



National Association of Secretaries of State (NASS)

State Laws & Practices for the Emergency Management of Elections

Report of the NASS Task Force on Emergency Preparedness for Elections
February 2014

SUMMARY PAPER

National Association of Secretaries of State

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February 13, 2014



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NASS TASK FORCE ON EMERGENCY PREPAREDNESS FOR ELECTIONS

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OVERVIEW

The NASS Task Force on Emergency Preparedness for Elections was formed in January 2013 in the wake of Hurricane Sandy, which struck the East Coast just days before the November 2012 presidential election. Consisting of Secretaries of State and Election Directors from 24 states, the Task Force's mission is to support state election officials in their efforts to effectively establish/enhance sound administrative election practices in preparation for, and response to, emergency conditions. Task Force goals include: 1) identifying relevant laws and policies related to disaster and emergency planning; 2) sharing experiences and lessons learned from past emergencies situations; 3) engaging with relevant state and federal agencies and other stakeholders, and; 4) discussing ideas and strategies for effectively dealing with emergency scenarios that could impact future elections.

The Task Force has spent the past six months gathering research and exchanging information relevant to state and federal laws impacting the administration of elections in emergency situations, mainly through the following means:

- Online Resources: NASS developed a [Task Force webpage](#) that includes a variety of resources, including pending and recently enacted state legislation dealing with election administration in emergency situations. It also includes state research reports, links to state election contingency plans, federal and state emergency contacts and other emergency planning materials.
- Meetings: The Task Force held three conference calls from March to June, followed by an in-person meeting held in conjunction with the July 2013 NASS Summer Conference in Anchorage, Alaska. During meetings, members developed the mission and goals of the Task Force, identified pertinent topics and issues for the Task Force to consider and exchanged information on relevant state and federal policies for review and discussion.
- Stakeholder Outreach: NASS convened discussions with key stakeholder organizations, including the National Emergency Management Association (NEMA), the Emergency Management Assistance Compact, the Florida Division of Emergency Management, the Federal Emergency Management Association (FEMA) and the United States Postal Service (USPS). The discussion helped to highlight issues of shared mutual interest and concern.
- State Survey: NASS conducted a detailed survey of states to identify and better understand the laws and policies that guide the administration of elections in emergency situations.

Coupled with some additional research, NASS has compiled a comprehensive clearinghouse of information on the administration of elections in emergency situations. This report provides a summary of those findings.

ISSUES FOR EXAMINATION

According to FEMA, at least 15 states plus the District of Columbia were seriously impacted by Hurricane Sandy, the deadly and destructive storm that hit the eastern seaboard of the U.S. a little more than a week before the presidential election on November 6, 2012. In the wake of the superstorm, state election administrators had many questions and concerns about its impacts on election-related activities. Even states that were not directly impacted by Sandy were thinking about election complications and contingencies following a natural or manmade disaster. Could alternative polling places be quickly identified and outfitted with voting equipment given the extent of the damage? How would officials communicate with voters when the electricity was out and unlikely to be restored by Election Day? Would it be possible to extend polling hours for voting in order to reduce wait times and ensure maximum participation? There were many issues to consider.

Based upon the real-world logistical challenges that election administrators had to tackle due to Sandy's lingering effects, as well as emergency experiences in other areas of the nation, Task Force members created a list of issues for examination, including the following:

- State laws authorizing the postponement of an election in an emergency
- Election contingency plans and alternative election procedures for emergencies
- Voting by individuals responding to or impacted by an emergency
- Involvement of election officials in state emergency preparedness planning
- Federal government assistance in emergency situations impacting an election

This section of the report details NASS findings and presents some examples of how various states have arrived at solutions for disaster response and assistance related to election administration.

STATE LAWS AUTHORIZING POSTPONEMENT OF AN ELECTION

As Sandy began pummeling the East Coast, election officials were questioned about the potential for postponement of the 2012 general elections, but there was little research on state law in this area. NASS sought to identify how states handle this issue in its survey of state election divisions (see [Appendix I](#)). The findings showed that just 12 of the 37 responding states had a law that specifically authorized the suspension, delay or postponement of an election in an emergency situation. In most of the states with such laws, the decision to suspend or postpone the election is left to the Governor or chief state election official – or a combination of the two. Often, the decision is to be made following a gubernatorial declaration of a state of emergency.

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Specific state examples include the following:

- In Louisiana, a state that is no stranger to dealing with the aftermath of hurricanes, the Governor may suspend or delay an election upon declaring a state of emergency or an impending emergency, and upon certification of the Secretary of State that an emergency exists. The delayed election must resume, or be rescheduled, as soon as practicable.
- In Kentucky, the Governor may declare a different time or place for holding elections in the event that a state of emergency has been declared, and upon recommendation by the Secretary of State. The election must be held within 35 days from the date of the suspended or delayed election.

Other options that states may utilize in order to suspend, delay, or postpone an election in an emergency situation include a court order, legislative action or the emergency powers of the Governor. At the local or regional level, lower courts may cancel, postpone or extend Election Day polling place hours by issuing a court order. For example, a New York state judge suspended local primary elections scheduled to take place on the day of the September 11 terrorist attacks in 2001.

Meanwhile, the scope of authority that government officials have in postponing or delaying elections for federal office became one of the main issues raised by the NASS Task Force. Significant news coverage was devoted to this topic in the days prior to Hurricane Sandy, when it was unclear how severe the storm's impact might be on the administration of the presidential election.ⁱ Some officials suggested that there should be a federal law authorizing the cancellation or postponement of a federal election in certain circumstances. But while primary or local elections for federal office have been postponed several times since 1860 due to catastrophic events, no examples could be found of a general election being postponed or delayed during a federal election cycle.ⁱⁱ

In fact, little research exists on this topic, and that which does exist generally lacks any clear findings or conclusions. In 2004, the Congressional Research Service (CRS) published a report indicating that "Congress appears to have the authority to enact a federal law setting the conditions, times, and dates for rescheduling elections for federal offices in emergency circumstances, and with proper standards and guidelines, could delegate the execution and application of those provisions to executive branch or state officials."ⁱⁱⁱ

The CRS report also notes that states appear to have the authority to enact laws dealing with federal elections in emergency circumstances, provided these laws do not conflict with federal laws, stating, "Federal courts have thus generally interpreted federal law to permit the states to reschedule elections to *congressional* office when 'exigent' circumstances have necessitated a postponement." However, the same report cautions that different issues may be raised about the election of presidential electors based upon the wording of applicable federal statutes.



ELECTION CONTINGENCY PLANS FOR EMERGENCY SITUATIONS

Contingency planning has long been an important part of election administration. The NASS Task Force was able to promote information-sharing on the laws and procedures that states use to prepare for, or minimize, disruptions to voting and elections. While just 11 of 37 states that responded to the NASS survey said they have a statutory requirement for the development of a contingency plan for election emergencies, the vast majority of responding states have proactively developed a plan, procedures or advisory materials for such situations (see [Appendix I](#)).

State contingency plans and other materials shared by Task Force members are generally designed to provide guidance to local election officials in emergency situations. These materials address a number of potential topics and issues, including:

- Communications plans for emergency situations, including contact information for key staff, local emergency management agencies, law enforcement, fire, medical services, utility providers, election equipment vendors, other election officials, etcetera.
- Procedures for informing voters and the news media of polling place changes and other announcements.
- Contingency paper ballots for touch-screen technology and contingency paper precinct registers for electronic poll books.
- Power outage procedures for polling places, including evaluation of polling place power needs for lighting and voting machines (e.g. determining necessary wattage), as well as access to (and procurement of) back-up power sources, such as generators.
- Polling place relocation instructions and lists of alternative polling locations.
- Evacuation procedures for bomb threats, fires, and other emergencies.
- Guidelines for managing poll worker shortages, including designating and contacting alternate poll workers.
- Procedures for securing voting machines and election materials in emergency situations.

The survey also highlighted additional details about the ways in which state election offices seek to carry out, or aid localities with, their planning, communications, equipment options, records retention and other necessary strategies in the course of contingency planning.

Consider the following examples:

- In Connecticut, the Secretary of the State has developed a model contingency plan for municipalities to utilize in creating local contingency plans. If municipalities fail to independently create a contingency plan, they are required to follow the model contingency plan. The state's plan addresses a number of important considerations, including poll worker shortages and replacement; communication with poll workers, local registrars and public officials; alternate polling locations; contact information lists; ballot shortages; spare ballots; long lines; evacuation procedures; power loss, and; medical emergencies.
- Florida requires officials to maintain an elections emergency contingency plan that gives direction to state and local election officials when an election has been delayed or suspended due to an emergency, including public notification through public service announcements, electronic media and other means. The plan must also outline procedures for conducting a rescheduled election, including: identification of damaged polling places and establishment of alternative sites, recruitment of poll workers, temporary absentee ballot sites, borrowing or leasing of voting equipment and the release and certification of election returns.
- Colorado has developed an emergency and disaster contingency planning guide to assist election officials with events and issues affecting elections.
- Illinois distributes an advisory election contingency plan for local officials to utilize in their planning.
- Louisiana has developed training materials covering election emergency response procedures for local clerks and registrars.
- Montana provides a draft election contingency plan template and training for local jurisdictions.
- Tennessee has developed written election emergency procedures for counties to utilize, including an emergency evacuation plan. Additionally, the Secretary of State's office created an emergency text and email broadcast system in order to communicate quickly and efficiently with all 95 counties across the state during an emergency situation.

In addition to contingency planning resources, a number of states identified other policies and procedures that can be utilized to facilitate the administration of an election impacted by an emergency situation, including election official authority to implement special procedures, extension of deadlines for returning mail/absentee ballots and extension of polling place hours.



VOTING BY INDIVIDUALS RESPONDING TO OR IMPACTED BY AN EMERGENCY SITUATION

Another important topic for the NASS Task Force is state policies or procedures designed to facilitate voting by individuals who are directly affected by emergencies. This is chiefly two categories of individuals: Those who are away from their residence in order to assist with emergency relief efforts, and displaced individuals who are otherwise unable to vote under normal procedures due to an emergency situation, such as forced evacuation (see [Appendix I](#) for more details). In the NASS survey, many states noted they have methods that could facilitate voting by such individuals, including absentee, mail and early voting. Washington's response, for example, noted that the state's mail balloting system inherently lends itself to increased access in such situations by allowing voters to electronically download a replacement ballot.

Several states identified laws that specifically reference emergency workers and/or voters displaced by an emergency, including the following:

- In California, upon declaration of an emergency by the Governor, emergency workers away from their precinct may receive and cast a provisional ballot. In addition, also upon declaration of an emergency by the Governor, a new law authorizes special mail ballot procedures for out of state emergency workers, including email transmission of the blank ballot.
- In Louisiana, a new law requires the Secretary of State to facilitate voting by individuals working out of state in response to a declared emergency, including through fax or other means of transmitting the ballot.
- New Hampshire requires reasonable efforts be made to deliver absentee ballots to emergency workers.
- Virginia and West Virginia allow the chief election official to implement alternative/special procedures to facilitate voting by individuals impacted by an emergency situation.
- Maine has authorized the Secretary of State to administratively facilitate voting by emergency workers and individuals impacted by an emergency, including central issuance and receipt of absentee ballots.
- Oklahoma permits a voter deployed as an emergency worker within 10 days of an election to request an emergency absentee ballot.

As Hurricane Sandy approached the U.S. coastline in the days leading up to the 2012 presidential election, many officials were concerned about the potential impact of the storm on election administration efforts. While the storm's impacts on the election were not as serious as initially feared in most jurisdictions, it did interfere with voting process in several states, including interruptions to early voting and damaged or destroyed polling places. Officials in affected states worked overtime to provide assistance to voters through a variety of actions:^{iv}

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- In New York and New Jersey, more than 250 polling places were relocated, while displaced voters were permitted to vote a provisional ballot at any polling place in the state.
- Connecticut extended its voter registration deadline by two days.
- The deadline for requesting absentee ballots was extended in Maryland, New Jersey, New York and Pennsylvania.
- Early voting or absentee voting deadlines were extended in the District of Columbia, Maryland and Virginia.
- Maryland allowed displaced voters to receive absentee ballots by email or fax, and New Jersey designated displaced voters as “overseas” voters, which allowed them to return ballots by e-mail or fax.

Election officials in states where polling places were relocated due Hurricane Sandy stressed the importance of spending time and resources on communicating such changes to voters. State leaders in New Jersey directed county officials to “make every effort” to inform voters of polling place changes using county websites, reverse 911, public service announcements, newspaper notices and postings at original polling places. In New York, polling place changes were posted on state and local election board websites and the Metropolitan Transportation Authority provided “Voter Shuttle Buses” at regular intervals throughout the day, transporting voters from damaged polling places to alternate sites. In both states, a text messaging service was also created to provide voters with updated polling place information via mobile phone.^v

COOPERATION BETWEEN STATE OFFICIALS

The discussions among Task Force members have also emphasized the importance of partnerships for state officials, to include working closely with local election officials, state emergency management officials and other relevant agencies to prepare for—and respond to—emergency situations that could impact an election. This type of cooperation was a key part of state efforts to prepare for Hurricane Sandy.

Examples include the following:

- The Virginia State Board of Election’s contingency preparations involved coordinating with the Virginia Department of Emergency Management, the Virginia State Police, the Virginia Department of Transportation and major utility providers. The Board also remained in close communication with local election officials to monitor developments at the local level and to provide guidance and support, as necessary.
- Connecticut re-activated a task force (created in 2011) in order to handle public safety issues and contingency planning. The body included representatives from the Governor’s office, the Secretary of State’s office, state

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emergency management agencies, utility companies, emergency response entities and law enforcement. Efforts of the task force included holding conference calls with state and local election officials to address election administration questions and providing direction on issues such as polling place relocations.

The importance of cooperation and coordination between election officials and state emergency management has also been emphasized during conversations with other relevant organizations.

Examples include the following:

- The National Emergency Management Association suggested that state election officials engage with their state emergency management office in order to take part in state level emergency planning and preparation discussions and provide input with regard to potential emergency situations impacting an election.
- The Emergency Assistance Compact, a multi-state mutual aid agreement that facilitates relief assistance between states in disaster situations, noted that each state emergency management office maintains contact information for state and local personnel deployed to other states under the compact, and suggested that state election officials work with their state emergency management office for information on how election information could be communicated to those individuals in future situations where an emergency occurs close to an election.
- The Florida Department of State coordinates with the Florida Division of Emergency Management when an emergency has the potential to impact an election, and a state task force is formed to oversee contingency arrangements for polling places and any changes to voting procedures. The task force consists of officials representing a variety of key government functions, including election administration, emergency management, transportation and engineering, information and planning, health, human services, emergency power, public affairs and law enforcement.

FEDERAL ROLE IN AN EMERGENCY SITUATION IMPACTING AN ELECTION

Early on in their deliberations, NASS Task Force members raised questions about the type of federal assistance that is available in emergency situations, particularly if there is a threat to the sound administration of a federal election. According to the Congressional Research Service (CRS), the federal government has provided funding or assistance to state or local governments involved in conducting an election at three times in the past twenty years:^{vi}

- A 1992 statewide primary in Florida was postponed for Dade County after Hurricane Andrew hit the area, damaging numerous polling places. In response, the U.S. Army set up alternate polling places in tents and distributed water to voters. The role of troops was limited, and they were not located at polling places due to

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federal laws such as 18 USC § 592, which prohibits the presence of federal troops at polling places except in the event of enemy attack.

- After the September 11th attacks in 2001, primary elections in New York City were cancelled and later rescheduled. FEMA reimbursed the state \$7.9 million to assist the New York City Board of Elections in covering expenses related to rescheduling the election.
- In 2006, municipal elections in New Orleans were postponed for more than 2 months in the aftermath of Hurricane Katrina. FEMA provided the state with \$733,000 for the replacement of destroyed voting equipment prior to the rescheduled election (the state originally requested \$3-4 million in reimbursement for costs incurred in rescheduling the election).

In order to learn more and build upon the framework for state-federal cooperation, the NASS Task Force invited representatives from the Federal Emergency Management Agency (FEMA) to take part in conference calls that would provide information about the types of assistance that FEMA would be able to provide to election administrators in emergency situations. Absent a disaster or emergency declaration by the President of the United States, FEMA assistance for election administration efforts is typically limited. When a disaster declaration is issued and polling places are destroyed or unavailable, the type of assistance FEMA may be able to provide includes generators, technical assistance, temporary facilities for polling locations (e.g. tents, buildings, trucks) and financial reimbursement for costs incurred in renting replacement voting machines, conducting public outreach to inform voters of polling place changes and other election-related expenses. The federal agency may also be able to provide technical and advisory services.

FEMA representatives also recommended that state election officials participate in emergency management training courses, which are offered free online through FEMA's website as part of the Emergency Management Institute's Independent Study Program. The training is designed for people with emergency management responsibilities and the general public. The courses cover critical areas of emergency preparedness, including: incident management, disaster logistics, operational planning, emergency communications, continuity programs, integrated preparedness, hazard mitigation, public disaster communications and service to disaster victims.

Links to the training sites can be found at the following URLs:

- FEMA Emergency Management Independent Study Program: <http://www.training.fema.gov/IS/>
- National Incident Management System Training: <http://www.training.fema.gov/IS/NIMS.aspx>

The NASS Task Force also reached out to the U.S. Postal Service (USPS) to learn more about the agency's efforts to prepare for and facilitate the delivery of election mail in emergency circumstances. During Hurricane Sandy, the USPS monitored the impact of the storm on election mail and worked closely with election officials in affected areas,

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providing New Jersey and New York-based election officials with additional express mail supplies and expediting delivery of absentee ballots.

Through its Election Mail Task Force and operation planning efforts, USPS maintains a comprehensive framework for emergency preparedness that includes the ability to adjust accordingly to specific conditions on the ground. If a displaced voter is able to submit a mail forwarding order, any absentee ballot being sent to the voter will automatically be redirected to the voter's new location. The USPS can also assist displaced voters by manually tracking an absentee ballot and having it held at or forwarded to an alternate postal location, where the voter can pick up the ballot.

EFFECTIVE STATE STRATEGIES AND PRACTICES

The NASS Task Force on Emergency Preparedness for Elections has highlighted several ideas and practices that can help election officials prepare for, and respond to, emergency situations impacting the administration of an election. The effectiveness of different approaches will depend on a variety of factors, including the laws, policies and procedures that are unique to each state. Even the types of emergency scenarios that need to be considered (e.g. weather issues, security problems, power failures) may vary significantly from one region to another.

However, the NASS Task Force has identified a number of general strategies that may prove useful for state election officials in their emergency planning:

- Working closely with other state agencies, including the state emergency management department and the Governor's office, to discuss the potential impact of an emergency situation on the administration of elections and proactively planning for/coordinating state efforts to manage all potential disruptions.
- Assisting local election officials in developing contingency plans or similar materials that outline procedures for mitigating potential election administration issues in emergency situations (e.g. relocation of polling place locations, access to generators).
- Developing a comprehensive plan for communicating with local election officials in emergency situations, including situations where power failures or other issues make it difficult or impossible to use traditional channels for messaging.
- Identifying ways to provide important voting information to individuals impacted by an emergency situation, including any polling places changes or alternative voting procedures (e.g. extension of absentee ballot return deadlines or electronic transmission options).

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- Reviewing relevant laws and policies in other states to consider the benefits of adopting any of those approaches (e.g. policies that authorize officials to postpone an election in an emergency situation or permit the use of alternative election procedures in emergency situations).
- Taking advantage of FEMA online training courses to learn about effective emergency management practices and preparing election administrators to effectively deal with emergency or disaster situations.

The NASS Task Force on Emergency Preparedness for Elections has tackled some of the chief issues for states in dealing with the unexpected events and issues that can affect elections, including natural and manmade disasters. State and local election administrators must routinely learn from past emergencies, such as Hurricane Sandy, and anticipate new scenarios that require thorough preparation and planning.

The elements of successful contingency planning, with a focus on procedural readiness, partnerships within government and outreach to the public, remains a very important issue for state and local governments. As demonstrated by the NASS survey highlights contained in this summary report, states are continuously developing new laws and models that are aimed at addressing issues regarding election authority and continuity, division of federal, state and local responsibilities and mitigation of barriers to voting for those who are affected by disasters.

In the end, the goal is to ensure that officials can act quickly to ensure that every election complies with state and federal voting laws, and all reasonable options can be exercised to provide voters with fair and equitable elections.

ENDNOTES

ⁱ Politico, [Hurricane Sandy: Could it push back the election?](#), Oct. 29, 2012; ABC News, [Could Election Day Be Postponed?](#), Oct. 30, 2013.

ⁱⁱ [Hurricane Sandy and the 2012 Election: Fact Sheet](#), Congressional Research Service, Nov. 8, 2012.

ⁱⁱⁱ [Postponing and Rescheduling of Elections to Federal Office](#), Congressional Research Service, Oct. 2004; also see [Executive Branch Power to Postpone Elections](#), Congressional Research Service, July 2004.

^{iv} See note ii.

^v See CBS New York, [Not Deterred By Storm's Effects, Voters In NY, NJ Turn Out For Election Day](#), Nov. 6, 2012; CBS News, [How Sandy victims can vote, find polling places via text, email, fax](#), Nov. 5, 2012; [New Jersey Directive Regarding Notice and Communication](#);

^{vi} See note ii.

APPENDIX: NASS SURVEY ON EMERGENCY PREPAREDNESS

Note: 37 states responded to the NASS 2013 survey.

SECTION I: POSTPONEMENT OR CANCELLATION OF AN ELECTION

Twelve of 37 responding states have a law that specifically authorizes the suspension, delay, or postponement of an election in an emergency situation. In eight of these states, authority is triggered following the declaration by the Governor of a state of emergency, and the decision to suspend or postpone the election is ultimately made by the Governor, chief state election official, or a combination of the two.

Examples include:

- **Florida:** The Governor may suspend or delay an election upon declaring a state of emergency, or an impending emergency. The Governor may take this action independently or upon request of the Secretary of State, or a county or municipal election official from a jurisdiction impacted by the emergency. The election must be held within 10 days after the delay or suspension, or as soon as practicable.
- **Georgia:** Upon declaration by the Governor of a state of emergency, the Secretary of State may postpone the date of the election in the affected area for up to 45 days.
- **Kentucky:** In a state of emergency, and upon recommendation by the Secretary of State, the Governor may declare a different time or place for holding elections. The election must be held within 35 days from the date of the suspended or delayed election
- **Ohio:** The Governor has the authority to postpone any state or local election for a period of up to six months in the event of an emergency resulting from an enemy attack, and if the election is postponed elected or appointed incumbents continue to hold their office until successors are elected or appointed.
- **Louisiana:** Upon declaring a state of emergency or impending emergency, and upon certification of the Secretary of State that an emergency exists, the Governor may suspend or delay an election. The delayed election must resume or be rescheduled as soon thereafter as is practicable.
- **Maryland:** Upon declaring a state of emergency, the Governor may postpone the election in all or part of the state until a specific date. If emergency circumstances, not constituting a declared emergency, interfere with the electoral process, a state or local election official may petition a court to take any action the court considers necessary to provide a remedy that is in the public interest and protect the integrity of the electoral process.

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- **Utah:** Upon declaration of an emergency by the President of the United States, the Governor, or Chief Executive Officer of a political subdivision of the state, the Lieutenant Governor may designate a different time, method, or location for voting and other election procedures.
 - **Virginia:** In the event of a state of emergency declared by the Governor or the President of the United States, the Governor may postpone an election in areas affected by the emergency to a date not to exceed 14 days from the original date of the election. If a local governing body determines that a longer postponement is required, it may petition a three-judge panel of the Virginia Supreme Court for an extension. The Court may postpone the election to a date it deems appropriate, not to exceed 30 days from the original election date.

In four of 37 responding states, the decision to suspend, delay, or postpone the election in an emergency or disaster situation is made by the chief state election official, or a local election official.

Examples include:

- **Hawaii:** In the event of a natural disaster occurring prior to an election that makes a precinct inaccessible, the chief election officer or county clerk may require the registered voters of the affected precinct to vote by absentee ballot and may postpone the election in the affected precinct for no more than 21 days provided that the postponement does not affect the conduct of the election, tabulation, or distribution of results in for those precincts, districts, or counties not designated for the postponement.^{vi}
- **Iowa:** The Secretary of State may exercise emergency powers over an election being held in which either a natural disaster or other disaster or extremely inclement weather has occurred, and an election that does not involve a federal office may be postponed until the following Tuesday.
- **North Carolina:** The chief state elections official may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by a natural disaster, extremely inclement weather, or an armed conflict involving Armed Forces of the United States, or mobilization of those forces.
- **New York:** If the State Board of Elections determines that if fewer than 25 percent of the registered voters in a city, town, or village voted in any general election as the direct consequence of a disaster situation, an additional day of voting must be held no more than 20 days after the original date of the general election.

Note: Several of the states that do not have a specific law authorizing the cancellation or postponement of an election noted other options that could potentially be used to suspend, delay or postpone an election in an emergency situation, including: a court order, general emergency authority powers of the Governor, legislative action or special elections. For example, California gives the Governor authority to suspend various statutory and regulatory provisions

in a state of emergency, including the cancellation and rescheduling of an election. Vermont and Wisconsin give the Governor similar broad emergency powers (although the latter suggested it is unlikely that authority would extend to November general elections for federal office). Michigan noted that in a state-level emergency, the Governor's authority would be needed to issue executive orders related to health and safety provisions, and local courts would need to cancel, postpone or extend Election Day polling place hours. Connecticut, Idaho, Kansas, New Hampshire and Tennessee also indicated that the courts could be relied upon to postpone or delay an election in emergency situations.

SECTION II: ALTERNATIVE ELECTION PROCEDURES AND CONTINGENCY PLANS FOR EMERGENCY SITUATIONS

Eleven out of 37 responding states require state and/or local officials to develop election-related contingency plans or similar policies and procedures for emergency situations impacting the administration of an election.

Examples include:

- **California:** A new state law requires the Secretary of State, in consultation with county election officials, to develop procedures for voting in the event of natural disaster or other emergency situation.
- **Connecticut:** State law requires each municipality to develop emergency contingency plans for elections. The Secretary of the State is required establish regulations creating a model contingency plan for municipalities to utilize and which will constitute a municipality's contingency plan if it fails to develop one independently.
- **Delaware:** The State Election Commissioner is required to promulgate special procedures to facilitate absentee voting in the event that that a national or local emergency occurs.
- **Florida:** State law requires the Secretary of State to adopt rules establishing an emergency contingency plan containing goals and policies that give direction to election officials when an election has been delayed or suspended due to an emergency.
- **Iowa:** County election officials must consult with the Secretary of State in developing a plan to conduct an election under emergency conditions.
- **Kentucky:** Administrative regulations establish procedures for election officials to follow if an election has been suspended or delayed in an emergency situation and require county boards of election to establish local election emergency contingency plans to implement the regulations.



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- **Louisiana:** If the Secretary of State determines that an emergency situation impairs an election that may otherwise be held except for problems with respect to the relocation or consolidation of polling places within the parish, potential shortages of commissioners and absentee commissioners, or shortages of voting machines, the Secretary of State, as directed by the Governor and certain legislative committees, must develop (and if approved implement) an emergency plan proposing a resolution to the problems impairing the holding of the election.
 - **Maryland:** Upon declaring a state of emergency, the Governor may specify alternate voting locations or alternate voting systems. If emergency circumstances not constituting a declared emergency interfere with the electoral process, a state or local election official may petition the courts to provide a remedy that is in the public interest and protect the integrity of the electoral process. The State Board of Elections is required to develop guidelines concerning methods for addressing possible emergency situations.
 - **New York:** State law requires county boards of election to develop contingency plans for an unanticipated or unavoidable event.
 - **Ohio:** Pursuant to Directive issued by the Secretary of State, each county board of elections is required to develop a contingency plan as part of its overall election administration plan.
 - **Oklahoma:** The Secretary of the State Election Board may declare an election emergency if it becomes impossible to conduct one or more elections, or in the event that a national or local emergency makes substantial compliance with state and federal election laws impossible/unreasonable. The state also develops a contingency plan that includes procedures for requesting the assistance of the Oklahoma National Guard in the conduct of an election during a declared election emergency (with gubernatorial approval).

Note: Many states indicated that although there is no formal requirement for the development of election emergency contingency plans, they have developed some type of written plans, procedures, or advisory materials that address the administration of elections in emergency situations. These resources are generally designed to assist local jurisdictions in developing contingency plans and/or preparing for potential Election Day emergencies.

Examples include:

- Colorado has developed an emergency and disaster contingency planning guide to assist election officials with events and issues affecting elections.
- The District of Columbia maintains a written elections contingency plan that is updated prior to each election.

SUMMARY PAPER

National Association of Secretaries of State

Report of the Task Force on Emergency Preparedness for Elections

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- Illinois distributes an advisory contingency plan for their local official to utilize in their review and planning.
 - Louisiana offer training materials on emergency response procedures for local clerks and registrars.
 - Michigan issues standard emergency procedures to election officials statewide prior to every election.
 - Montana provides a draft contingency plan template and training to local jurisdictions.
 - Kansas issues items for counties to consider in developing contingency plans for election emergencies.
 - Nebraska has issued procedures for localized and short-term emergencies at polling sites.
 - North Carolina provides an emergency and disaster readiness planning guide template for counties to utilize.
 - Tennessee has developed accident/emergency procedures and evacuation plans for voting locations.
 - Virginia created an Election Contingency Working Group that developed an Election Day action plan for the 2012 election and beyond.
 - Wisconsin incorporates emergency planning processes in its training for local election officials. Additionally, several states noted that they advise counties/local jurisdictions to prepare contingency plans.

A number of states identified other policies and procedures relevant to the administration of an election impacted by an emergency situation, including administrative authority to implement special procedures, business continuity plans for the state elections office, extension of deadlines for returning mail/absentee ballots, expanded availability of absentee ballots, alternative methods for distribution of ballots, use of unofficial ballots, extension of polling place hours, procedures for hand counting of ballots, maintaining a copy of the voter registration list at an alternative location and an emergency text and email system to communicate with counties in an emergency situation.

SECTION III: DEALING WITH VOTERS IMPACTED BY EMERGENCIES

Many states indicated that first responders or other emergency designated personnel who have had to leave the voting jurisdiction could utilize the absentee voting, mail voting and early voting laws available in these states.

A few states have existing policies or procedures specifically designed to provide special (domestic) voting methods for first responders or other emergency designated personnel. For example, upon gubernatorial declaration of an emergency and the issuance of an executive order, California emergency workers outside of their home precincts may cast a provisional ballot that is identical to the provisional ballots offered to other voters in that county. New

Hampshire requires the Secretary of State to help facilitate the delivery of absentee balloting materials to emergency services workers who are called into service after noon on the Friday before an election if there are circumstances that would prevent those individuals from obtaining an absentee ballot before leaving.

Many states also permit individuals from areas of the state impacted by an emergency situation to utilize absentee voting, mail voting, or early voting options. For example, Washington's mail-based system allows voters to receive a replacement ballot through electronic means. A few states also have special policies/procedures that can be enacted.

Examples include:

- In certain emergency situations impacting in-person voting, the Virginia State Board of Elections has the authority to designate alternative absentee voting methods.
- West Virginia law authorizes the Secretary of State to implement procedures to ensure that all eligible voters have the opportunity to cast a ballot in disaster/emergency situations.
- California, Maine, Louisiana, Oklahoma and Utah have adopted new laws that authorize the use of special or alternative voting procedures in emergency situations.
- California permits out of state emergency workers to request a mail ballot after the close of the regular application period, and authorizes election officials to transmit the ballot via electronic means.
- Louisiana requires the Secretary of State to implement measures that facilitate voting by individuals working out of state in response to a declared emergency, including through fax or other ballot transmission methods.
- The Maine Secretary of State has administrative authority to facilitate voting by civilians who are affected by a natural disaster or other emergency, or voters who are emergency or utility workers providing assistance at the scene of the disaster. Options include the central issuance and receipt of absentee ballots using procedures developed for active duty military and overseas voters.
- Oklahoma has a new law permitting a voter who is deployed as a first responder or emergency worker within ten days of an election to request an emergency absentee ballot.
- Utah has a new law authorizing the Lieutenant Governor, in a declared emergency, to designate an alternative time, method, or location, for voting on Election Day, early voting and transmittal and counting of absentee ballots. The Lieutenant Governor must notify voters of any changes through a posting on the state vote information website, notice to each affected election officer and notice to newspapers or local media.