

SENATOR MARY KIFFMEYER

District 30

President Pro Tem

Chair: State Government Finance and Policy and Elections Committee
Finance Committee

Health and Human Services Finance and Policy Committee

Human Services Reform Finance and Policy Committee



Senate

State of Minnesota

November 18, 2020

Secretary Steve Simon

Office of the Secretary of State

180 State Office Building

100 Rev. Dr. Martin Luther King Jr. Blvd.

St. Paul, MN 55155

Secretary Simon,

First, I would like to take this opportunity to thank you for your office's hard work during an election that brought forth many challenges. Having served as Secretary of State, I know how much work you and your office must put in to justly serve the voters of Minnesota.

However, fellow legislators and I have consistently heard from concerned constituents on a myriad of concerns regarding election integrity and safety. In addition to general concerns, this letter focuses on voting software and tabulation, the controversial changes made to state law by a consent decree following *LaRose v. Simon*, as well as CARES Act funding.

This letter presents a unique opportunity for your office to address these urgent concerns transparently and fully. I trust you will embrace the opportunity to work with the legislature as we continue to restore security and confidence in our election laws. The voters of Minnesota deserve and are demanding answers to these concerns.

Please note the following questions apply to the 2020 Primary and General Elections in Minnesota.

Voting Software, Security, & Tabulation

With the dramatic increase of mail ballots in response to COVID-19 as well as court orders, counties have been challenged to conform to these new parameters. This has created serious concern over the accuracy and compliance of software used to count and capture votes in the state.

1. Please provide us with a complete list of all election hardware and software vendors utilized by counties and municipalities, broken down by precinct. This includes, but is not limited to, vendors for hardware and software relating to all optical scanning machines (precinct and central count included), and e-poll books.
 - a. What generation of software and hardware was each precinct using?
 - b. When did each precinct receive their vendor software and hardware?

2. Please provide a list of all counties that utilized “off-the-shelf” hardware or software and what vendor they purchased from.
3. What security checks or protocols are followed to ensure the software and hardware functions as claimed by the vendor?
 - a. When and how often are these checks performed?
 - b. Who performs these checks?
 - c. How does your office ensure each county has followed these procedures?
4. Was any polling equipment in the state connected or operated on the internet or any other electronic network?
 - a. How can you prove or guarantee this to be true?
5. Was any wireless communication used while recording votes in any tabulation systems?
 - a. What check or inspection was performed to confirm this?
6. Did any election day polling locations use wireless device-to-device capabilities at any time?
 - a. What check or inspection was performed to confirm this?
7. Did any polling locations connect any equipment to a modem?
 - a. What check or inspection was performed to confirm this?
8. How was information from the ballot tabulating systems transferred by each county?
9. Did any polling locations network an e-poll book prior to 8AM on election day?
 - a. What check or inspection was performed to confirm this?
10. Was Dominion software connected to any precinct count tabulators?
 - a. Did Dominion have any connection to precinct optical scanning in the state?
11. Was any communication sent out to counties regarding the closure or opening of county offices on election night?
 - a. If no communication was sent, how did your office correct the fact that many counties closed their doors to the public wanting to legally watch the counting of ballots?
12. When did your office receive the 2020 party lists?
 - a. When were they sent to the counties?
 - b. What percent of each party’s list was utilized in election judge work?
13. Please provide all guidance and materials sent to townships, cities, or counties in preparation for the 2020 election.

In addition to concerns over the software used by the counties, this election has sparked concerns regarding how the state processes mail and absentee ballots. Specifically, clarity on the process for those voting under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) is required.

1. How many absentee ballots were sent electronically to UOCAVA voters during the 2020 Primary and General Election?
 - a. How many of these ballots were sent to voters in Minnesota?
 - b. How many of these ballots were sent to voters outside of Minnesota?
 - i. What state or country were the ballots electronically sent, if any?
2. How many absentee ballots were sent electronically to non-UOCAVA voters during the 2020 Primary and General Election?
 - a. If any, please provide a breakdown of this data by county.
 - b. What statute authorized you to do this?

Court Changes to Election Law: LaRose v. Simon

Arguably, one the largest factors affecting our 2020 election law was court challenges, such as consent decrees. These challenges seriously altered bipartisan election law intended to protect voter and election integrity.

As the Secretary of State, you are constitutionally required to defend all election law in the state when necessary. Unfortunately, your office has seemingly failed to defend many longstanding bipartisan election laws in court this year. It is especially concerning that every consent decree you have signed was brought forward by Democrat aligned interest groups. We must serve all Minnesotans, not only those represented by your party. These last-minute changes unfairly pulled the rug out from underneath Minnesota voters and the legislature right before the 2020 election.

We are requesting that you address the following questions regarding the LaRose v. Simon case and consent decree, as well as any related appeals.

1. Please provide any-and-all physical, digital, personal, and virtual communication your office and the Attorney General's office had with any party to the LaRose v. Simon lawsuit.
2. Please provide all underlying documentation and research you and the Attorney General's office compiled while addressing this case.
3. Please provide data showing the total cost of the LaRose v. Simon case.
 - a. Please break this data down by budget areas spent.

CARES Act Funding

Last session, the legislature recognized that the 2020 primary and general elections posed unique challenges to funding and process during a pandemic. In response, the Minnesota Senate Republicans passed a comprehensive elections bill which included millions in funding for Minnesota from the federal Help America Vote Act (HAVA). In addition to the HAVA dollars, the federal government provided additional funds through the CARES Act to address voting challenges in the 2020 cycle. These funds were intended to assist locals in purchasing materials and needed items to comply with COVID-19 regulations.

Next session the legislature will be tasked with addressing Minnesota's growing budget shortfall. We must continue to analyze where and how we are spending our tax dollars. I request you provide an itemized list of all 2020 CARES Act expenditures, categorized by spending areas, amount, and when each allocation was made.

In addition to the general breakdown, I request an additional breakdown of the CARES Act money spending prior to July 28, 2020 (and where it was spent) as well as how much was spent after July 28, 2020 (and where it was spent). Please compile this data separately from the general itemized expense data requested above.

Thank you for your attention to these matters. If you would like to discuss any details or clarify questions contained within this request, please do not hesitate to reach out to me or my staff.

*To ensure these matters are addressed in a timely manner, **please respond to this letter within 10 business days** (or by 5PM on December 1, 2020).*

I look forward to your response.

Thank you,

A handwritten signature in black ink, appearing to read "Mary Kiffmeyer". The signature is fluid and cursive, with the first name "Mary" being the most prominent.

Mary Kiffmeyer
State Senator -District 30