MEMORANDUM

To: Interested Parties
From: Nick Frentz, Minnesota State Senator, District 19
       Jamie Long, Minnesota State Representative, District 61B
       Robert Haider, Voter Protection Director, Minnesota DFL Party
Date: April 9, 2020
Re: 2020 Election Administration and COVID-19

Introduction

The COVID-19 pandemic is impacting our lives and communities to an unprecedented degree. Minnesotans are rightfully concerned about staying safe and healthy, our children’s education, and the ability to obtain groceries and other necessary items. We should not forget, however, about protecting and defending democracy. As we have witnessed over the past month, a number of presidential primary contests were held and did not meet the standards we expect in our elections. Further, many other elections have been postponed.

Due to actions taken by, and recommendations from, the federal and state governments—together with the prediction by Dr. Anthony Fauci, director of the National Institute of Allergy and Infectious Diseases, that there will likely be a second coronavirus outbreak in the fall—social distancing and other precautions will likely have detrimental impacts on our August 11 state primary and November 3 general election. Such actions will affect how Minnesotans register to vote, vote early by mail and in-person, and how we vote in-person on Election Day. As such, action should be taken now so that Minnesotans will maintain our confidence in the integrity of our elections.

This memorandum articulates the recommendations of Senator Nick Frentz, Representative Jamie Long, and the Minnesota DFL Party for reasonable legislative steps that can be taken to ensure that free and fair elections occur during and after this outbreak. These recommendations are achievable in a timely manner to protect Minnesotans’ rights while also prioritizing the health and safety of voters, election judges, and the public as a whole.

We are proud, as Minnesotans, of our status as the state with the highest voter turnout in the nation. Taking these steps will help ensure that every eligible Minnesotan has the ability to make their voice heard, allowing us to maintain in 2020 our enviable perch as number one.

Summary of Recommendations

Ballots
- **Top recommendation**: Send every registered Minnesota voter an absentee ballot, including pre-paid postage for return;
- Accept all absentee ballots that are postmarked by Election Day rather than those that are received by Election Day;
- Allow individuals and community organizations to assist voters complete, then collect and deliver, sealed ballots;
- Allow individuals on Minnesota’s eleven reservations to serve as witnesses for absentee ballots, even if the individuals lack a street address.

**Polling Locations**

- **Top recommendation**: Enact a true early vote system so that voters may cast their ballot in-person for the forty-six days prior to Election Day, removing the additional step of filling out an absentee ballot application;
- Assist the counties and cities that run elections so that they may have more early- and Election Day polling locations in order that the number of people waiting in line to vote in-person will be reduced;
- Extend the May 1 deadline for major political parties to submit the names of those who will serve as election judges, providing time to recruit younger people to operate our elections, which rely on nearly 30,000 workers;
- Assist municipalities and counties to place ballot drop-boxes outside of local government buildings;
- Work to ensure that all polling locations are sanitized to protect voters and election judges.

**Registration**

- Send a voter registration form, together with an application for an absentee ballot, to every unregistered Minnesotan who is eligible to be a voter, including pre-paid postage for return.

**Recommended Legislation Details**

**Ballots**

By minimizing the number of voters who cast their ballot at polling locations, the Legislature can protect the health and safety of voters, election judges, and the public. Once the Legislature reconvenes, legislation should be passed to enable or require the distribution of absentee ballots to every registered voter. Whereas voters must now fill out an application to receive an absentee ballot, legislation should be enacted to enable the Office of the Secretary of State (“OSS”), through its statewide voter registration system, to implement a universal, statewide program of distribution rather than being done on a municipality-by-municipality basis.

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1 Minn. Stat. § 201.022.
There should never be a cost impediment to Minnesotans exercising their right to vote, and that is even truer now given our current circumstances. Sending every registered voter an absentee ballot with a pre-paid postage return envelope would make it as easy as possible for every eligible Minnesotan to cast their ballot from home without imposing a cost. By maximizing the number of voters participating while minimizing the number of voters who cast their ballot at polling locations, the Legislature would both instill confidence in the legitimacy of our elections while protecting the public’s health.

An increase in the number of Minnesotans who submit an absentee ballot by mail—as is likely the case, with or without any legislative electoral reforms, given the concerns that will persist subsequent to this pandemic—will lead to greater strain on the U.S. Postal Service in the days leading up to and including August 11 and November 3. Consider, too, that the USPS may be facing their own workforce issues because of this pandemic, placing further stresses upon the mail delivery system.

Under current Minnesota law, an absentee ballot must be returned by either (1) 3:00 PM on Election Day if delivered in person to a local election official; or (2) 8:00 PM if delivered by mail, regardless of when a voter places their ballot in the mail. Because of the increased strain on the USPS, if a mail-in absentee voter does everything right yet their ballot is not received in time due to circumstances outside the voter’s control, that voter will lose their voice in the direction of their community, the state, and the nation. Enacting a new law providing that all ballots postmarked by Election Day will be counted is a commonsense approach to an otherwise seemingly arbitrary system.

To submit an absentee ballot by mail in Minnesota, a registered voter must have a witness take part in the voting process, and the witness must “print their name and Minnesota street address, including city (not a P.O. Box), and sign their name.” As many Minnesotans live on reservations that do not have street addresses, the Legislature should take steps to ensure that Native Americans have equal access to vote absentee by mail by allowing an individual with a P.O. Box to serve as a witness for absentee voters.

Two other arbitrary election laws that should be reformed are those that make it illegal to help too many people vote. The “Simple Assistance Voting Ban” prohibits a person from assisting more than three people complete their absentee ballots. The “Absentee Assistance Ban” prohibits a person from assisting more than three people return their absentee ballots. The constitutionality of these two laws, together referred to as the “Voter Assistance Bans,” are currently being challenged in court. By removing these two barriers, which disproportionately impact older voters and language-minority communities, the Legislature would make it easier for vulnerable populations to vote from home and stay away from Election Day crowds. Community

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2 Minn. Stat. § 203B.08, subd. 3.
3 Minn. R. 8210.0500, subp. 2 (emphasis in source material).
4 Minn. Stat. § 204C.15, subd. 1.
5 Minn. Stat. § 203B.08, subd. 1.
organizations and family members should have the ability to help more than three people vote absentee.

**Polling Locations**

Current Minnesota law allows county auditors to offer in-person absentee voting seven days before an election. Under this system, voters fill out an absentee ballot application and certificate, then cast their ballot directly into the ballot counter. This double envelope process is cumbersome and unnecessary, slowing down the process and causing congestion in polling locations. By extending the window to the full forty-six days in which voters may vote absentee by mail and removing the double envelope absentee process, it would lead to less paperwork and a more streamlined process, minimizing the congestion in polling locations.

While a significant increase in the number of people voting by mail-in absentee ballot should be prioritized, an increase in the number of early- and Election Day polling locations should also be considered to decrease crowd sizes. As of December 31, 2019, municipalities and counties were required to establish polling places for each precinct. These polling places include a number of residential facilities with high-risk populations, including nursing homes. There exists in statute the ability to change polling places under certain circumstances, and this memorandum argues that the unprecedented nature of this pandemic should be considered just cause for further changes. In addition to amending relevant laws, the Legislature should provide resources to municipalities and counties to open and operate more polling locations.

Roughly 30,000 election judges run our elections, many of whom are older voters, a vulnerable population. There currently exists a deadline of May 1, 2020 for major political parties to submit to OSS a list of eligible voters who will act as election judges. In addition to opening more locations and providing resources, an effort should be made to recruit more and younger election judges to staff both current and new polling locations.

Options for recruiting include, but are not limited to: OSS working in collaboration with the Minnesota Department of Labor and Industry to reach a younger workforce, many of whom are experiencing changes in employment status due to the pandemic; and utilizing OSS’s existing relationships with the state’s universities and high schools to recruit new and younger election judges. As election judges receive pay for their efforts, in addition to thorough training, the May 1 deadline should be extended to provide the time necessary for OSS, the major political parties, and community organizations to utilize this information as recruitment tool for more and younger election judges.

Together with the steps recommended above, crowd sizes will be further diminished by placing outside each municipal and county building a ballot drop-box where absentee ballots and voter registration forms can be dropped off. This option would act as a fail-safe option for those who are unable to mail their ballot in time.

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7 Minn. Stat. § 203B.081, subd. 3.
8 Minn. Stat. § 204B.16.
9 Minn. Stat. § 204B.21, subd. 1.
And for those who vote in-person, whether it is by choice or because it is the voter’s only option, precautions should be taken to ensure that every location is sanitized to help prevent the spread of disease. Each location should be well stocked with hand sanitizer, disinfectant sprays and wipes, and personal protective equipment, i.e., gloves and masks, for election judges. Training for judges should include steps that should be taken to protect the public’s health, including disinfecting voting booths, pens, and tablets after each use.

\section*{Registration}

Currently, Minnesotans with internet access can either register to vote or download a registration form online. For unregistered Minnesotans without internet access or who otherwise miss the pre-election 20-day registration deadline, they can same-day register at their polling location on Election Day.\footnote{Minn. Stat. §§ 201.054, subd. 1; 201.061, subd. 3.} To be inclusive of those without internet access and to minimize the amount of time that voters need to spend in their polling location same-day registering, all unregistered Minnesotans who are eligible to vote should receive in the mail a registration form, instructions for filling out and returning the form, an absentee ballot application, and a return envelope with prepaid postage or no postage required.

\section*{Conclusion}

The COVID-19 pandemic, and the response it has and continues to require, is unprecedented. Here in Minnesota, legislators from across the political spectrum have shown that they are willing to put partisanship aside to address the harms associated with the virus. By following the recommendations contained within this memorandum, the Minnesota Legislature can show that they understand the importance of protecting our health while also defending our democracy.