufficient time to pre-process absentee ballots. These measures were endorsed by BPC's Task Force on Elections and are essential to ensuring a ramp up to largely by-mail voting can be successfully accomplished by election officials.

There are legitimate concerns about partisan officials—whether they are governors or secretaries of state—making unilateral changes to election dates and procedures even in light of extenuating circumstances. The bill before the Minnesota House of Representatives divides that power, which serves as a check against illegitimate actions. The secretary of state can only activate these proposed new authorities during a state of emergency declared by a governor due to an infectious disease endangering public health.

Most importantly, the legislation requires consultation between the secretary of state's office and local officials affected by an order changing election procedure due to an infectious disease outbreak impacting the election. As we have seen in other states over the past month, decisions made by executive officials, legislators, and courts without consideration of the needs and realities of election administrators on the ground lead to confusion.

Consultation with local administrators adds legitimacy to any secretary of state's actions under emergency powers. Research shows that many voters judge elections by their own experiences with them. A well-run election, even if it is different from the norm, will be respected by voters more than a messy election that requires last minute shifts in the rules after voting has commenced and widespread disenfranchisement.

The COVID-19 Response Legislation wisely includes a date that serves as a cut-off point for how November general elections will be conducted, regardless of the continued existence of the original state of emergency declaration. This unique provision reflects resource limitations for election administrators. While it may seem unnecessary for those without knowledge of election procedure, reality requires that election administrators know the rules long before Election Day so that they can marshal the necessary resources. Once a shift is made to vote in a different manner than neighborhood-based precincts, all candidates, voters, and administrators benefit from no additional shifts in the rules of the road.

Election emergencies require creative thinking. Policymakers should ultimately support a framework that best allows election administrators to serve their voters. That means

clearly delineating authority over the decision-making process and flexibility in the methods and times of voting.

Minnesota House COVID-19 Response Legislation, if implemented, is a reasonable model for preemptively resolving ambiguity in how to serve Minnesota voters during a pandemic.

Sincerely,

Matthew Weil
Director, Elections Project, BPC