

No. 24-568

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IN THE  
**Supreme Court of the United States**

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MICHAEL J. BOST, *et al.*,

*Petitioners,*

*v.*

ILLINOIS STATE BOARD OF ELECTIONS, *et al.*,

*Respondents.*

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ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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**BRIEF OF *AMICI CURIAE* BIPARTISAN  
FORMER STATE SECRETARIES OF STATE  
IN SUPPORT OF RESPONDENTS**

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## INTEREST OF AMICI

Amici are a bipartisan group of former state secretaries of state in jurisdictions that allow voting by mail.<sup>1</sup> Although Amici may not always have agreed about what constitutes the best election policies, Amici nonetheless share a common commitment to ensuring that elections are free and fair and their results are accurate and reliable. Further, Amici are unified in their understanding of states' pivotal role in administering elections and their shared expertise regarding mail-in voting. Amici are:

**Mary Estill Buchanan, Former Secretary of State for the State of Colorado** – The Colorado Secretary of State is an elected member of the Executive Branch of Colorado's state government. The Secretary of State serves as the chief executive of an office that oversees and administers many laws, including the Colorado Election Code, Voter Registration Laws, and Campaign Finance Laws. As a result, the Secretary of State supervises elections, maintains the statewide voter registration file, and verifies initiative petition signatures.

Secretary Buchanan was a public servant in Colorado for many years and a tireless advocate for democracy and women in public service. Most relevant here, Buchanan served two terms as Colorado's Secretary of State—from 1974 to 1983—as a Republican. When she took office,

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1. Amici state that no counsel for a party has authored this brief in whole or in part and that no person or entity, other than Amici or their counsel, has made a monetary contribution to the preparation or submission of this brief.

she was the first woman to hold that office in the State's then-98-year existence. During her tenure as Colorado's Secretary of State, Buchanan was the only Republican in statewide office, working across the aisle to ensure efficient, effective administration of Colorado's elections. As Secretary, Buchanan advocated for and implemented reforms to improve transparency for elections and public office. Before being elected Secretary of State, Buchanan served on the Colorado Board of Agriculture and the Colorado Commission on the Status of Women, for which she created and served as chair for the Women in Government Committee to recruit and elect women to serve in public office.

**Kathy Boockvar, Former Secretary of the Commonwealth of Pennsylvania** – the Secretary of the Commonwealth is the chief state election official in Pennsylvania and leads the Pennsylvania Department of State. The Department of State is responsible for ensuring the security, integrity, and accessibility of the electoral process in Pennsylvania, by overseeing free, fair, and accurate elections.

Secretary Boockvar served as the Secretary of the Commonwealth from 2019 until 2021, and before that as Senior Advisor on election security, under Governor Tom Wolf (D). Boockvar was also co-chair of the National Association of Secretaries of State ("NASS")'s Elections Committee from 2019 to 2020, and a NASS Representative on the Election Infrastructure Subsector Government Coordinating Council ("EIS-GCC"), a collaboration among federal, state, and local officials. During her tenure, Boockvar co-chaired Pennsylvania's Inter-Agency Election Security and Preparedness Workgroup, strengthened

election security and voting rights measures across the state, and oversaw secure and accessible elections amid a global pandemic, marked by unparalleled transparency and voter participation. In prior years, Boockvar served as a poll worker and as a voting-rights attorney for a national civil rights organization and has been dedicated to public service throughout her career. After serving as Secretary, Boockvar became Vice President of Election Operations for the Center for Internet Security, and she is currently President of Athena Strategies, continuing work to strengthen election security and amplify understanding and civil discourse about elections.

**Phil Keisling, Former Secretary of State for the State of Oregon** - The Oregon Secretary of State is an elected constitutional officer within the executive branch of the state government. One of the Secretary's chief roles is to maximize voter participation and protect ballot security in order to promote Oregon's healthy democracy. Oregon is one of only a handful of states that conducts elections by automatically mailing ballots to all active registered voters, who then have the option to mail back their completed ballots or physically return them to any one of more than 300 secure drop boxes in the state. Oregon was the first state to adopt such an election system, through a citizen-initiated ballot measure that passed in 1998, and has conducted elections in this fashion for 25 years.

Secretary Keisling's career over four decades has included stints in the worlds of journalism, elective politics, the private sector, and academia. In 1991, Keisling was appointed Oregon Secretary of State by Governor Barbara Roberts. He was then elected and re-elected as a

Democrat to this statewide position, whose duties included oversight of the state election system. During his tenure, he helped lead the successful effort to make Oregon the nation's first state to conduct all elections by automatically mailing ballots to all active registered voters. In 2019, Keisling retired from his most recent job, as director of the Center for Public Service in the Mark O. Hatfield School of Government at Portland State University. Keisling is also the chair of the board of directors of the National Vote At Home Institute, a nonpartisan, 501c(3) nonprofit organization that works to increase voters' access to, use of, and confidence in mailed-out ballots.

**Kim Wyman, Former Secretary of State for the State of Washington** – The Secretary of State of Washington is the state's chief elections officer. The Secretary of State serves as an elected constitutional officer with rule-making authority. The duties of the office included maintaining the statewide voter registration database, overseeing state and local elections, certifying the results of state primaries and general elections, filing and verifying statewide initiatives and referendums, and producing and distributing the state voters' pamphlet and election-notice legal advertising. Washington, like Oregon, is one of the few states to automatically mail ballots to all active registered voters, with the option to mail back their completed ballots or physically return them to any one of more than 478 secure drop boxes in the state.

Secretary Wyman was elected as a Republican to serve as Secretary of State for Washington State from 2013 to 2021. Wyman's career reflects thirty years of federal, state, and county-level elections experience. Wyman served on the committee that helped create the

Electronic Registration Information Center (“ERIC”) and Washington was a founding member state under her leadership. Previously, Wyman served as the Senior Election Security Advisor for the Cybersecurity and Infrastructure Security Agency. Before that, she was elected as Washington Secretary of State and Thurston County Auditor. Wyman began her career in election administration as the Thurston County Elections Director. She has earned state and national election administration certifications and served in leadership roles in many civic and professional associations. She has received numerous awards and distinctions, including her selection as a Rodel Fellow by the Aspen Institute in 2013, and her induction into The Election Center Hall of Fame in 2022 for her contributions to the election community. She is currently the president of ESI Consulting.

### **INTRODUCTION AND SUMMARY OF ARGUMENT**

Petitioners’ assertion of Article III standing as candidates for elected office is based on a series of fundamentally incorrect premises: the Illinois deadline for mail-in voting “disadvantage[s] candidates competitively and distort[s] the accuracy of results[,]” as well as “extend[s] the length of campaigns” and “requires the expenditure of additional campaign resources[.]” Br. for Pet’rs at 3. Amici—a bipartisan group of former secretaries of state—faithfully oversaw elections across the “laboratories” of electoral democracy: the states. *Arizona State Legislature v. Arizona Indep. Redistricting Comm’n*, 576 U.S. 787, 817 (2015). In their roles, Amici witnessed firsthand that mail-in voting is a safe and effective tool that makes it easier for qualified electors across the political spectrum to vote.

Under Illinois law, qualified, registered mail-in voters must mail their ballots by election day, and local election authorities must count such timely mailed ballots so long as (1) the ballots are received within two weeks of election day, and (2) there are indicia—like a postmark, scannable barcode, or certification date on the ballot envelope—establishing the ballots were mailed on time. 10 Ill. Comp. Stat. 5/19-8(c). A ballot is not counted if it is mailed after election day, received after the two week receipt deadline, or lacks the requisite proof of timeliness.

Amici know—and the facts establish—that mail-in voting is an accurate, reliable, and secure manner of voting, and that Illinois law provides particularly strong backstops ensuring election integrity. Additionally, the laws surrounding mail-in voting in Illinois permit, but do not require, campaigns to spend resources on monitoring mail-in vote tabulation and do not extend the length of campaigning beyond election day. Finally, allowing qualified voters to submit their ballots by mail neither benefits nor disadvantages candidates from any one political party. Simply put, whatever date Illinois sets as their deadline to receive mail-in ballots, that deadline does not “injure” any candidate and certainly has not injured Petitioners here.

## **ARGUMENT**

### **I. MAIL-IN VOTING IS ACCURATE, RELIABLE, AND SECURE.**

Petitioners’ arguments about having standing based on mail-in voting’s accuracy fail as a matter of law and fact. Their contention that the unreliability of mail-

in voting injures the electorate as a whole—without demonstrating a concrete effect on specific votes or a specific election—“asserts only a generalized grievance against governmental conduct of which [Petitioners do] not approve.” *Gill v. Whitford*, 585 U.S. 48, 66 (2018) (cleaned up). But in any event, the truth is clear: Both generally and specifically in Illinois, mail-in voting is accurate, reliable, and secure.

**A. Illinois rigorously enforces measures to ensure that only qualified voters may vote by mail.**

Of course, in Illinois—as in every state—only qualified registered electors may vote by mail. 10 Ill. Comp. Stat. 5/19-1. And just as is the case across the country, Illinois law imposes multiple failsafes to ensure that voters comply with and local election officials abide by that requirement. Voter roll list maintenance laws ensure that each voter’s correct residence address and mailing address is on file and that each registered voter is qualified.<sup>2</sup> And ballot verification laws confirm that the person casting a ballot is who they claim to be.<sup>3</sup> For years, Amici administered and oversaw administration of such laws in their states,<sup>4</sup> and,

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2. Elections Project Staff, *Mail Voting Is Safe and Secure*, Bipartisan Pol’y Ctr. (March 13, 2024), <https://bipartisanpolicy.org/report/mail-voting-is-safe-secure/>.

3. *Id.*

4. *See, e.g.*, Colo. Rev. Stat. § 1-2-302.5 (Colorado voter roll address verification law); Colo. Rev. Stat. § 1-7.5-107.3 (Colorado mail-in ballot verification law); Or. Rev. Stat. § 247.295 (Oregon voter roll address verification law); Or. Rev. Stat. § 254.470(10), (11) (Oregon mail-in ballot verification law); 25 Pa. Cons. Stat. Ann. § 1901 (Pennsylvania voter roll address verification law); 25 Pa. Stat.

as a result, they know just how effective these procedures are at providing for election integrity and security.

Based on this experience, Amici can attest that Illinois employs some of the most rigorous procedures available to police its voter rolls and ensure that only eligible registered voters can apply for mail-in ballots. Illinois conducts “automated address updates” using two separate, complimentary resources: (1) the United States Postal Service (“USPS”) National Change of Address (“NCOA”) database, and (2) the Electronic Registration Information Center (“ERIC”).<sup>5</sup> Each platform permits Illinois to access data from across the country to “ensure proactive address updates among states.”<sup>6</sup>

The NCOA database “comprises change-of-address records with the names and addresses of individuals, families, and businesses who filed a change of address with the U.S. Postal Service.”<sup>7</sup> As a result, using NCOA

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§ 3146.8(g)(3) (Pennsylvania mail-in ballot verification law); Wash. Rev. Code § 29A.08.620 (Washington voter roll address verification law); Wash. Rev. Code § 29A.40.110(3) (Washington mail-in ballot verification law).

5. 10 Ill. Comp. Stat. 5/1A-16.8(a) (NCOA); 10 Ill. Comp. Stat. 5/1A-16.8(b) (ERIC).

6. *Vote by Mail Myths and Facts*, The Ill. Pol’y Institut., <https://www.illinoispolicy.org/vote-by-mail-myths-and-facts/> (last accessed August 28, 2025); see also *Voting by Mail Myths*, Peoria Cnty. Election Comm’n, <https://www.peoriaelections.gov/214/Voting-by-Mail-Myths> (last accessed August 28, 2025).

7. Gov’t Accountability Off., GAO 19-485, *VOTER REGISTRATION Information on Federal Enforcement Efforts and State and Local List Management* at 46 (June 2019), <https://www.gao.gov/assets/710/700268.pdf>.

data helps Illinois election administrators “to maintain accurate voter registration lists by (1) providing current and accurate addresses for their registrants, and (2) identifying registrants who have potentially moved and no longer reside in the voting jurisdiction.”<sup>8</sup> The United States Election Assistance Commission has identified using NCOA data as a “best practice” for “voter list maintenance.”<sup>9</sup>

To further ensure its voter rolls are accurate and only eligible registered voters are able to vote by mail, Illinois buttresses its use of the NCOA database with its membership in ERIC. “ERIC is a public charity non-profit membership organization comprising 24 states and the District of Columbia. ERIC’s mission is to assist states in improving the accuracy of America’s voter rolls and increasing access to voter registration for all eligible citizens.”<sup>10</sup> Every 60 days, ERIC’s member states submit voter registration data and licensing and identification data from state motor vehicle departments.<sup>11</sup> Then, ERIC uses data matching software to compare the compiled member data as well as data from other sources (such

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8. *Id.* at 47.

9. U.S. Election Assistance Comm’n, *Best Practices: Voter List Maintenance* at 7, (March 2023), [https://www.eac.gov/sites/default/files/electionofficials/VoterList/Best\\_Practices\\_Voter\\_List\\_Maintenance\\_V1\\_508.pdf](https://www.eac.gov/sites/default/files/electionofficials/VoterList/Best_Practices_Voter_List_Maintenance_V1_508.pdf).

10. *FAQs*, ERIC: Electronic Registration Information Center, <https://ericstates.org/faq/> (last accessed August 28, 2025).

11. *How Does It Work*, ERIC: Electronic Registration Information Center, <https://ericstates.org/how-does-it-work/> (last accessed August 28, 2025).

as the USPS and Social Security Administration) to identify (1) “voters who appear to have moved from one ERIC state to another[;]” (2) “voters who appear to have moved within the state[;]” (3) “voters with duplicate registrations in the same state[;]” and (4) “voters who have died[.]”<sup>12</sup> As the Georgia Secretary of State, Republican Brad Raffensperger, has said, “ERIC remains the only large-scale list maintenance tool available to identify voters who have moved out-of-state and anyone who might fraudulently vote in multiple ERIC-member states in a General Election. ERIC is valuable for both list maintenance and election security.”<sup>13</sup> And like with the NCOA, the United States Election Assistance Commission has called ERIC membership a “best practice” for “voter list maintenance.”<sup>14</sup>

Illinois law also imposes procedures for confirming the qualifications of applicants for mail-in ballots that, in the experience of Amici, are particularly exacting and effective. To apply for a mail-in ballot, Illinois voters must certify under penalty of perjury that they are qualified to vote and have resided at their address for at least 30 days. 10 Ill. Comp. Stat. 5/19-3; 10 Ill. Comp. Stat. 5/19-6. Any voters who knowingly make false statements about their qualifications to vote commit a Class 3 felony. 10 Ill. Comp. Stat. 5/29-10. Next, after voters submit their mail-in ballot applications to local election administrators,

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12. *Id.*

13. *Press Release: Secretary Raffensperger Leads with Interstate Voter Data Agreements*, Ga. Sec’y of State (Sept. 21, 2023), <https://sos.ga.gov/news/secretary-raffensperger-leads-interstate-voter-data-agreements>.

14. *Best Practices: Voter List Maintenance* at 10, *supra*.

those officials must independently verify each voter's identity and eligibility to vote by "examin[ing] the records to ascertain whether or not such applicant is lawfully entitled to vote as requested, including a verification of the applicant's signature on file with the office of the election authority[.]" 10 Ill. Comp. Stat. 5/19-4. That verification may include cross-referencing an applicant to ensure they have an up-to-date social security number, driver's license number, or Illinois state ID number on file.<sup>15</sup>

Once voters are approved to vote by mail and receive their mail-in ballot, on the ballot return envelope they must again certify under penalty of perjury that they are qualified to vote and have resided at their address for at least 30 days. 10 Ill. Comp. Stat. 5/19-5; 10 Ill. Comp. Stat. 5/19-6.<sup>16</sup> Further, once an elector's ballot is in the mail, it is a Class 3 felony, punishable by a \$25,000 fine and up to five years in jail, for anyone else to knowingly mark or tamper with that mail-in ballot. 10 Ill. Comp.

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15. See, e.g., *Vote By Mail*, Cook Cnty. Clerk's Off., <https://www.cookcountyclerkil.gov/elections/ways-to-vote/vote-by-mail> (last accessed August 28, 2025) ("If we do not have your driver's license/state ID or your Social Security number on file, you will not be able to complete this application online unless you update your voter registration by calling 312.603.0946."); *Request a Vote-by-Mail Ballot*, DuPage Cnty., [https://www.dupagecounty.gov/elected\\_officials/election\\_and\\_voter\\_information/voting\\_information/vote\\_by\\_mail\\_online\\_application.php](https://www.dupagecounty.gov/elected_officials/election_and_voter_information/voting_information/vote_by_mail_online_application.php) (last accessed August 28, 2025) (requiring entry of last four digits of social security number or driver's license number).

16. See also, e.g., *Vote By Mail*, McLean Cnty., <https://www.mcleancountyil.gov/votebymail> (last accessed August 28, 2025); *How to Vote By Mail*, Chicago Bd. of Elections, [https://www.youtube.com/watch?v=\\_sflgUe6H6I](https://www.youtube.com/watch?v=_sflgUe6H6I) (last accessed August 28, 2025).

Stat. 5/29-20(4). And then, after local authorities receive a completed mail-in ballot, they must again confirm the voter's signature—this time appearing on the outer ballot envelope—by comparing “the voter's signature on the certification envelope of that vote by mail ballot with the voter's signature on the application \* \* \* or the signature of the voter on file in the office of the election authority.” 10 Ill. Comp. Stat. 5/19-8(g). In Amici's experience, Illinois' requirement that election administrators confirm a voter's signature *two times*—once on their ballot application and once on the ballot return envelope itself—is one of the most stringent mail-in voter verification procedures in the country.

Together, all of these independently considerable measures ensure that Illinois only tallies mail-in ballots submitted by eligible registered voters.

**B. Mail-in ballots are easily trackable to ensure ballots reach their intended destination and prevent misuse.**

Beyond Illinois' procedures for ensuring that mail-in ballots are only sent to registered qualified voters with a correct address on file, mail-in ballots are also readily traceable. This allows the state to ensure mail-in ballots reach their intended voters and are returned to local election officials by Illinois' ballot receipt deadline, meaning it is a “myth” that there are “ballots floating around that other people can use.”<sup>17</sup> For example, the

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17. *Vote by Mail Myths and Facts*, The Ill. Pol'y Instit., <https://www.illinoispolicy.org/vote-by-mail-myths-and-facts/> (last accessed August 28, 2025); see also *Voting by Mail Myths*, Peoria Cnty.

USPS has a special designation for “Election Mail,” including mail-in ballots.<sup>18</sup> For Election Mail, the USPS “work[s] closely with election officials at all levels of government to provide recommendations on mailpiece design, mailing preparation and entry, and delivery timing.”<sup>19</sup> The USPS also makes numerous tools available to facilitate identifying and tracking Election Mail. For example, the USPS permits the use of “Intelligent Mail barcodes” on Election Mail. An Intelligent Mail barcode “is used to sort and track individual pieces of mail and gain greater visibility into the flow of the mail. It allows mailers, in this case, election officials, to participate in multiple USPS programs simultaneously, expand their ability to track individual pieces of mail, and see where ballots are within the mailstream.”<sup>20</sup> Further, USPS policy “is to postmark all ballots mailed by voters, whether they are prepaid by election officials or mailed with a stamp affixed by the voter.”<sup>21</sup> Illinois election law specifically provides that local election officials may use Intelligent Mail Barcodes and USPS postmarks on mail-in ballot envelopes to confirm their timeliness and verify they were returned by the intended voter, *see* 10 Ill. Comp.

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Election Comm’n, <https://www.peoriaelections.gov/214/Voting-by-Mail-Myths> (last accessed August 28, 2025).

18. *Election Mail*, United States Postal Service, <https://about.usps.com/what/government-services/election-mail/> (last accessed August 28, 2025); *see also* *Your 2024 Official Election Mail Kit 600*, United States Postal Service (Jan. 2024), <https://about.usps.com/kits/kit600.pdf> (“USPS Election Mail Kit”).

19. *Id.*

20. *Id.*; *see also* *USPS Election Mail Kit* at 8, *supra*.

21. *Id.*; *see also* *USPS Election Mail Kit* at 26, *supra*.

Stat. 5/1-3(25); 10 Ill. Comp. Stat. 5/19-8(c), procedures which election administrators indeed use in practice.<sup>22</sup> As Chicago Board of Elections Republican Commissioner William Kresse described,

Similar to when a voter signs a ballot request form in an in-person voting center which is then compared against the signature on their voter's registration, the voter will be required to sign the envelope of their ballot which will feature a unique barcode. When the center receives the mailed-in ballot, a machine scans the barcode and takes a picture of the signature and displays it next to the voter registration signature.<sup>23</sup>

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22. *Election Security in Illinois*, League of Women Voters of Illinois (Oct. 31, 2024), <https://www.lwvil.org/news/election-security-illinois> (“Election officials implement ballot processing and tabulation safeguards designed to ensure each ballot cast in the election can be correctly counted. These safeguards include chain of custody procedures, auditable logging requirements, and canvass processes. Officials safeguard mail ballots by verifying signatures, tracking barcodes, and setting clear chains of custody for all ballots.”); see also *How is chain of custody ensured during Vote by Mail?*, Peoria Cnty. Election Comm’n, <https://www.peoriaelections.gov/FAQ.aspx?QID=111> (last accessed August 28, 2025) (stating a “unique identifier” is printed on the return envelope for each mail ballot and that identifier “is linked to the voter and the ballot packet and is used upon return for validation”).

23. Zion Banks, *Governors State Professor on the Case to Ensure No Voter Fraud*, Governors State University (July 7, 2020), <https://gsunews.govst.edu/governors-state-professor-on-the-case-to-ensure-no-voter-fraud/>.

Mail ballots are also trackable in other ways. In addition to using Intelligent Mail Barcodes and postmarks, the USPS has created “Tag 191, Domestic and International Ballots.”<sup>24</sup> This tag goes on pallets of outgoing Election Mail and is used “to identify trays and sacks that contain Ballot Mail. \* \* \* [Tag 191] provides greater visibility to containers of Ballot Mail as they enter Postal Service processing and distribution operations.”<sup>25</sup>

Finally, Illinois law imposes especially secure chain-of-custody procedures for mail ballots received at local election administrators’ offices. To start, local election officials must endorse every received single mail-in ballot with the day and hour of receipt, to make a record of its timeliness. 10 Ill. Comp. Stat. 5/19-8(b), (c). Next, Illinois law mandates (1) enclosing the unopened mail-in ballot in an envelope together with the same voter’s application; (2) sealing that envelope and endorsing with “the name and official title of” the official who received the ballot, as well as the words, “This envelope contains a vote by mail ballot and must be opened on election day,” *and* “the number and description of the precinct in which said ballot is to be voted[;]” and (3) keeping that envelope in the office of the official who received the ballot until the ballot is counted. 10 Ill. Comp. Stat. 5/19-7(a).

It is important to remember that these procedures provide only *a floor* for local election administrators. Many counties go far beyond these minimum—albeit formidable—legal requirements. By way of example only,

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24. *USPS Election Mail Kit* at 15, *supra*.

25. *Id.*

in Kane,<sup>26</sup> Peoria,<sup>27</sup> and Fulton Counties,<sup>28</sup> returned mail ballot envelopes can only be accepted into custody and handled by a *bipartisan* team of election judges. And when ballot envelopes are not under direct oversight of bipartisan teams, in Kane County they are stored under lock and numbered seal, and Chain of Custody Logs record all security seals as well as the number of returned ballots received, accepted, and scanned.<sup>29</sup> In Amici's experience, such measures are commonplace across the country.

In essence, there are many systems in Illinois that establish that every mail-in ballot reaches its intended voter, is timely returned to the right place, matches a mail-in ballot application, is safely stored before tabulation, and corresponds to the proper precinct when tabulated.

**C. Mail-in voting is secure and does not increase fraud.**

The foregoing security features are ruthlessly effective at preventing fraud. As former Federal Election

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26. *Election Security and the Vote by Mail Process*, Off. of Kane Cnty. Clerk John A. Cunningham, <https://www.kanecountyil.gov/Lists/Events/Attachments/6253/Election%20Security%20Presentation.pdf> (last accessed August 28, 2025).

27. *How is chain of custody ensured during Vote by Mail?*, Peoria Cnty. Election Comm'n, *supra*.

28. *How is chain of custody ensured during Vote by Mail?*, Fulton Cnty. Elections, <https://fultoncountyilelections.gov/wp-content/uploads/2023/12/Ballot-Chain-of-Custody.docx> (file download) (last accessed August 28, 2025).

29. *Election Security and the Vote by Mail Process*, *supra*.

Commissioner Chair Ellen L. Weintraub concluded, “[t]here’s simply no basis for the conspiracy theory that voting by mail causes fraud. None.”<sup>30</sup> Study after study confirms this. A 2020 American Statistical Association report comparing voter fraud cases in states where a large number of voters received ballots by mail with voter fraud cases in states without mail-in voting found “no evidence to suggest that voting by mail increases the risk of voter fraud overall.”<sup>31</sup> Oregon—which conducts its elections *entirely* by mail—sent out nearly 61 million mail-in ballots between 2000 and 2019 and identified only 38 instances of confirmed voter fraud, amounting to a rate of .00006% of ballots being fraudulently cast.<sup>32</sup> And a joint analysis of three states’ election data, conducted by ERIC along with the Washington Post, identified just 372 possible cases of mail voting fraud across the 2016 and 2018 general elections, a .0025% fraud rate.<sup>33</sup> Even

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30. Commissioner Ellen L. Weintraub, *Facts about Voting by Mail*, Fed. Election Comm’n (May 27, 2020), <https://www.fec.gov/resources/cms-content/documents/2020-05-27-ELW-Facts-About-Voting-by-Mail.pdf>.

31. Jonathan Auerbach & Steve Pierson, *Does voting by mail increase fraud? Estimating the change in reported voter fraud when states switch to elections by mail*, Off. of Sci. Pol’y Am. Statistical Ass’n (Oct. 26, 2020), <https://www.amstat.org/docs/default-source/amstat-documents/pol-vote-by-mail.pdf>.

32. *Oregon Vote by Mail*, Or. Legis. Fiscal Off. (Oct. 2020), <https://www.oregonlegislature.gov/lfo/Documents/2020%20Issue%20Review%20-%20Oregon%20Vote%20by%20Mail.pdf>.

33. Elise Viebeck, *Minuscule number of potentially fraudulent ballots in states with universal mail voting undercuts Trump claims about election risks*, Wash. Post (June 8, 2020), [www.washingtonpost.com/politics/minuscule-number-of-potentially-](https://www.washingtonpost.com/politics/minuscule-number-of-potentially-)

the conservative Heritage Foundation’s review of all voter fraud cases between 1982 and 2025 found only 378 cases of possible “fraudulent use of absentee ballots” over that 43 year period.<sup>34</sup> In sum, the empirical evidence shows that mail-in voting is safe and secure.

\* \* \*

Petitioners purport to have standing based on their “distinct interest ‘in ensuring that the final vote tally accurately reflects the legally valid votes cast.’” Br. for Pet’rs at 18. Although they suggest that Illinois’ mail ballot deadline permits counting “votes that are of questionable legality,” *id.* at 19, neither Petitioners’ brief nor their complaint nor anything else in the record establishes a specific factual basis for this claim. Rather, as demonstrated above, mail-in voting in Illinois is accurate, reliable, and secure. Illinois’ election code ensures that voter rolls are accurate and only qualified, registered voters cast mail-in ballots. The USPS and Illinois both employ numerous measures to track mail-in ballots from the moment they are sent out to the moment they are counted. And all available empirical evidence confirms that instances of fraudulent mail-in voting are exceedingly rare. At bottom, Petitioners’ claim of injury based on inaccurate vote totals is not just unsupported by the record, it is based on an objectively incorrect premise.

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fraudulent-ballots-in-states-with-universal-mail-voting-undercuts-trump-claims-about-election-risks/2020/06/08/1e78aa26-a5c5-11ea-bb20-ebf0921f3bbd\_story.html.

34. *Election Fraud Map: Explore the Data*, Heritage Found., <https://electionfraud.heritage.org/search> (last accessed August 28, 2025).

## II. ILLINOIS' DEADLINE FOR MAIL-IN VOTING DOES NOT INJURE CANDIDATES' POCKETBOOKS.

Petitioners also incorrectly assert that they have standing because Illinois' mail-in ballot receipt deadline “requir[es] them to extend their campaigns and get-out-the-vote efforts and to send representatives to oversee the counting of late- arriving ballots.” Br. for Pet'rs at 2. Petitioners are incorrect for four reasons.

First, Petitioners wrongly assert that Illinois' ballot receipt deadline generally causes injury to candidates' pocketbooks because it “requires [candidates] to deploy campaign resources to monitor late-arriving ballots (and the officials who count them) for two extra weeks.” Br. for Pet'rs at 33. But Illinois law *permits*—and *does not require*—candidates to have a representative observe the canvassing of ballots after election day. It provides that during the “counting of ballots,” each “political party, candidate, and qualified civic organization shall be *entitled* to have present one pollwatcher for each panel of election judges therein assigned.” 10 Ill. Comp. Stat. 5/19-8(h) (emphasis added). Nor does Illinois law impose any penalties or punishment if candidates choose not to deploy poll watchers. Thus, the ballot receipt deadline at most permits all candidates to monitor officials who are tabulating mail-in ballots. It does not necessitate that they do so, and that optionality would operate the same whether Illinois' ballot receipt deadline was election day or two weeks after election day. No matter what, candidates, political parties, and civil groups would have the choice—but not obligation—to have poll watchers monitor ballot tabulation. Thus, any pocketbook injury

is traceable to Petitioners' own decision—one that they would have to make regardless of the timing of the ballot receipt deadline.

Second, neither Illinois' ballot deadline nor any state's ballot deadline extends campaigns. In Illinois, mail-in ballots must be mailed by election day and there must be evidence to establish that mailing date. 10 Ill. Comp. Stat. 5/19-8(c). In other words, even though Illinois permits local election officials to count ballots that are *received* up to 14 days after election day, *id.*, mail-in voters must decide who to vote for *by election day*. That is true in all states that permit mail-in voting.<sup>35</sup> Thus, the campaign to persuade mail-in voters is necessarily over on election day. Petitioners assert that “because Illinois law effectively allows mail-in ballots to be mailed as late as election day, petitioners must extend their get-out-the-vote efforts targeted to likely mail-in voters to the last day.” Br. for Pet'rs at 15; *see also id.* at 34. But in Amici's experience, campaigns—whether or not mail-in voting is allowed at all—do not end before election day. Rather, campaigns continue to target voters up until the moment polls close. Thus, in Illinois—as is the case everywhere else—campaigns always run until the end of election day, which would be the case regardless of whether the state permits counting mail-in ballots sent on election day and received after election day.

Third, Petitioners' purported pocketbook injuries are illusory for another reason. Even if candidates like

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35. *Table 11: Receipt and Postmark Deadlines for Absentee/Mail Ballots*, National Conference of State Legislatures (updated August 1, 2025), <https://www.ncsl.org/elections-and-campaigns/table-11-receipt-and-postmark-deadlines-for-absentee-mail-ballots>.

Petitioners choose not to have a canvass watcher present while mail-in ballots are being tabulated after election day, political parties or aligned civic associations could—and do—choose to do so on candidates’ behalf, undermining Petitioners’ claim of injury. Petitioner Bost’s declaration concedes as much, acknowledging that, as most, “[i]n *some instances*, my poll watchers *may* be the only Republican poll watchers at a courthouse.” Pet.App.67a (emphasis added). What Petitioner Bost is really saying is that in most—and likely all—instances, there will be other poll watchers serving his interests regardless of whether he expends resources on his poll watchers. Indeed, because in the at-issue 2020 election the political parties had many other candidates on the ticket—including for President—Petitioners’ voluntary allocation of resources to canvass monitoring was not just voluntary, it was unnecessary and duplicative.<sup>36</sup>

Fourth and finally, Petitioners conclusorily and mistakenly assert that “[m]any late-arriving ballots ‘have discrepancies (e.g., insufficient information, missing signatures, dates, or postmarks) that need to be resolved[.]’” Br. for Pet’rs at 33 (quoting Pet.App.66a-67a). Petitioners do not identify any evidence or facts that support this contention. *See* Pet.App.66a. Instead, this appears to be an attempt by Petitioners to bootstrap their objectively false claims about the accuracy and reliability of mail-in voting, *see supra* Section I, into a pocketbook injury. But even accepting that Petitioners’ pocketbook

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36. Mike Bost [@BostForCongress], X, “*POLLS CLOSE AT 7 PM If you haven’t voted yet, make sure you get out ASAP! You can find your polling place at <http://elections.il.gov>.”* (Nov. 3, 2020, at 5:23 PM), <https://x.com/BostForCongress/status/1323752676421783553>.

injury argument refers to the occasional—rather than systemic—errors that could affect individual mail-in ballots (like all ballots), in the experience of Amici and based on the record, there is no evidence of a relationship between when a mail-in ballot is received and the likelihood that the ballot does or does not have errors.

At bottom, Petitioners’ purported pocketbook injury is traceable to their abstract distrust of mail-in voting—not Illinois’ ballot receipt deadline. The deadline applies generally and neutrally to all voters and all candidates, because it affects “[e]ach vote by mail voter’s ballot.” 10 Ill. Comp. Stat. 5/19-8(c). And the deadline itself does not create any obligations on Petitioners. *See id.* Petitioners’ concerns about mail-in voting would exist whenever Illinois sets the ballot receipt deadline, making them precisely the sort of abstract, “generalized grievance” that this Court has “repeatedly held \* \* \* is insufficient to confer standing.” *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013) (collecting cases); *see also Lance v. Coffman*, 549 U.S. 437, 440 (2007) (per curiam) (holding plaintiffs lacked standing to challenge generally applicable state election law—Colorado’s redistricting plan—because they could not demonstrate they had “more than ‘a general interest common to all members of the public.’” (quoting *Ex parte Levitt*, 302 U.S. 633, 634 (1937) (per curiam)). And because Petitioners “ha[ve] not suffered a concrete injury caused by a defendant’s action,” they “cannot spend [their] way into standing simply by expending money to gather information and advocate against the defendant’s action.” *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 394 (2024).

### III. MAIL-IN VOTING DOES NOT BENEFIT OR DISADVANTAGE ANY PARTICULAR POLITICAL PARTY OR CANDIDATE.

Petitioners' assertion of injury rests on another false premise—that mail-in voting benefits one political party over the other. At the outset, the Court should reject this purported injury because “this Court is not responsible for vindicating generalized partisan preferences.” *Gill*, 585 U.S. at 72. And because any political party or campaign could (but need not) choose to emphasize, ignore, or scrutinize mail-in voting, this injury is not viable. *See All. for Hippocratic Med.*, 662 U.S. at 394. But more fundamentally, Petitioners' blunt claims that “late-arriving absentee ballots will benefit one candidate to the detriment of the other” and that it is “highly likely that late-arriving ballots would benefit” his political opponent are speculative at best and objectively wrong at worst. Br. for Pet'rs 31.

Allowing voting by mail is a neutral policy decision that, on its face, has no partisan valence. In Illinois, as in jurisdictions across the country, voting by mail is available to all qualified, registered voters irrespective of political affiliation. *See* 10 Ill. Comp. Stat. 5/19-1. Mail-in voting benefits electors of different backgrounds and political affiliations. It serves elderly, disabled, and immunocompromised voters who may have difficulty or may fear risking their health going to the polls on election day.<sup>37</sup> It provides advanced opportunities for people who

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37. *See, e.g., Best Practices: Accessibility for Voting by Mail*, U.S. Election Assistance Comm'n (Aug. 2022), [https://www.eac.gov/sites/default/files/bestpractices/Accessibility\\_for\\_Voting\\_by\\_Mail\\_Part\\_III\\_Accessibility\\_Checklist.pdf](https://www.eac.gov/sites/default/files/bestpractices/Accessibility_for_Voting_by_Mail_Part_III_Accessibility_Checklist.pdf).

work full-time or are unable to make it to the polls or to wait in long lines on election day because of family obligations—like providing childcare or caring for elderly relatives.<sup>38</sup> And it provides an accessible voting option for those who live far from polling places or lack access to transportation.<sup>39</sup> Thus, as study after study confirms, voting by mail is a valuable measure for making it easier to vote.<sup>40</sup>

History and rigorous academic analysis also make clear that Illinois’ facially neutral policy decision to let qualified electors vote by mail does not have a discernible partisan impact. *See, e.g.*, Adam J. Berinsky, et al., *Who Votes by Mail? A Dynamic Model of the Individual-Level Consequences of Voting-by-Mail Systems*, 65 *Pub. Op. Quarterly* 178, 194 (2001) (“[W]e found no direct impact of VBM [vote by mail] on the relative mobilization or retention of Democrats or Republicans.”); Daniel M.

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38. *See* Colin McEntyre, *Solving the Problem of Long Lines on Election Day*, MIT Election Data + Sci. Lab (Oct. 19, 2020), <https://electionlab.mit.edu/articles/solving-problem-long-lines-election-day>.

39. *See* Alan S. Gerber, Gregory A. Huber, & Seth J. Hill, *Identifying the Effect of All-Mail Elections on Turnout: Staggered Reform in the Evergreen State*, 1 *Pol. Sci. Research and Methods*, 91–116 (2013).

40. *Press Release: Sec’y of State Alexi Giannoulias Releases Comprehensive Transition Team Report*, Off. of the Ill. Sec’y of State, (Jan. 17, 2023), <https://www.illinois.gov/news/release.html?releaseid=25916> (“Voter Rights and Registration: Becoming the national model for voter access, engagement and turnout. This includes increasing voter participation through the expansion of equitable access, driving voter registration in settings where people are less likely to be registered to vote, and proactively informing constituents about voting locations and election dates.”).

Thompson, et al., *Universal Vote-by-Mail has no Impact on Partisan Turnout or Vote Share*, 117 Procs. of the Nat. Acad. of Sci. 14052, 14055 (2020) (“In our data, we confirm important conventional wisdom among election experts: VBM offers voters considerable convenience, increases turnout rates modestly, but has no discernible effect on party vote shares or the partisan share of the electorate.”); Jesse Yoder, et al., *How Did Absentee Voting Affect the 2020 U.S. Election?*, Sci. Advances 7 (2021) (“[D]espite the extraordinary circumstances of the 2020 election, vote-by-mail’s effect on turnout and on partisan outcomes is muted, just as research before the pandemic would have suggested.”). Recent electoral outcomes, including the results of the 2024 general election, confirm this point. According to a July 2025 study from MIT’s Election Data + Science Lab, in the 2024 election cycle in which the Republican Party took steps to increase voter turnout through vote by mail, the gap in voting by mail between Democrats and Republicans decreased dramatically and led to Republican electoral gains across the country, including in traditionally “blue” or “purple” states.<sup>41</sup>

With all of this in mind, even if Petitioners’ political opponents enjoyed an advantage in mail-in voting at some point in American history (a claim that Petitioners do not support with evidence), that moment is past. Electoral trends are fleeting. This Court should not set legal precedent and constitutional rules based on the temporary

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41. Charles Stewart III, *HOW WE VOTED IN 2024*, MIT Election Data + Sci. Lab (July 21, 2025), <https://electionlab.mit.edu/sites/default/files/2025-07/HowWeVotedIn2024.pdf>; see also Nick Corasaniti, *Despite Trump’s Attacks, Republicans Made Big Gains in Mail Voting*, NY Times (Jan. 11, 2025), <https://www.nytimes.com/2025/01/11/us/politics/trump-2024-election-mail-votes.html>.

whims of voters and political parties, particularly where, as here, the alleged trend no longer prevails (if it ever did).

#### **IV. ILLINOIS' BALLOT RECEIPT DEADLINE DID NOT INJURE THESE PARTICULAR PETITIONERS.**

As shown above, Petitioners' standing arguments wholly fail, both because they do not pass the Constitution's legal requirements and because they are based on fundamentally false claims about mail-in voting. This Court has "always insisted on strict compliance with this jurisdictional standing requirement," *Raines v. Byrd*, 521 U.S. 811, 819 (1997), and Petitioners here do not come close to clearing this bar. In order to establish their standing, Petitioners must demonstrate that they suffered (1) an injury in fact, (2) that is fairly traceable to the defendant, and (3) that is likely to be redressed by a favorable judicial decision. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). The Seventh Circuit rightly held that Petitioners lack standing. Here, the first problem is that Petitioners' alleged injury is not sufficiently "concrete and particularized." *Lujan*, 504 U.S. at 560. The bigger problem is also that there is *no actual injury at all*.

First, as explained in Section I, Petitioners have no basis for standing based on a generalized concern that the final vote tally under Illinois' ballot receipt deadline would not represent the actual votes cast, because mail-in voting is in fact accurate, reliable, and secure. Petitioners' claim is insufficiently "particularized," because it represents a grievance about election accuracy generally and Petitioners do not demonstrate an impact "in a personal and individual way." *Spokeo v. Robins*, 578 U.S.

330, 339 (2016). But from the start, Petitioners' claimed injury is based on a false premise about the accuracy and reliability of vote by mail. These Petitioners have neither demonstrated any way in which their specific past vote counts were inaccurate as a result of Illinois' ballot receipt deadline nor proffered concrete evidence about future vote counts. *See, e.g.*, Pet.App.87a (alleging only that "[a]mong other harms, Plaintiffs votes will be diluted by illegal ballots received in violation of the federal Election Day statutes"). Instead, as shown above by Amici, Illinois imposes many measures providing for the integrity and security of voting by mail. General, factually incorrect claims about the accuracy of mail-in voting cannot confer standing.

Second, as explained in Section II, Petitioners' pocketbook injury argument fails for similar reasons. These Petitioners are permitted, but not required, to deploy resources to monitor mail-in ballots, meaning any economic costs by a campaign that chooses to do so are self-imposed and traceable to their own conduct. And Petitioners would choose to expend those resources whenever Illinois sets its deadline for receiving mail-in ballots. *See* Pet.App.65a ("My congressional campaign has spent, and will spend, money, time, and resources to monitor and respond as needed to ballots received by state election officials after the national Election Day."). Moreover, contrary to Petitioners' assertions, counting mail-in ballots after election day has no impact on campaigns up to and on election day. Petitioner Bost's own campaign X (then Twitter) account proves as much, as he was explicitly campaigning by targeting in-person voters right up until the end of election day in the at-

issue election. At 5:23 PM on election day in 2020,<sup>42</sup> less than two hours before the polls closed, Bost’s campaign account posted:



Plus, Petitioners’ claims about having to expend resources to monitor tabulating mail-in votes are based on their misleading and unsupported arguments about the reliability of vote by mail. This daisy-chain theory of standing does not withstand scrutiny.

42. Mike Bost [@BostForCongress], X, “*POLLS CLOSE AT 7 PM If you haven’t voted yet, make sure you get out ASAP! You can find your polling place at <http://elections.il.gov>.”* (Nov. 3, 2020, at 5:23 PM), <https://x.com/BostForCongress/status/1323752676421783553>.

Third, as explained in Section III, Petitioners' competitive standing argument is not borne out and indeed is refuted by the data. Mail-in voting is available to all Illinois voters, and the academic consensus confirms that it does not inherently favor one political party over another. Petitioners' speculation that counting ballots after election day will benefit their opponents is not evidence of an actual or imminent diminution of their electoral prospects in any given election cycle. *See Clapper v. Amnesty Int'l*, 568 U.S. 368, 416 (2013). That is especially true given that the data does not demonstrate a benefit for one party over the other in mail-in voting, and Petitioners have not adduced any evidence refuting that fact or showing that they specifically have received—let alone will receive—a lower percentage of mail-in votes received after Election Day in the past. “[T]here is [not] a substantial risk that the harm will occur” sufficient to support standing under a theory of future injury. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014).

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**CONCLUSION**

Petitioners have not established and could not establish that they have been injured by Illinois' deadline for receiving mail-in ballots. Mail-in voting is a benefit that makes it easier for millions of Americans to vote. It is accurate, reliable, and secure. Tabulating mail-in ballots after the deadline does not deplete candidates' resources—their own choices do. And no political party or particular type of candidate inherently benefits more from mail-in votes than does any other. For these and all the foregoing reasons, the Court should affirm the decision below.

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