

Manchin’s H.R. 1/S. 1 Compromise Bill Threatens West Virginia’s Absentee Ballot System

15 Other States Mirror WV’s System

SEPTEMBER 2021 – West Virginia briefly experimented with expanded mail voting during the 2020 primary season by choosing to send an absentee ballot *application* to every registered voter ahead of the June 9 contests. In the aftermath, county clerks criticized the experience given the heightened paper-based work despite the state’s more digitized election administration systems. For the 2020 General Election, the state maintained the traditionally required excuse-based absentee system. Unlike in [Georgia](#), [Pennsylvania](#), [Wisconsin](#), and others, West Virginia’s undeliverable and “status unknown” ballots did not exceed any statewide difference in winning an election contest last year.

West Virginia’s absentee system balances emergent needs to vote away from the polling place with clear rules on access and handling. In Senator Joe Manchin’s latest bid to revive H.R. 1/S. 1 with his compromise framework, his home state’s clearly functioning system will be outlawed by federal statute.

2016 Election - WV

-13,761 ballots sent
-75 undeliverable
-341 rejected
-956 “unknown”

2020 Election - WV

-150,202 ballots sent
-33 undeliverable
-254 rejected
-6,135 “unknown”

Election	Undeliverable + Unknowns	Loser	L Votes	Winner	W Votes	Difference
2012	???	Raese	237,825	Manchin	394,532	156,707
2014	435	Tennant	155,456	Capito	280,123	124,667
2016	1,031	Clinton	187,457	Trump	486,198	298,741
2018	1,679	Morrissey	271,113	Manchin	290,510	19,397
2020	6,168	Biden	235,984	Trump	545,382	309,398

Just What Does ‘Unknown’ Mean in General and for West Virginia?

The U.S. Election Assistance Commission asks local officials how many ballots were not returned as voted, were undeliverable, or were otherwise “unable to be tracked.” The USPS Inspector General recently reported that only 13 percent of mail ballots in the 2018 General Election used the official tracking system. This means a wide variety of things that can happen to a ballot in the “unknown” column. A ballot can be mis-delivered. It can be thrown out with your unpaid bills. It can be left on the floor of your apartment mail room (like seen in Nevada in 2020). Election officials simply do not know what happened. West Virginia managed to hold the number of “unknown” and undeliverable ballots to a

minimum as other states broke records thanks to expansions like no-excuse applications. Manchin's compromise bill for H.R. 1/S. 1 is a direct threat to his state's laws.

How Do You Qualify for an Absentee Ballot in West Virginia?

West Virginia sets out nine excuses to qualify for an absentee ballot for those that cannot make it to Early Voting or Election Day polling places. Options also exist for some seeking permanent placement on absentee lists.

- ✓ Illness, injury, or "COVID-19 concerns"
- ✓ Disability, advanced age
- ✓ Incarceration or home detention (exceptions: felons, treason, election bribery convicts)
- ✓ Work hours and distance from county seat
- ✓ Inaccessible polling place
- ✓ Travel out of jurisdiction
- ✓ Out of jurisdiction education
- ✓ Temporary leave of residence outside county
- ✓ Public office service

What Does Manchin's Compromise Plan Do? Which States Are Harmed?

Manchin's compromise plan impacts West Virginia by offering *no compromise* on the House-passed H.R. 1 package as it relates to absentee voting. The bill prohibits states from maintaining an excuse-based system. Manchin does not try to sweeten his offer by extending voter identification controls to the absentee voting process, like recently established in Georgia and Texas. The bill actually goes in the exact opposite direction by banning voter ID for absentee ballots. Under the new S. 1 compromise, Alabama, Arkansas, Connecticut, Delaware, Indiana, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, New Hampshire, New York**, Tennessee, Texas, South Carolina, and West Virginia will see their absentee systems outlawed.

PILF President J. Christian Adams

"H.R. 1 and S. 1 cancel good election systems in West Virginia and other states. Manchin's compromises hurt West Virginia. West Virginians demand good government and do not wish to see the instruments which are used to select their leaders increasingly go unaccounted-for. West Virginia's elections are already thoroughly supervised on the community level and the business of counting ballots tends to end on election night without incident. In this political climate, you can't ask for anything better."

Sources & Notes

U.S. Election Assistance Commission; Election Administration and Voting Surveys for 2012, 2014, 2016, 2018, and 2020

USPS Inspector General; Processing Readiness of Election and Political Mail During the 2020 General Elections (August 31, 2020)

WV Secretary of State Mac Warner; Eligibility and Absentee Voting Information (Revised April 21, 2021)

Certified 2012, 2014, 2016, 2018, and 2020 General Election Results for West Virginia via CNN (2021)

Las Vegas Review Journal; Primary underway, but argument over mail election continues (May 19, 2020)

Mountain State Spotlight; Absentee ballots could keep voters safe this year. They may be out of reach for some West Virginians. (October 15, 2020)

The EAC data is not without its challenges. First, the EAC has a history making subtle edits to its data well after publication and without conspicuous editorial notes or changelogs. The version relied upon for this research brief,

*"2020_EAVS_for_Public_Release[1]," shows in its file metadata to have been created on August 16, 2021. Second, after publication, some voter registration jurisdictions have made changes to the EAC data by changing their responses to the federal survey that were hardly obvious to regular observers (see *Judicial Watch v. Pennsylvania*, No. 1:20-CV-708, 2021 U.S. Dist. LEXIS 42496, at *13-15 (M.D. Pa. Mar. 8, 2021)). Finally, national totals reflected in this brief are subject to change with the*

EAC. As of publication, more than 680 jurisdictions have not responded to the survey question related to undeliverable ballots; 400 jurisdictions have not provided “status unknown,” data, and 120 did not provide ballot-rejection numbers.

**During the 2012 election cycle, West Virginia officials failed to disclose undeliverable and “unknown” ballot totals.*

***In November 2021, New York voters will consider a ballot measure authorizing the state legislature to create no-excuse absentee voting, if adopted.*