



**Mac Warner**

Secretary of State  
State of West Virginia

September 16, 2021

Dear Senator Capito:

Please allow me to share some of the feedback I have provided to Sen. Manchin regarding S.2747, which is entitled the "Freedom to Vote Act." By his request, I reviewed the bill and several summary interpretations, and compiled a number of my concerns with the impact on West Virginia and other states' elections, as well as the underlying authority and logic of Congress enacting a federal takeover of election administration.

The "For the People Act," "Freedom to Vote Act," or whatever label placed on a similar bill version, no matter how repackaged, is disingenuous and a troublesome effort. The 2020 election had more people vote than any election in history; the false assumption is the administration of the decentralized and state-managed, record-breaking election systems somehow needs to be fixed as if there is an existing problem.

The clerks throughout West Virginia have spoken clearly and repeatedly in near-unanimous fashion that they are against many of the provisions of current elections legislation being considered by the U.S. Senate. The inappropriate provisions contained in the 592 pages of this bill are too numerous to address each in this letter; the gist is that this bill amounts to an overreach by bureaucrats in Washington, D.C. to direct how elections will be run in the United States.

Here are just 8 of the many provisions that are the basis for my opposition, some of which have had clear opposition via resolution passed by 54 of 55 West Virginia County Clerks, which is attached for review:

1. **Same Day Registration (SDR).** West Virginia county clerks are strongly opposed to the same day registration provisions of the proposed legislation. West Virginia does not have the broadband capability to ensure election integrity at every polling location for SDR. SDR also puts the onus on clerks to verify the validity of information provided by SDR voters, delaying election results until such verification is made. Extending the deadline for enacting these provisions, as are proposed in the changes from H.R.1 to now S.2747, only delay the problem without adequate solutions.

2. **Voter Identification.** West Virginia's voter identification laws work, and are not in need of alteration at the federal level. So, too, is forcing adopted voter ID laws in West Virginia onto each of the remaining 49. The forms and manner of requiring voter ID should be left to each state independently.

3. **Early voting.** West Virginia county clerks are strongly opposed to the early voting provisions of the proposed legislation. West Virginia's current procedure of holding 10 days of early voting, which includes two consecutive Saturdays, is sufficient for the needs and expectations of our voters. Changing the date and times will put additional strain on county clerks and their staff, and will impede their ability to adequately prepare for, and administer, secure voting on Election Day. At least one state, New Hampshire, does not have early voting, and should not be made to implement this effort unless so determined by their state legislature.

4. **Drop boxes.** West Virginia clerks are opposed to making drop boxes a permanent condition as envisioned by the proposed legislation. The availability of drop boxes is not a problem that needs a solution here in

State Capitol  
Charleston, West Virginia 25305  
(304) 558-6000  
[www.wvsos.gov](http://www.wvsos.gov)

our state. It creates security and chain-of-custody issues, adds significant costs, extra duties and staffing problems that may lead to less confidence in the process. Our state legislature has consistently rejected taking up such a proposal in the past two sessions.

**5. Mail-in ballots.** West Virginia law strikes an appropriate balance between access and security: voters with a codified reason for requesting a mail-in absentee ballot can easily make a request for an absentee ballot in person, by phone, by mail, or online 24/7.

**6. Audits.** West Virginia has been conducting post-election audits during the canvassing process for years. Holding the audit prior to certification of the election allows the jurisdiction to do a full recount prior to completion of the election process. However, mandating that all 50 states conduct the same specific type of audit proposed by this legislation forces some of our County Clerks to discard millions of dollars of voting equipment, purchase new equipment, and conduct a style of audit that has not been prescribed by our legislature. Our current audit procedures have served West Virginia well and are in no need of revision at this time.

**7. List maintenance.** West Virginia clerks just completed a multi-year list maintenance effort following every procedure in state law, and we now have arguably the cleanest voter rolls in state history. When election officials uniformly adhere to their laws designed with multiple checks, notifications, and careful analyses, these processes work well. The proposed legislation prohibits mailing address confirmation cards to attempt to verify the existence of voters who have not voted, for example, for 20 years in any West Virginia election. The common sense approach to list maintenance eliminated by this bill does nothing to protect eligible active and inactive voters' registrations in West Virginia, but discounts election security and voter roll integrity.

**8. Provisional ballots.** West Virginia clerks are opposed to the federal preemption of West Virginia laws regarding counting voter's ballots cast provisionally in incorrect precincts. West Virginia law requires ballots to be cast in the proper precinct. The reason is simple: ballot styles differ based on geographic location to ensure voters have the opportunity to vote for their representatives in their legislative, county, and municipal districts. The proposed legislation will lead to voters having the opportunity to vote a ballot with candidates or questions for which the voter is not eligible, and will require those ballots to be counted regardless of where cast. A major part of election transparency and security is knowing the number of eligible voters by precinct, so officials can ensure there are no more ballots cast than eligible voters. This provision eliminates that check-and-balance, will delay election results, and will exponentially increase the public distrust in elections.

In conclusion, this bill is addressing the wrong aspect of the election problems in the United States. The main focus of the election discussion should be to ensure only votes cast consistent with individual state laws, "legal votes," are counted. State legislatures should be left to address state-specific processes based on decades of solving the unique issues facing each local jurisdiction.

I urge you and the United States Senate to direct your efforts to single shot approaches rather than an omnibus solution. For example, if Congress wants to make Election Day a Federal Holiday, that is clearly in the purview of Congress. But that can be done with a single bill. Otherwise, the language of the U.S. Constitution is clear that the time, place and manner of elections shall be left to state legislatures.

Sincerely,



Mac Warner