

# Federal Election Results: Frequently Asked Questions

October 8, 2020

**Congressional Research Service**  
<https://crsreports.congress.gov>

R46565



## Federal Election Results: Frequently Asked Questions

Several states have implemented new election administration processes in response to the COVID-19 pandemic that could affect how and when ballots are counted. Even under normal circumstances, finalizing federal election results takes days or weeks after election day. Among other steps, state, territorial, and local election officials *canvass* votes to ensure that ballots are valid and counted accurately. Election observers, audits, and other processes are designed to enhance transparency. This report addresses frequently asked questions on these and related subjects. The discussion emphasizes the period between the time a voter casts a ballot and when election officials *certify*, or *finalize*, the results.

R46565

October 8, 2020

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## Introduction

The results voters see reported on election night are the culmination of several steps in the election administration process, but are not the end of the process. Each state, territory, and the District of Columbia—which administer federal elections—has its own process for counting votes and declaring winners, but all follow similar steps. Election administrators, political officials, and members of the public continue working after election night to finalize official results. This process typically takes several days or even weeks. State- or territorial-level federal election results in the United States are never official on election night. Amid the COVID-19 pandemic in 2020, the additional time required to process far more mail ballots than most jurisdictions normally receive led to slower ballot processing times in some primary elections, and is expected to do so again in the November general election.

The current environment also creates the potential for foreign or domestic disinformation campaigns designed to undermine confidence in American elections as the normal counting process occurs amid greater public scrutiny than that process typically receives. On September 22, 2020, the Federal Bureau of Investigation (FBI) and the Department of Homeland Security’s (DHS’s) Cybersecurity and Infrastructure Security Agency (CISA) jointly issued a public service announcement noting that “Foreign actors and cybercriminals could exploit the time required to certify and announce elections’ results by disseminating disinformation that includes reports of voter suppression, cyberattacks targeting election infrastructure, voter or ballot fraud, and other problems intended to convince the public of the elections’ illegitimacy.”<sup>1</sup>

These circumstances have generated renewed interest among some Members of Congress, other public officials, and voters about how election officials count votes and determine election results. This report provides brief answers to frequently asked questions about the processes for counting, documenting, and ensuring transparency after votes are cast. It addresses federal elections, although the discussion herein also generally applies to elections for state or local offices.

Professional election administrators manage most or all of the ballot-counting process.<sup>2</sup> Members of the public, the media, or credentialed observers typically monitor most or all of the ballot-counting process.<sup>3</sup> Specific practices and requirements vary by jurisdiction. Election officials develop standard practices to document the chain of custody for ballots, ensure transparency, and generate accurate results.

## Scope of the Report

The frequently asked questions below are designed to provide a resource for Members of Congress and congressional staff as they conduct oversight and consider legislation related to

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<sup>1</sup> Federal Bureau of Investigation and Cybersecurity and Infrastructure Security Agency, Department of Homeland Security, *Foreign Actors and Cybercriminals Likely to Spread Disinformation Regarding 2020 Election Results*, public service announcement I-092220-PSA, September 22, 2020, <https://www.ic3.gov/media/2020/200922.aspx>.

<sup>2</sup> For a recent profile, see, for example, Natalie Adona et al., *Stewards of Democracy: The Views of American Local Election Officials*, Democracy Fund, report, June 26, 2019, <https://democracyfund.org/idea/stewards-of-democracy-the-views-of-american-local-election-officials/>.

<sup>3</sup> National Conference of State Legislatures, *Policies for Election Observers*, October 12, 2016, at <https://www.ncsl.org/research/elections-and-campaigns/policies-for-election-observers.aspx>; and National Conference of State Legislatures, *Post-Election Audits*, October 25, 2019, at <https://www.ncsl.org/research/elections-and-campaigns/post-election-audit-s635926066.aspx>.

federal elections. The discussion emphasizes the period between when voters cast ballots and election officials certify election results for federal elections. Because states, territories, and localities administer federal elections, the report contains general discussion of law, policy, and practice in those jurisdictions, but does not attempt to do so comprehensively.<sup>4</sup> The report briefly discusses recounts and contested elections, but those topics are largely beyond the scope of this report. Other CRS products provide information on related topics concerning contested U. S. House elections,<sup>5</sup> the electoral college,<sup>6</sup> and the congressional role in verifying and counting presidential election results.<sup>7</sup>

The report is intentionally brief to make the content more accessible. It does not discuss legislation or identify specific requirements and processes in individual jurisdictions.<sup>8</sup> As such, the general information presented in this report does not assess any election jurisdiction's processes for or performance at administering elections. Similarly, the report does not provide specific compliance information, legal analysis, or policy analysis about critical infrastructure issues. Other CRS reports provide additional information about elections policy issues generally.<sup>9</sup>

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<sup>4</sup> Federal law typically has relatively little effect on the process of counting and finalizing election results. As noted elsewhere in this report, other CRS products provide additional information about federal and constitutional provisions regarding contests, recounts, and certifying electoral college results.

<sup>5</sup> See CRS Report RL33780, *Procedures for Contested Election Cases in the House of Representatives*, by L. Paige Whitaker.

<sup>6</sup> See, for example, CRS In Focus IF11641, *The Electoral College: A 2020 Presidential Election Timeline*, by Thomas H. Neale; CRS Report R43824, *Electoral College Reform: Contemporary Issues for Congress*, by Thomas H. Neale; and CRS Report R40504, *Contingent Election of the President and Vice President by Congress: Perspectives and Contemporary Analysis*, by Thomas H. Neale.

<sup>7</sup> See CRS Report RL32717, *Counting Electoral Votes: An Overview of Procedures at the Joint Session, Including Objections by Members of Congress*, coordinated by Elizabeth Rybicki and L. Paige Whitaker.

<sup>8</sup> For additional information on the general processes discussed in this report, see, for example, Joint COVID Working Group; Cybersecurity and Infrastructure Security Agency [CISA], Elections Infrastructure Government Coordinating Council, Sector Coordinating Council, *Inbound Ballot Process*, Version 1.0. These and related documents are available on the CISA “#PROTECT2020” website, “Election Security GCC and SCC Resources” section, <https://www.cisa.gov/protect2020>. See also Tim Harper, Rachel Orey, and Collier Fernekes, *Counting the Vote During the 2020 Election*, Bipartisan Policy Center, August 2020, <https://bipartisanpolicy.org/report/counting-the-vote-during-the-2020-election/>.

<sup>9</sup> Congressional readers may contact the coauthors of this report for additional information on elections policy. See, for example, CRS Report R45302, *Federal Role in U.S. Campaigns and Elections: An Overview*, by R. Sam Garrett; CRS Report R45549, *The State and Local Role in Election Administration: Duties and Structures*, by Karen L. Shanton; CRS Report R46146, *Campaign and Election Security Policy: Overview and Recent Developments for Congress*, coordinated by R. Sam Garrett; CRS Report R46455, *COVID-19 and Other Election Emergencies: Frequently Asked Questions and Recent Policy Developments*, coordinated by R. Sam Garrett; CRS In Focus IF11477, *Early Voting and Mail Voting: Overview & Issues for Congress*, by Sarah J. Eckman and Karen L. Shanton; and CRS In Focus IF11286, *Election Security: Federal Funding for Securing Election Systems*, by Karen L. Shanton.

### Brief Background: Ballot Submission to Election Results

Election jurisdictions around the country use various processes and terminology to count ballots and obtain election results. The information noted below is generally applicable and abbreviated. Additional detail appears in the questions and answers in the text of this report. State, territorial, and local election jurisdictions document and publicize their individual requirements.

- *Submitting Ballots.* Voters deposit completed (also called “marked”) ballots in a ballot box or scanner at in-person polling places. Mail and early in-person ballots are received at designated sites across a precinct or at a central location.
- *Tabulating Ballots.* Ballots are counted, or *tabulated*, where they are cast, at centralized election offices, or both. These tabulations may occur multiple times to verify the accuracy of the total ballot count.
- *Canvassing Ballots.* Election officials aggregate ballot totals and document and reconcile questions about ballot validity through a process known as *the canvass*.
- *Certifying Results.* Final election results are called *certified* results. State-level certification occurs after the canvass (and, if required in that state, after audits).

As discussed in the questions and answers in the text of this report, a combination of professional election administrators, volunteers, and members of the public may be involved in these steps, depending on jurisdiction. Documenting chain of custody for ballots, following established procedures for observing elections and challenging ballots, and auditing results also help ensure transparency and accuracy.

## What is the difference between returns reported on election night and final results?

Federal election results at the state or territorial levels are never official in the United States until after election day. Results appearing in media reports or that election jurisdictions release on election night are unofficial and preliminary. These initially reported (either by the media or election officials) totals do not necessarily include all ballots submitted in the jurisdiction, have not been subject to the canvassing process, and could change. Consequently, in 2020 and before, it is normal and expected that final election totals differ from those announced on election night. It is also common that the candidates in various races can trade leads throughout election night and after, as additional ballots are counted.<sup>10</sup> Typically, it takes several days or weeks to finalize election results through the canvass (and audits, where applicable) and certify a winner. State or territorial law sets deadlines for how and when these processes occur.

## How do states finalize election results?

Although individual procedures vary by state, finalizing election results typically involves two major steps, the *canvass* and *certification*. The *canvass* involves assembling and verifying all validly cast ballots so that they can be aggregated into the final official election results (generally called *certified* results).<sup>11</sup> As an Election Assistance Commission publication explains, “The

<sup>10</sup> See, for example, Nathaniel Persily and Charles Stewart III, “Actually, We’ll Know a Lot on Election Night,” *The Wall Street Journal*, September 26, 2020, p. C4.

<sup>11</sup> For example, the U.S. Election Assistance Commission *Voluntary Voting System Guidelines* define the canvass as a “Compilation of election returns and validation of the outcome that forms the basis of the official results by a political subdivision.” See U.S. Election Assistance Commission, *Voluntary Voting System Guidelines*, Vol. 1, Version 1.1 (2015), p. A-5.

purpose of the canvass is to account for every ballot cast and ensure that every valid vote cast is included in the election totals. This involves accounting for every absentee ballot, every early voting ballot, every ballot cast on Election Day, every provisional ballot, every challenged ballot, and every overseas and military ballot.”<sup>12</sup> Depending on jurisdiction, groups of professional election officials, appointed canvassing boards, or both conduct the canvass.

Typical steps in the canvass include reconciling any discrepancies in the number of ballots issued versus those cast; duplicating damaged ballots that scanners cannot read, documenting that process, and counting the duplicated ballots; if applicable, addressing discrepancies in signatures or cast ballots (e.g., questions about voter intent based on ballot markings); and reconciling the number of ballots cast with the number of voters who voted in person at the polling place.<sup>13</sup> These processes may be repeated multiple times as precincts and vote centers compile their results and balloting information is consolidated at subsequently higher levels of election administration (e.g., precinct, county, and state).

In some jurisdictions, statistical data and written reports accompany the certified results and provide additional information about the canvassing process and how discrepancies were addressed. Similarly, in some cases, the certification is the final step in the canvassing process. In others, the governor or chief state election official (e.g., secretary of state) issues certified results based on information provided in the canvassing authority’s final report or meeting.

In some states, very close election margins during the canvass trigger recounts, discussed at the end of this report. Some jurisdictions also conduct *postelection audits*, which are intended to check the accuracy of the election results.<sup>14</sup> These audits involve comparing the results generated by the election system against a sample of paper records of the vote, such as paper ballots or the voter-verifiable paper audit trails generated by direct-recording electronic voting machines.<sup>15</sup>

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<sup>12</sup> U.S. Election Assistance Commission, *Quick Start Management Guide: Canvassing and Certifying an Election*, October 2008, p. 3. For additional discussion of military and overseas citizen voting, see, for example, CRS In Focus IF11642, *Absentee Voting for Uniformed Services and Overseas Citizens: Roles and Process*, In Brief, by R. Sam Garrett.

<sup>13</sup> See, for example, U.S. Election Assistance Commission, *Quick Start Management Guide: Canvassing and Certifying an Election*, October 2008, pp. 7-9; and U.S. Election Assistance Commission, *Election Management Guidelines*, pp. 133-138. The *Quick Start* document is available on the EAC website at <https://www.eac.gov/election-officials/quick-start-guides>. The *Election Management Guidelines* document is available on the EAC website at [https://www.eac.gov/election\\_management\\_resources/election\\_management\\_guidelines.aspx](https://www.eac.gov/election_management_resources/election_management_guidelines.aspx).

<sup>14</sup> National Institute of Standards and Technology, *Election Terminology Glossary – Draft*, <https://pages.nist.gov/ElectionGlossary/>.

<sup>15</sup> Exactly how jurisdictions that use postelection audits conduct them varies, but postelection audits generally can be grouped into two categories: (1) traditional postelection audits, which sample a fixed percentage of voting districts or machines, and (2) risk-limiting audits, which use statistical methods to determine how many districts or machines have to be sampled to achieve a specified level of confidence that the election results are accurate. For more information about postelection audits in general or risk-limiting audits in particular, see National Academies of Sciences, Engineering, and Medicine, *Securing the Vote: Protecting American Democracy*, Washington, DC, 2018, pp. 93-96, <https://www.nap.edu/catalog/25120/securing-the-vote-protecting-american-democracy>; National Conference of State Legislatures, *Post-Election Audits*, October 25, 2019, at <https://www.ncsl.org/research/elections-and-campaigns/post-election-audits635926066.aspx>; and Mark Lindeman and Philip B. Stark, “A Gentle Introduction to Risk-Limiting Audits,” *IEEE Security and Privacy*, vol. 10, no. 5 (September-October 2012), pp. 42-49.

## What procedures might election jurisdictions use to provide transparency and demonstrate that the canvass is conducted correctly?

Election officials work to ensure that the certified election results they provide are generally perceived to be fair, accurate, and legitimate. One way they do so is by having consistent, reliable, and transparent ballot collection and canvass procedures, which are typically established well before the election. To ensure that individual voters can cast their ballots privately and securely, and that those ballots are handled and counted correctly, multiple election administrators and/or public witnesses, representing multiple political parties, generally are involved at various stages of the vote-collecting and -counting processes.

Certain categories of individuals can serve as *election observers*, as defined by state laws; these observers typically include individuals serving on behalf of various political parties and can also include individuals from nonpartisan civic or legal organizations, as well as academics or unaffiliated individuals. States may require potential observers to obtain certain accreditation.<sup>16</sup> An important role for observers under some state laws is monitoring in-person voting on election day for indications of voter coercion, intimidation, or fraud, as well as technological issues and administrative errors or misapplication of election protocols.<sup>17</sup>

States that utilize drop boxes for mail ballots often have video surveillance or trained election staff monitoring the drop box site during voting and have mechanisms in place for ballot retrieval and chain of custody,<sup>18</sup> such as deploying two individuals to collect ballots from each box.<sup>19</sup> Other elements of the voting process, including signature verification for mail ballots, typically also involve multiple individuals.<sup>20</sup>

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<sup>16</sup> National Conference of State Legislatures, *Policies for Election Observers*, October 12, 2016, at <https://www.ncsl.org/research/elections-and-campaigns/policies-for-election-observers.aspx>. This CRS report does not address federal election observers or monitors that may be deployed under the Voting Rights Act. For brief additional discussion, see CRS Report R45302, *Federal Role in U.S. Campaigns and Elections: An Overview*, by R. Sam Garrett.

<sup>17</sup> National Conference of State Legislatures, *Poll Watcher Qualifications*, August 6, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/poll-watcher-qualifications.aspx>. Federal provisions in criminal law, the Voting Rights Act, or both also could be relevant. See for example, CRS Report R45302, *Federal Role in U.S. Campaigns and Elections: An Overview*, by R. Sam Garrett; and CRS Testimony TE10033, *History and Enforcement of the Voting Rights Act of 1965*, by L. Paige Whitaker.

<sup>18</sup> National Conference of State Legislatures, *VOPP: Table 9: Ballot Drop Box Definitions, Design Features, Location and Number*, August 18, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-9-ballot-drop-box-definitions-design-features-location-and-number.aspx>.

<sup>19</sup> For example, see Arizona Secretary of State's Office, Elections Services Division, *Arizona Elections Procedures Manual*, December 2019, p. 61, at [https://azsos.gov/sites/default/files/2019\\_ELECTIONS\\_PROCEDURES\\_MANUAL\\_APPROVED.pdf](https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf); and California Secretary of State, *Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations*, California Code of Regulations Title 2, div. 7, ch. 3, §20137, Ballot Collection Procedures and Chain of Custody, at <https://www.sos.ca.gov/administration/regulations/current-regulations/elections/vote-mail-ballot-drop-boxes-and-drop-locations>.

<sup>20</sup> For example, see William Janover and Tom Westphal, "Signature Verification and Mail Ballots: Guaranteeing Access While Preserving Integrity—A Case Study of California's Every Vote Counts Act," *Election Law Journal: Rules, Politics, and Policy*, vol. 19, no. 3 (September 2020), p. 329; and "How are Ballots Processed?" articles available from Grand County, Colorado, Clerk & Recorder's Office, *Ballots & Processing*, at <https://www.co.grand.co.us/1093/Ballots-Processing>.

In many states, canvassing boards and processes include participants who were not directly involved in the administration of the election itself to help provide impartial review.<sup>21</sup> Most states also allow some election observers or members of the media to access certain postelection procedures,<sup>22</sup> such as counting absentee ballots or conducting postelection audits or logic and accuracy tests.<sup>23</sup> Some jurisdictions may also provide a canvass livestream and allow the public to view the process online.<sup>24</sup> Postelection audits may be conducted by an independent audit board, rather than state or local administrators.<sup>25</sup>

## What processes help election officials determine voter eligibility and the validity of ballots cast?

State and local election officials use various mechanisms to ensure that only eligible voters cast ballots and that each voter only votes once in an election. The specific processes vary by state and can further vary based on the type of ballot cast (e.g., in-person or by mail).

Election officials primarily use voter registration data to determine whether or not an individual is eligible to vote in a given election, regardless of whether the voter chooses to vote in-person or via a mail (or absentee) ballot.<sup>26</sup> Election officials use state-level voter registration requirements and procedures,<sup>27</sup> as well as verification requirements under the Help America Vote Act of 2002

<sup>21</sup> For example, see Florida Supervisors of Elections, *2020 FSASE Canvassing Board Manual*, at [https://www.myfloridaelections.com/portals/fsase/2020%20Canv%20Board%20Manual%20FINAL\\_reduced.pdf](https://www.myfloridaelections.com/portals/fsase/2020%20Canv%20Board%20Manual%20FINAL_reduced.pdf); Minnesota Secretary of State, *Canvassing Boards*, at <https://www.sos.state.mn.us/elections-voting/how-elections-work/canvassing-boards/>; and Washington Secretary of State, *Introduction to County Canvassing Boards*, at [https://www.sos.wa.gov/\\_assets/elections/introduction-to-county-canvassing-boards.pdf](https://www.sos.wa.gov/_assets/elections/introduction-to-county-canvassing-boards.pdf).

<sup>22</sup> National Conference of State Legislatures, *Policies for Election Observers*, October 12, 2016, at <https://www.ncsl.org/research/elections-and-campaigns/policies-for-election-observers.aspx>; Pamela Brown and Jeremy Herb, “Avalanche of Mail Ballots—And Ballot-Watchers—Threatens to Slow Results After Polls Close,” CNN Politics, September 15, 2020, at <https://www.cnn.com/2020/09/15/politics/voting-ballots-challenge-election/index.html>; National Conference of State Legislatures, *Post-Election Audits*, October 25, 2019, at <https://www.ncsl.org/research/elections-and-campaigns/post-election-audits635926066.aspx>.

<sup>23</sup> Logic and accuracy tests, which are typically conducted prior to an election but may also be conducted after the election in some jurisdictions, are used to check that election equipment is functioning correctly and that it is programmed and calibrated correctly for the current election. They involve running a test deck of ballots through the election equipment and may be conducted by a team of representatives of multiple political parties, open to the public, or both. See, for example, Texas Secretary of State, *Electronic Voting System Procedures*, <https://www.sos.texas.gov/elections/laws/electronic-voting-system-procedures.shtml>.

<sup>24</sup> For example, see “Live Stream of County Ballot Tabulation Centers,” section from Arizona Secretary of State, *Voting Equipment*, at <https://azsos.gov/elections/voting-election/voting-equipment>; and Montgomery County, Maryland, Board of Elections, *2020 Presidential General Election Ballot Canvass*, at <https://www.montgomerycountymd.gov/Elections/2020PrimaryElection/primary-ballot-canvass.html>.

<sup>25</sup> National Conference of State Legislatures, *Post-Election Audits*, October 25, 2019, at <https://www.ncsl.org/research/elections-and-campaigns/post-election-audits635926066.aspx>.

<sup>26</sup> With the exception of North Dakota, all states and territories require individuals to register to vote prior to casting their ballots in federal elections; for more information, see CRS Report R46406, *Voter Registration: Recent Developments and Issues for Congress*; and CRS Report R45030, *Federal Role in Voter Registration: The National Voter Registration Act of 1993 and Subsequent Developments*. North Dakota does maintain a Central Voter File and requires voters to provide identification; see North Dakota Century Code, ch. 16.1-02, at <https://www.legis.nd.gov/cencode/t16-1c02.html>, and North Dakota Secretary of State, *ID Required for Voting*, at <https://vip.sos.nd.gov/IDRequirements.aspx?ptlhPKID=103&ptlPKID=7>.

<sup>27</sup> For more information, see National Conference of State Legislators, *Voter List Accuracy*, March 20, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>.

(HAVA),<sup>28</sup> to confirm a registrant’s identity and eligibility to vote, often by comparing information on voter registration applications with other government agency records.

Once a voter is on a state’s list of eligible voters, this information is used by election officials to monitor how, and if, voters have received a ballot, to ensure that each eligible voter can cast a vote and that no voter casts multiple ballots in the same election.<sup>29</sup> When voting in-person, *poll books*, or lists of eligible voters, are used by local election administrators to confirm that individuals are currently registered voters and are at the correct voting location for their precinct or election district. *Electronic* (or *e-poll*) *books* are commonly used today and may be able to provide more recently updated voter information or some voter data in real time.<sup>30</sup> In jurisdictions that use centralized vote centers, e-poll books can help election administrators verify that a voter has not previously voted at another location. In addition to identifying voters from poll book records, 35 states also have some form of voter identification requirement in effect for in-person voting during the 2020 election.<sup>31</sup>

In circumstances where voters can vote by mail, some jurisdictions automatically send ballots to voters and others require voters to request a mail ballot.<sup>32</sup> States that automatically send ballots or ballot request forms to voters generally rely upon address information on file in state voter registration records.<sup>33</sup> In the voter records, election administrators typically note which persons have requested and cast absentee ballots. Ballot tracking measures often allow an individual voter to check the status of his or her mail ballot, following it from the time it is sent out by election administrators to when it is returned and cast.<sup>34</sup> These mail ballot tracking measures, in conjunction with in-person voting records, also help election officials to ensure that only a single ballot is counted for each voter; for example, election officials can void a mail ballot if it has not

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<sup>28</sup> Under HAVA, for example, voter registration applicants must provide a current and valid driver’s license number, the last four digits of their Social Security number, or an alternate, unique identifying number assigned by the state for voter registration purposes (52 U.S.C. §21083(a)(5)(A)(i-ii)). HAVA also requires that states coordinate their voter registration lists with state agency records on felony status and state agency records on death (52 U.S.C. §21083(a)(2)(A)(ii)), and directs state DMV officials to enter into agreements with the Social Security Administration and with the chief state election official to verify and match certain voter registration applicant information (52 U.S.C. §21083(a)(5)(B)). HAVA also requires that new voters who submit a voter registration application by mail, and have not previously voted in a federal election in a state, must provide a current and valid photo identification or present “a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter,” along with their registration application or when they vote for the first time (52 U.S.C. §21083(b)); individuals who fall into this category and are unable to provide documentation when voting for the first time may cast a provisional ballot.

<sup>29</sup> National Conference of State Legislatures, *Double Voting*, September 3, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/double-voting.aspx>.

<sup>30</sup> National Conference of State Legislatures, *Electronic Poll Books | e-Poll Books*, October 25, 2019, at <https://www.ncsl.org/research/elections-and-campaigns/electronic-pollbooks.aspx>.

<sup>31</sup> National Conference of State Legislatures, *Voter Identification Requirements | Voter ID Laws*, August 25, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

<sup>32</sup> See Juliette Love, Matt Stevens, and Lazaro Garmio, “Where Americans Can Vote by Mail in the 2020 Elections,” *The New York Times*, August 14, 2020, at <https://www.nytimes.com/interactive/2020/08/11/us/politics/vote-by-mail-us-states.html>; and Kate Rabinowitz and Brittany Renee Mays, “At Least 83% of American Voters Can Cast Ballots by Mail in the Fall,” *The Washington Post*, August 20, 2020, at <https://www.washingtonpost.com/graphics/2020/politics/vote-by-mail-states/>.

<sup>33</sup> If a voter must request a mail ballot, he or she can often provide a different mailing address for ballot delivery.

<sup>34</sup> Jocelyn Grzeszczak, “These Are the States Where You Can Track Your Mail-In Vote,” *Newsweek*, August 18, 2020, at <https://www.newsweek.com/these-are-states-where-you-can-track-your-mail-vote-1525920>.

yet been cast by a voter who decides to vote in-person instead or if officials receive a mail ballot from a voter after he or she has voted in-person.<sup>35</sup>

States employ a number of measures to verify that a mail ballot is completed by the intended voter.<sup>36</sup> Many jurisdictions require voter signatures to accompany completed mail ballots. The voter's signature often accompanies a legal attestation, asserting the voter's identity and eligibility. Election officials, computer software, or both are used to match the signature(s) submitted by the voter to a known signature on file from the voter's registration records or other government agency records, if applicable, via a process known as *signature verification*.<sup>37</sup> If there is a missing, mismatched, or ambiguous signature, some states contact the voter and may provide an opportunity for the voter to correct the issue through processes known as *signature curing*, which may include an affidavit, a copy of additional identification, or both.<sup>38</sup> States may also have requirements for witness signatures or notarization of mail ballots, and voters may need to submit a copy of their photo identification with a mail ballot in certain circumstances.<sup>39</sup> Election officials may also check to ensure that the return address on a mail ballot matches that of the

<sup>35</sup> See, for example, California Secretary of State, *Voting at a Polling Place after Applying to Vote by Mail*, at <https://www.sos.ca.gov/elections/voting-resources/voting-california/if-you-applied>; and "Michigan's Absentee Voting Process," in Michigan Bureau of Elections, *Election Officials' Manual*, November 2019, ch. 6, at [http://www.michigan.gov/documents/sos/VI\\_Michigans\\_Absentee\\_Voting\\_Process\\_265992\\_7.pdf](http://www.michigan.gov/documents/sos/VI_Michigans_Absentee_Voting_Process_265992_7.pdf). Some jurisdictions may allow a voter who had previously requested a mail ballot to cast a regular in-person ballot. Other jurisdictions may require a voter who had previously requested a mail ballot to cast a provisional ballot in-person, to allow election administrators to confirm that the mail ballot has not been cast; a provisional ballot may be required, for example, if a voter cannot provide the blank mail ballot to officials at the polling site. For additional discussion, see, for example, Associated Press, "States Have Checks in Place to Prevent Voters From Voting Twice," August 26, 2020, at <https://apnews.com/article/9308770212>, and Nick Corasaniti and Stephanie Saul, "Is Voting Twice a Felony?" *The New York Times*, September 9, 2020, at <https://www.nytimes.com/article/voting-twice.html>.

<sup>36</sup> Some states may waive certain requirements to make accommodations for individuals with disabilities who need assistance completing their ballots on a case-by-case basis. For further discussion of these issues, see Maggie Astor, "What It's Like to Vote With a Disability During a Pandemic," *The New York Times*, September 25, 2020, at <https://www.nytimes.com/2020/09/25/us/politics/voting-disability-virus.html>.

<sup>37</sup> For additional discussion on registration, see CRS Report R46406, *Voter Registration: Recent Developments and Issues for Congress*; and CRS Report R45030, *Federal Role in Voter Registration: The National Voter Registration Act of 1993 and Subsequent Developments*. For additional discussion of signature verification, see, for example, Joint COVID Working Group; Cybersecurity and Infrastructure Security Agency [CISA], Elections Infrastructure Government Coordinating Council, Sector Coordinating Council, *Signature Verification and Cure Process*, Version 1.0. These and related documents are available on the CISA "#PROTECT2020" website, "Election Security GCC and SCC Resources" section, <https://www.cisa.gov/protect2020>; Rachel Orey and Emma Jones, "Is Voting by Mail Safe and Reliable? We Asked State and Local Elections Officials," Bipartisan Policy Center, June 12, 2020, at <https://bipartisanpolicy.org/blog/is-voting-by-mail-safe-and-reliable-we-asked-state-and-local-elections-officials/>; and William Janover and Tom Westphal, "Signature Verification and Mail Ballots: Guaranteeing Access While Preserving Integrity—A Case Study of California's Every Vote Counts Act," *Election Law Journal: Rules, Politics, and Policy*, vol. 19, no. 3 (September 2020), pp. 321-343.

<sup>38</sup> See Joint COVID Working Group; Cybersecurity and Infrastructure Security Agency [CISA], Elections Infrastructure Government Coordinating Council, Sector Coordinating Council, *Signature Verification and Cure Process*, Version 1.0. These and related documents are available on the CISA "#PROTECT2020" website, "Election Security GCC and SCC Resources" section, <https://www.cisa.gov/protect2020>, pp. 3-5; and National Conference of State Legislatures, *VOPP: Table 15: States That Permit Voters to Correct Signature Discrepancies*, August 28, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-15-states-that-permit-voters-to-correct-signature-discrepancies.aspx>.

<sup>39</sup> National Conference of State Legislatures, *VOPP: Table 14: How States Verify Voted Absentee Ballots*, April 17, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-14-how-states-verify-voted-absentee.aspx>.

voter.<sup>40</sup> Some states require that a voter return his or her own ballot or limit who, aside from the voter, can return an absentee ballot.<sup>41</sup>

## When do states count ballots and certify election results?

The timeline for counting votes can vary, depending on when states and localities allow voters to cast their ballots<sup>42</sup> and when election officials are allowed to begin processing and counting those ballots. The window available for voters to cast ballots varies by state, as jurisdictions have different polling place hours on election day, as well as different policies regarding the availability and duration of in-person early voting and mail voting.<sup>43</sup> In several states, mail ballots are sent, and early in-person voting may begin, at least 45 days ahead of election day.<sup>44</sup> Depending on state law, early voting might end several days before election day or continue until the day before election day. For mail ballots, states vary in whether the ballots must be received on election day or postmarked by election day.<sup>45</sup>

In many states, election officials can begin “processing” absentee ballots they have received before election day, though what “processing” means varies by state. Processing often can involve scanning the tracking barcode on a return ballot envelope and signature verification, where the signature required on the outside of the ballot envelope is compared with a voter’s known signature from state registration records. Some states also allow early ballots to be counted before election day, whereas other states prohibit ballots from being counted before polls close on election day.<sup>46</sup> States also vary in how and when they count provisional ballots cast on

<sup>40</sup> Darrell M. West, “How does vote-by-mail work and does it increase election fraud,” Brookings Institute, June 22, 2020, at <https://www.brookings.edu/policy2020/votervital/how-does-vote-by-mail-work-and-does-it-increase-election-fraud/>.

<sup>41</sup> National Conference of State Legislatures, *VOPP: Table 10: Who Can Collect and Return an Absentee Ballot Other Than the Voter*, August 28, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-10-who-can-collect-and-return-an-absentee-ballot-other-than-the-voter.aspx>.

<sup>42</sup> For information on early and mail voting timelines in each state, see National Association of Secretaries of State, *Dates and Deadlines for Early and Absentee Voting in the November 3<sup>rd</sup> General Election*, August 2020, at <https://www.nass.org/node/1967>. A list of changes made by states for the 2020 election is available from Ballotpedia, *Changes to election dates, procedures, and administration in response to the coronavirus (COVID-19) pandemic, 2020*, at [https://ballotpedia.org/Changes\\_to\\_election\\_dates,\\_procedures,\\_and\\_administration\\_in\\_response\\_to\\_the\\_coronavirus\\_\(COVID-19\)\\_pandemic,\\_2020#Absentee.2Fmail-in\\_voting\\_procedure\\_changes](https://ballotpedia.org/Changes_to_election_dates,_procedures,_and_administration_in_response_to_the_coronavirus_(COVID-19)_pandemic,_2020#Absentee.2Fmail-in_voting_procedure_changes).

<sup>43</sup> The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA; 52 U.S.C. §§20301-20311) specifies separate requirements for citizens abroad and members of the *uniformed services* (primarily military members). For brief additional discussion, see CRS In Focus IF11642, *Absentee Voting for Uniformed Services and Overseas Citizens: Roles and Process*, *In Brief*, by R. Sam Garrett.

<sup>44</sup> National Conference of State Legislatures, *State Laws Governing Early Voting*, August 27, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx>; and National Conference of State Legislatures, *VOPP: Table 7: When States Mail Out Absentee Ballots*, August 24, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-7-when-states-mail-out-absentee-ballots.aspx>.

<sup>45</sup> National Conference of State Legislatures, *VOPP: Table 11: Receipt and Postmark Deadlines for Absentee Ballots*, September 10, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-11-receipt-and-postmark-deadlines-for-absentee-ballots.aspx>.

<sup>46</sup> National Conference of State Legislatures, *VOPP Table 16: When Absentee/Mail Ballot Processing and Counting Can Begin*, September 9, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-16-when-absentee-mail-ballot-processing-and-counting-can-begin.aspx>.

election day.<sup>47</sup> Some states begin counting provisional ballots immediately after polls close, with statutory deadlines ranging from two days to weeks after an election, whereas other states examine provisional ballots as part of the canvass process.<sup>48</sup> Some states do not specify a deadline for their certified election results, and other states have deadlines ranging from November 5 to December 11 for the 2020 general election.<sup>49</sup>

## How might the COVID-19 pandemic affect vote count procedures and timing in 2020?

States' actions to expand access to mail voting and voters' concerns about the safety of in-person voting have prompted an increase in mail ballot requests in many states in 2020.<sup>50</sup> Mail ballots require more processing than ballots cast in person and may arrive after the close of polls in jurisdictions that accept ballots postmarked by election day.<sup>51</sup> Unfamiliarity with 2020 mail voting timeframes or procedures—due to general lack of experience with mail voting or changes in processes in response to the COVID-19 pandemic—could lead some voters to make mistakes when completing or submitting mail ballots.<sup>52</sup> Delays, or concerns about delays, in postal service could prompt voters who have requested mail ballots to nevertheless go to the polls in person to vote.<sup>53</sup>

Any or all of those factors could affect vote count procedures and timing in 2020. Voter errors on mail ballots could increase processing time in jurisdictions that offer voters opportunities to cure their ballots, for example, or prompt litigation that delays the release of official results.<sup>54</sup>

<sup>47</sup> *Provisional ballot* is a general term used to describe a ballot provided to a voter when there is uncertainty surrounding the voter's eligibility, under circumstances described in HAVA or state law.

<sup>48</sup> National Conference of State Legislatures, *Provisional Ballots*, September 17, 2020, at <https://www.ncsl.org/research/elections-and-campaigns/provisional-ballots.aspx>; Ballotpedia, *State by State Provisional Ballot Laws*, at [https://ballotpedia.org/State\\_by\\_State\\_Provisional\\_Ballot\\_Laws](https://ballotpedia.org/State_by_State_Provisional_Ballot_Laws).

<sup>49</sup> Ballotpedia, *Election Results Certification Dates, 2020*, at [https://ballotpedia.org/Election\\_results\\_certification\\_dates\\_2020](https://ballotpedia.org/Election_results_certification_dates_2020); and National Association of Secretaries of State, *State Election Canvassing Timelines and Recount Thresholds*, August 2020, at <http://www.nass.org/sites/default/files/surveys/2020-08/summary-canvass-recount-laws-aug2020.pdf>.

<sup>50</sup> Adam Levy, Ethan Cohen, and Liz Stark, "Surge of Ballot Requests Already Setting Records in the US," CNN, September 25, 2020, <https://www.cnn.com/2020/09/25/politics/ballot-requests-voting-election-2020/index.html>.

<sup>51</sup> For more information about processing of mail ballots, see the "What processes help election officials determine voter eligibility and the validity of ballots cast?" section of this report.

<sup>52</sup> Barry Burden, Robert M. Stein, and Charles Stewart III, "More Voting by Mail Would Make the 2020 Election Safer for Our Health. But It Comes with Risks of Its Own.," *The Washington Post*, April 6, 2020, <https://www.washingtonpost.com/politics/2020/04/06/more-voting-by-mail-would-make-2020-election-safer-our-health-it-comes-with-risks-its-own/>; and National Conference of State Legislatures, *Absentee and Mail Voting Policies in Effect for the 2020 Election*, <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-mail-voting-policies-in-effect-for-the-2020-election.aspx>.

<sup>53</sup> See, for example, Larry Seward, "With Some Absentee Ballots Still Not Delivered, Indiana Clerk Blames Post Office for Delays," WCPO-ABC Cincinnati, October 1, 2020, at <https://www.wcpo.com/news/election-2020/with-some-absentee-ballots-still-not-delivered-indiana-clerk-blames-post-office-for-delays>; and Ellie Rushing and Jonathan Lai, "Philly Mail Delays Lead to Big Worries About 2020 Election as Post Office Slows," *The Philadelphia Inquirer*, August 6, 2020, at <https://www.inquirer.com/politics/election/mail-voting-philadelphia-post-office-delays-20200806.html>.

<sup>54</sup> Specific information about litigation is beyond the scope of this report. For more information about current COVID-19-related election litigation, see, for example, Stanford-MIT Healthy Elections Project, *COVID-Related Election Litigation Tracker*, <https://healthyelections-case-tracker.stanford.edu/search>.

Jurisdictions might require in-person voters to use a provisional ballot, which requires additional processing to confirm voter eligibility and prevent double voting, if they are on record as requesting a mail ballot.<sup>55</sup> Depending on how jurisdictions choose to conduct their counts—whether they increase postelection staffing, for example, or extend the timeframe for processing mail ballots—such factors could lead to later release of official election results in some states in 2020 than in previous years.<sup>56</sup>

The COVID-19 pandemic might also affect the 2020 vote count in other ways, in addition to direct and indirect effects of increased mail voting. Increased interest in and expanded access to in-person early voting could help offset effects like those described above, while other results of the pandemic might contribute to them. Health or economic effects of the pandemic could contribute to understaffing of election offices or ballot-processing teams, for example, and COVID-19-related closures or backlogs at offices that process voter registration information could contribute to an increase in provisional voting in some jurisdictions.<sup>57</sup> New or ongoing lawsuits about aspects of the election other than mail voting could also affect the procedures election officials use to tally the 2020 vote and the timeline on which they finalize the count.<sup>58</sup>

## How have states responded to potential effects of COVID-19 on the 2020 vote count?

States have responded to some potential effects of the COVID-19 pandemic by trying to minimize or prevent delays in the count and release of official election results. Measures employed by some states include moving up the date when election workers can start processing mail ballots and hiring additional temporary staff to help with ballot processing.<sup>59</sup> Election officials in many jurisdictions are working with local postmasters and United States Postal Service election mail coordinators to help identify ways to facilitate timely delivery of mail ballots, such as by creating color-coded mail ballot return envelopes and providing estimated

<sup>55</sup> Edward B. Foley, “Vote Early and Often? That’ll Just Slow Down the Ballot Count,” *The Washington Post*, September 4, 2020, <https://www.washingtonpost.com/outlook/2020/09/04/trump-vote-twice-states/>.

<sup>56</sup> See, for example, Jeffrey Toobin, “The Legal Fight Awaiting Us After the Election,” *The New Yorker*, September 21, 2020, <https://www.newyorker.com/magazine/2020/09/28/the-legal-fight-awaiting-us-after-the-election>; and Edward B. Foley, “Why Vote-by-Mail Could Be a Legal Nightmare in November,” *Politico*, April 7, 2020, <https://www.politico.com/news/magazine/2020/04/07/danger-moving-vote-by-mail-168602>.

<sup>57</sup> See, for example, Amy Hudak, “Short Staffing at DMV Due to COVID-19 Creating Voter Registration Backlog,” WPXI, October 1, 2020, <https://www.wpxi.com/news/short-staffing-dmv-due-covid-19-creating-voter-registration-backlog/K62CCH6UINC7JKYT XJQQLUAVEY/>.

<sup>58</sup> Specific information about litigation is beyond the scope of this report. For more information about current COVID-19-related election litigation, see, for example, Stanford-MIT Healthy Elections Project, *COVID-Related Election Litigation Tracker*, <https://healthyelections-case-tracker.stanford.edu/search>.

<sup>59</sup> Some federal funding made available to states for certain election expenses may be used for these purposes. Congress provided \$400 million in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) for grant funding to help states, territories, and the District of Columbia to prevent, prepare for, and respond to COVID-19 under the Help America Vote Act of 2002 (52 U.S.C. §§20901-21145). Congress also provided \$425 million to states, territories, and Washington, DC, for general election grant funding in the Consolidated Appropriations Act, 2020 (P.L. 116-93). For more information, see CRS Insight IN11508, *Elections Grant Funding for States: Recent Appropriations and Legislative Proposals*, by Karen L. Shanton. See also, for example, Associated Press, “Michigan Legislature Eases Processing of Absentee Ballots,” September 25, 2020, <https://www.wxyz.com/news/election-2020/michigan-legislature-eases-processing-of-absentee-ballots>; and Brian X. McCrone, “Here’s How Pa. Will Get All the Mail-In Ballots Counted in November,” NBC Philadelphia, August 31, 2020, <https://www.nbcphiladelphia.com/news/politics/decision-2020/heres-how-pa-is-preparing-for-the-presidential-election-in-november/2515837/>.

drop-off dates for election mail.<sup>60</sup> Many election officials are also encouraging voters to cast their ballots early, where possible, by returning mail ballots promptly or taking advantage of in-person early voting periods.<sup>61</sup>

In addition to trying to minimize or prevent delays in the release of official election results, many jurisdictions have taken steps to educate voters about the potential for and meaning of any delays that do occur. A concern some have raised about the 2020 elections is that delays in the release of official results might lead some to question the legitimacy of the election.<sup>62</sup> Many states have responded to such concerns by sharing public information about typical postelection processes and timelines or adapting their plans for initial results reporting to more clearly convey the incompleteness of unofficial results. In one state, for example, the secretary of state announced that early reporting would include data on the number of requested mail ballots that had not yet been counted to provide a sense of the potential scope of outstanding ballots.<sup>63</sup>

## What processes are available if disputes remain after election results are certified?

Different terminology applies to various scenarios surrounding disputed election results. The term *recount* refers to retabulating ballots to ensure that the certified count was accurate (although, in some jurisdictions, recounts might occur before certification).<sup>64</sup> Election officials generally conduct recounts when elections result in very close margins of victory to confirm that the certified results are accurate, or if there is evidence that counting equipment malfunctioned.<sup>65</sup> There are two kinds of recounts: automatic and requested. Typically, a narrow margin of victory

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<sup>60</sup> United States Postal Service Office of Inspector General, *Audit Report: Processing Readiness of Mail During the 2020 General Election*, August 31, 2020, pp. 3-4, <https://www.uspsoig.gov/sites/default/files/document-library-files/2020/20-225-R20.pdf>. Some concerns have been raised in the lead-up to the 2020 elections about potential effects of operational changes at the United States Postal Service on delivery of mail ballots. For additional discussion of such concerns, see U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Examining the Finances and Operations of the United States Postal Service During COVID-19 and Upcoming Elections*, hearing, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., August 21, 2020, <https://www.hsgac.senate.gov/examining-the-finances-and-operations-of-the-united-states-postal-service-during-covid-19-and-upcoming-elections>; and U.S. Congress, House Committee on Oversight and Reform, *Protecting the Timely Delivery of Mail, Medicine, and Mail-in Ballots*, hearing, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., August 24, 2020, <https://oversight.house.gov/legislation/hearings/protecting-the-timely-delivery-of-mail-medicine-and-mail-in-ballots>.

<sup>61</sup> See, for example, Star Connor, “WV Secretary of State Encourages Absentee Ballot Voting,” WVVA, September 24, 2020, <https://wvva.com/2020/09/24/wv-secretary-of-state-encourages-absentee-ballot-voting/>; and Blake Keller and Brianna Owczarzak, “Whitmer Encourages Residents to Vote as Early Voting Kicks Off Across Michigan,” WNEM, September 24, 2020, [https://www.wnem.com/news/whitmer-encourages-residents-to-vote-as-early-voting-kicks-off-across-michigan/article\\_e38d9e62-fe70-11ea-9282-a7359f85ceef.html](https://www.wnem.com/news/whitmer-encourages-residents-to-vote-as-early-voting-kicks-off-across-michigan/article_e38d9e62-fe70-11ea-9282-a7359f85ceef.html).

<sup>62</sup> See, for example, Andy Sullivan and Michael Martina, “How a ‘Blue Shift’ in U.S. Mail Ballots Might Set Off Election Week Chaos,” Reuters, September 8, 2020, <https://www.reuters.com/article/us-usa-election-delay/how-a-blue-shift-in-u-s-mail-ballots-might-set-off-election-week-chaos-idUSKBN25Z111>.

<sup>63</sup> Andrew J. Tobias, “Preparing for Possibly Unclear Result, Ohio Will Report the Number of Outstanding Mail Ballots on Election Night,” *Cleveland.com*, September 8, 2020, <https://www.cleveland.com/open/2020/09/preparing-for-possibly-unclear-result-ohio-will-report-the-number-of-outstanding-mail-ballots-on-election-night.html>.

<sup>64</sup> For example, the U.S. Election Assistance Commission Voluntary Voting System Guidelines define *recount* as “[r]etabulation of the votes cast in an election.” See U.S. Election Assistance Commission, *Voluntary Voting System Guidelines*, Vol. 1, Version 1.1 (2015), p. A-16.

<sup>65</sup> See, for example, U.S. Election Assistance Commission, *Election Management Guidelines*, p. 147. The *Election Management Guidelines* document is available on the EAC website at [https://www.eac.gov/election\\_management\\_resources/election\\_management\\_guidelines.aspx](https://www.eac.gov/election_management_resources/election_management_guidelines.aspx).

in an individual race (e.g., less than one-half percent in some states) triggers an *automatic recount* as specified in state statutes. In other cases, candidates or voters may *request* recounts (sometimes called *initiated* recounts), often at their expense and under processes specified in state statutes.<sup>66</sup> Relevant state, territorial, or local election statutes specify which recount options are available in particular jurisdictions, if any, and under what circumstances.

States or other election jurisdictions conduct recounts either by rescanning ballots or by hand counting, depending on circumstances and relevant requirements, and may address all or part of the certified results. Recounts also may involve a *re canvass*—in some states a separate process—to reexamine the validity of the ballots included in the certified results. Election officials, recount boards, or both typically conduct recounts.

Although timing varies by state, statutes typically limit the period during which recounts may occur. Election officials can face particularly tight deadlines for conducting recounts if they occur shortly before officeholders-elect are to be sworn in. In addition, for presidential elections, a federal “safe harbor” deadline may affect how long states have to conduct their recounts in presidential elections.<sup>67</sup>

Election *contests* focus on the circumstances surrounding the conduct of the election. As with recounts, contests follow processes addressed in relevant state law. Generally, contests are resolved through litigation that is beyond the scope of this report. The Federal Contested Election Act (FCEA) provides procedures for resolving contested U.S. House elections.<sup>68</sup> Ultimately, Article I, Section 5 of the U.S. Constitution specifies that each chamber of Congress “shall be the Judge of the Elections, Returns and Qualifications of its own Members.” Other CRS products provide information on related topics concerning contested U.S. House elections,<sup>69</sup> the electoral college,<sup>70</sup> and the congressional role in verifying and counting presidential election results.<sup>71</sup>

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<sup>66</sup> For example, as the National Conference of State Legislatures (NCSL) has explained, “although post-election audits can lead to a full recount if errors are detected, they differ from a recount in that they are conducted regardless of the margins of victory. Recounts are most often triggered or requested if there is a tight margin of victory.” See National Conference of State Legislatures, “Post-Election Audits,” October 25, 2019, <https://www.ncsl.org/research/elections-and-campaigns/post-election-audits635926066.aspx>.

<sup>67</sup> For additional discussion, see CRS In Focus IF11641, *The Electoral College: A 2020 Presidential Election Timeline*, by Thomas H. Neale; and CRS Report R40504, *Contingent Election of the President and Vice President by Congress: Perspectives and Contemporary Analysis*, by Thomas H. Neale.

<sup>68</sup> 2 U.S.C. §§381-396. For additional discussion, see CRS Report RL33780, *Procedures for Contested Election Cases in the House of Representatives*, by L. Paige Whitaker.

<sup>69</sup> See CRS Report RL33780, *Procedures for Contested Election Cases in the House of Representatives*, by L. Paige Whitaker.

<sup>70</sup> See, for example, CRS In Focus IF11641, *The Electoral College: A 2020 Presidential Election Timeline*, by Thomas H. Neale; CRS Report R43824, *Electoral College Reform: Contemporary Issues for Congress*, by Thomas H. Neale; and CRS Report R40504, *Contingent Election of the President and Vice President by Congress: Perspectives and Contemporary Analysis*, by Thomas H. Neale.

<sup>71</sup> See CRS Report RL32717, *Counting Electoral Votes: An Overview of Procedures at the Joint Session, Including Objections by Members of Congress*, coordinated by Elizabeth Rybicki and L. Paige Whitaker.

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