

The 2020 South Carolina Primary

July 20, 2020

In response to the COVID-19 pandemic, Governor Henry McMaster signed a bill temporarily easing absentee voting requirements for the June primaries and runoffs so that all South Carolina residents would be permitted to vote by mail. A federal judge subsequently voided a separate requirement to have such ballots witnessed. These measures helped fuel record turnout in the June 9 primaries, but the legislation permitting all residents to vote by mail has now expired. Meanwhile, in-person primary voting was impacted by polling place closures and poll-worker shortages that caused confusion, longer lines, and other disruptions disproportionately affecting Black voters. The State Election Commission took steps to improve the vote-by-mail and in-person experience before the June 23 runoff and, between those fixes and lower turnout, that election ran more smoothly. But the [23% turnout of registered voters](#) on June 9 is almost certain to be dwarfed by turnout in November—[68% of registered voters](#) cast ballots in the 2016 presidential election. Legislative efforts to restore the measures that prevailed in June are stalled by a partisan divide, with Republicans saying they would reconsider expanding absentee voting if South Carolina remains under a state of emergency with COVID-19 in September.

Authors: Colette Mayer, Aaron Bray, Theresa Tan, Tiffany Allen, and Tom Abate

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I. Introduction

A. Overview

Leading up to the June 9 statewide primary election, South Carolina was one of seventeen states that still required voters to supply an approved excuse to vote absentee. Many voters and election officials expressed a desire for expanded access to absentee voting, but political divides prolonged the process of switching to no-excuse absentee voting for the June primary and runoff (“the primaries”). Democratic and voting rights organizations filed suits seeking to remove mail-in voting restrictions that they considered unconstitutional, while state Republicans fought against these suits in an effort to safeguard laws that they believed protected against voter fraud. In May, the state General Assembly approved temporary legislation allowing all voters to cast no-excuse absentee ballots in the primary and runoff elections.

With fewer voters expected to show up to polling locations, increased absentee voting mitigated some of the public health concerns surrounding in-person voting. However, even with a record number of absentee voters, over 75% of all ballots were still cast in person in the June 9 primary.

Facilitating in-person voting amid the COVID-19 pandemic posed numerous logistical challenges during the primary. Certain counties experienced severe shortages of poll workers and available polling sites. The resulting consolidation of polling locations and the lack of experienced poll workers led to extremely long lines and various operational errors on Election Day.

Despite these challenges, and although voter turnout in South Carolina for statewide primary elections historically is low, the June 9 primary had record turnout. While previous state primaries had turnout of 14-20%, approximately 23% of voters participated in the 2020 primary. For the reasons discussed below, the increase in voter turnout can be in part attributed to the large number of absentee ballots cast. Although the relaxation of absentee voter laws increased voter turnout in the primaries, there are ongoing legal battles concerning how absentee voting procedures will be handled for the November general election.

Below we analyze changes made in preparation for the primary and runoff elections and the legal and logistical challenges South Carolina faced. We conclude with a general evaluation of the effects of COVID-19 on the June statewide primary election and suggestions for a healthier election environment.

B. Election Law Summary ([Lawyers' Committee for Civil Rights and SC Code](#))

The following table summarizes South Carolina election law related to voter registration, absentee ballots, and in-person voting, as [adapted](#) from the Lawyers' Committee for Civil Rights Under Law.

SC Code/Regulation	Details
S.C. Code Ann. §§ 7-5-150; 7-5-155	<p>Registration Deadlines</p> <ul style="list-style-type: none"> ● 30 days prior to Election Day; voters can register by mail
S.C. Code Ann. § 7-15-320	<p>Qualifying for Mail-in/Absentee</p> <ul style="list-style-type: none"> ● Excuse required ● Acceptable excuses <ul style="list-style-type: none"> ○ Voter's illness or disability ○ Caring for someone with an illness or disability ○ Elderly voters (age sixty-five and older) ○ Other (absence from the county/municipality; work schedule; student in institution outside county/municipality; incarcerated voters who are eligible to vote; poll worker)
S.C. Code Ann. §§ 7-15-330; 7-15-420; 7-15-330	<p>Mail-in/Absentee Deadlines</p> <ul style="list-style-type: none"> ● Application deadline by mail: four days prior to Election Day by 5:00 p.m. ● Submission by mail deadline: received by Election Day ● Emergency Absentee Ballots: all voters admitted to hospital as an emergency patient within four days of an election may apply up through Election Day <ul style="list-style-type: none"> ○ An immediate family member of the voter may pick up and return the ballot on behalf of the voter
S.C. Code Ann. § 7-15-385	<p>Return Absentee Ballots by Mail or In Person</p> <ul style="list-style-type: none"> ● Voter may authorize another person to return the ballot in writing ● Candidates and paid campaign workers may NOT return absentee ballots unless they are an immediate family member of the voter

<p>S.C. Code Ann. §§ 7-15-220; 7-15-230</p>	<p>Mail-in/Absentee verification</p> <ul style="list-style-type: none"> ● No proof of identity requirements ● Witness requirements <ul style="list-style-type: none"> ○ Voter must sign her ballot envelope in the presence of a witness ○ Witness must also sign the envelope and provide their address ○ If requirements not satisfied then the ballot is rejected
<p>S.C. Code Ann. § 7-13-710</p>	<p>In-Person Voter ID</p> <ul style="list-style-type: none"> ● Acceptable ID for in-person voting: valid SC driver's license, or other photo ID card issued by the SC DMV; valid US passport; valid military photo ID; valid SC voter registration card with a photo <p>Other</p> <ul style="list-style-type: none"> ● Without an ID, voters can cast a provisional ballot <ul style="list-style-type: none"> ○ Ballot will be counted if: <ul style="list-style-type: none"> ▪ Voter provides ID before certification of election; OR ▪ if voter has religious objection to being photographed; or if she has reasonable impediment to obtaining photo ID, can complete an affidavit
<p>S.C. Code Ann. §§ 7-7-10; 7-7-910</p>	<p>Polling Precinct Changes</p> <ul style="list-style-type: none"> ● Voters must be notified in writing of his/her transfer to a new polling place and the location of the new polling place <p>Alternative Polling Place</p> <ul style="list-style-type: none"> ● Alternative polling place is not required to be within the voter's precinct <ul style="list-style-type: none"> ○ However, the county may designate a polling place outside the precinct only if no other location within the precinct is available for use as a polling place ○ Every attempt must be made to notify voters of the alternative polling place before the election and on the Election Day through media and by posted notice
<p>S.C. Code Ann. § 7-13-72</p>	<p>Managers of Election</p> <ul style="list-style-type: none"> ● County board manages the election

	<ul style="list-style-type: none"> o They must appoint three managers of election for each polling place for every 500 voters registered to vote
S.C. Code Ann. §§ 7-13-340; 7-23-40	<p>Printing and Distribution of Ballots</p> <ul style="list-style-type: none"> • State Election Commission is responsible for printing and distribution of ballots o Printing and distribution of ballots are done at state expense • Counties shall cover expense for stationary, making of election boxes, and rents
S.C. Code Ann. §§ 7-13-850; 7-13-1110; 7-15-420	<p>Closing Polls and Ballot Tabulation</p> <ul style="list-style-type: none"> • Voters in process of voting or are present waiting to vote shall be allowed to vote before the polls close • All ballots must be counted on Election Day • Absentee ballots may be counted starting at 9:00 a.m. on Election Day
S.C. Code Ann. §§ 7-7-910(B); 7-13-1170	<p>Emergencies</p> <ul style="list-style-type: none"> • If a polling place is not available on Election Day, this constitutes an “emergency situation” and election officials can designate an alternative polling place with approval of legislative delegation of jurisdiction if election more than seven days away. o If within seven days of election, delegation only needs to be notified • If a political jurisdiction in state, for whatever reason, cannot hold an election, the Governor can order a new election

II. Background to South Carolina’s Primary Election

A. Elections in Play

South Carolina’s June 9, 2020 primary election covered a broad array of national and state offices. The primaries included the U.S. Senate, U.S. House of Representatives, General Assembly (state senate and house representatives), district offices, and solicitor positions (equivalent to a district attorney or state attorney). The primary election results can be found [here](#). The subsequent June 23,

2020, election was a much smaller primary runoff [covering eleven state legislative elections](#). This election included races from the June 9 primary in which no candidate received the needed majority of votes. The election results can be found [here](#).

B. South Carolina Government's Response and Preparation

General COVID-19 Response

South Carolina's initial response to COVID-19 at the state level was less proactive and stringent than many other states. Governor Henry McMaster [issued](#) a "[work-or-home](#)" order on April 6, 2020, that went into effect the following day. The order required South Carolinians to either stay "at home or work unless visiting family, exercising, or obtaining essential goods or services." McMaster began [re-opening retail stores and beaches](#) on April 20. McMaster [lifted](#) the work-or-home order effective on May 4, which allowed outdoor dining.

South Carolina does not mandate either social distancing or the use of masks in public. While [state health officials](#) recommend both practices, Governor McMaster stated that issuing and enforcing a statewide order would be "[impractical](#)." Instead, McMaster has allowed county or city officials to pass their own local rules regarding COVID-19 protections, as long as they were [sufficiently narrow](#).

During the June 9 primary election, few cities or counties had local mask mandates. However, as the COVID-19 situation has developed, some local governments have mandated greater protections than the state. [Charleston](#) and [Columbia](#), the two largest cities in South Carolina, required, under penalty of a fine, the use of masks starting in late June 2020 in public buildings or when six-foot social distancing cannot be maintained outdoors.

Changes to Election Procedures due to COVID-19

1. Absentee

South Carolina changed its absentee voting rules in preparation for the June 9 primary election and June 23 runoff. On May 13, 2020, South Carolina Governor Henry McMaster [signed a bill](#) allowing all residents of South Carolina to vote absentee. Voters could select "Reason 18 – State of Emergency" on the absentee ballot application. Subsequently, on May 25, 2020, the U.S. District Court issued an [order](#) stating that South Carolina residents voting absentee by mail did not have to have a witness to their provision of a signature on ballot envelopes. Both of these changes were only instituted for the primary and runoff elections and are [no longer in effect](#) as of July 1, 2020.

[Absentee voting](#) rules for the June primaries were as follows:

- The deadline to register for the 2020 state primaries was May 10.
- Voters could apply for absentee ballots until June 5 at 5:00 PM.
- There were two options for applying to vote absentee:
 1. Print and mail in the [absentee ballot application](#) from SCVotes.org.
 2. Request an application from the [appropriate county voter registration office](#) by phone, email, or fax.
- The deadline to absentee vote in person was June 8 at 5:00 PM, the day before the primary election.
- Mailed absentee ballots had to arrive at election offices by 7:00 PM on the day of the election.

2. In-Person

South Carolina's General Assembly allocated [\\$15 million](#), out of a \$155 million COVID-19 account to protect voters and poll workers in response to the pandemic. These funds cover health and safety costs associated with administering the 2020 primary, runoff, and general elections.

South Carolina poll workers were provided with some equipment and training in accordance with [CDC COVID-19 guidelines](#). The South Carolina State Election Commission (SEC) stated it would [provide county poll workers with masks](#), gloves, face shields, plexiglass germ shields, and hand sanitizer. However, the state notified some counties that the state ordered supplies might not arrive in time for the June 9 primary. Affected county officials [obtained their own](#) supplies as a stopgap measure.

There were moderate COVID-19 protections for in-person voters. Check-in stations and voting equipment were spaced at least [six feet apart](#). Polling places supplied voters with [hand sanitizer and cotton swabs](#) to use on voting machine touchscreens. The SEC trained poll workers in [proper social distancing protocol](#) and [stated](#) that staff would wear [protective gear](#). Additionally, voters with a physical handicap or those aged sixty-five and older could use [curbside voting](#).

Voters themselves were encouraged but [not required](#) to wear masks in polling places. Even if voters wore masks, they could be asked by poll workers to remove their masks for [identity verification](#). While some counties, such as Beaufort, were [diligent](#) in providing voters with alternatives to using

their fingers, such as gloves or swabs, as well as clean pens—voting machines and equipment can still only be cleaned periodically throughout the day.

III. Challenges Faced in the Primary Election

A. Legal Challenges

The transition to no-excuse absentee voting for the June primaries and runoffs was preceded by a number of legal disputes. In late April, the South Carolina American Civil Liberties Union (ACLU) and the NAACP Legal Defense and Educational Fund assisted South Carolina voting advocates in [filing a lawsuit in federal court](#) against the SEC for not making changes to absentee voting rules amid public health concerns. The lawsuit addressed two aspects of South Carolina's absentee voting rules that could prevent individuals from voting due to COVID-19: (1) a requirement to provide a valid excuse when requesting to vote absentee, and (2) a requirement to provide a witness signature with the returned absentee ballot. The latter of the two requirements was [successfully challenged in court](#). As stated above, on May 25, a federal court ruled in favor of barring state election officials from enforcing the witness signature requirement for the June primary and runoff.

The state and national Democrats also [filed a suit](#) against the SEC in late April with the South Carolina Supreme Court. The suit requested that the court consider those who were isolating at home as being physically disabled under then-current absentee voter rules and the requirement of a witness signature on ballot envelopes be lifted. This suit was mooted when the state house voted hours after oral argument to allow anyone registered to vote in the primaries to request an absentee ballot.

B. Logistical Challenges

By June 1, South Carolina anticipated having to move [a total of 168 polling locations, the most last-minute changes ever](#). By the June 9 primary, that number was even higher: SEC spokesman Chris Whitmire [said](#) the day before the primary election that 250 polling places had been moved. Whitmire [explained](#) that some polling sites were not available for use because of a shortage in poll workers. Others, he explained, were unavailable because either the facilities stated that they were not offering themselves for the upcoming election or because a particular location posed unique COVID-19 challenges (e.g., senior centers).

The SEC [sent out postcards](#) to notify individuals of location changes. They also provided a [list](#) of polling place relocations, but they encouraged voters to verify their polling location on the [SCVotes webpage](#) before heading to the polls on June 9.

The large number of polling location changes in Richland County presented logistical challenges to voters, and the changes [disproportionately affected](#) Black voters. For example, six out of the ten precincts in Richland County that experienced the [greatest increase in distance](#) based on polling location changes had majority Black voters. Voters opting to vote in person but without access to transportation were [especially disadvantaged](#) in this arrangement. According to the [National Equity Atlas](#), as of 2015, 11.5% of Black households in Columbia (the county seat of Richland) did not have a vehicle, compared to 3.9% of white households.

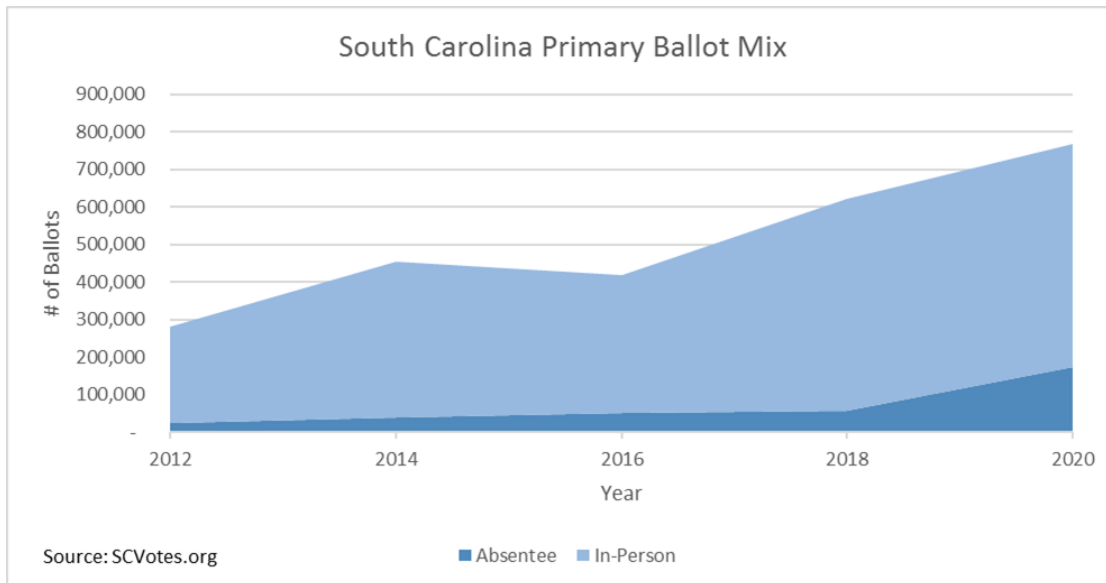
IV. Post-Mortem of the June 9 Primary

A. Summary

The June 9 primary election was defined by its two modes of voting: notable success in absentee ballots, but significant difficulties for in-person voters. South Carolina's expansion of absentee voting performed relatively well across the state. Conversely, in-person voters faced significant challenges. These included issues with polling site confusion, long wait times, and incomplete or incorrect ballots where key races were left off or where voters were given the wrong ballot.

B. Voter Turnout

Despite the COVID-19 pandemic, there was [record turnout](#) for the June 9 primaries. Over 767,187 South Carolinians cast ballots, representing an [83.5% increase](#) over the ballots cast in the 2016 primaries. Overall turnout was [23% of registered voters](#), breaking the previous 2018 record of [20%](#). Most primary voters cast their ballots in person, but a [growing number](#) of voters used absentee ballots. Absentee voters made up [22.4%](#) of total voters, nearly doubling the 2016 record of 12.5%.



C. Voter Experience

Absentee/Mail

The absentee voting experience was smooth for most voters. South Carolina’s [absentee reforms](#), including allowing all residents to vote by mail and no longer requiring a witness signature, increased voting access. As a result, there were record numbers of absentee ballots [issued](#) and [cast](#) in the 2020 primaries.

But there were still some problems. First, at least some voters did not receive their absentee ballots in time. [In one reported example](#), Lynette Farnsworth faced this dilemma during the June 9 primaries. Farnsworth and her mother had requested ballots from their Richland County elections office, but never received them in the mail. When Farnsworth tried to vote in person, poll workers turned Farnsworth away because of her absentee status. To fix the situation, Farnsworth had to call her understaffed local elections office. After multiple calls and two visits to her local polling place, Farnsworth was finally able to vote. [In another example](#), a disabled voter who was in a high-risk category for COVID-19, and thus not leaving her home, filed suit, on the June 9 Election Day, in South Carolina District Court under the American with Disabilities Act. She sought a temporary restraining order (TRO) in an attempt to obtain a correct ballot after the absentee ballot she had first received was based on an old address, with races for which she was ineligible to vote now. Because the case was not assigned to a judge until the following day, the motion for a TRO was held moot, after which the plaintiff voluntarily dismissed the action.

Second, the absentee submission process was counterintuitive. Voters were not allowed to drop off absentee ballots at voter precincts. Instead, absentee ballots could only be returned to the [voter registration office](#) and had to be submitted before 7:00 PM on Election Day. Voters who attempted to drop off their absentee ballots at polling stations would be [referred to their registration office](#) instead.

In-Person

There were [significant issues](#) with South Carolina's in-person voting process, including polling site confusion, long lines, risk of COVID-19 exposure, and incorrect ballots. First, there was [confusion](#) about polling places' location, because [hundreds](#) of standard polling sites had been [consolidated or relocated](#). Although election boards stated they would [notify](#) impacted voters, many voters were unaware of the changes until Election Day. For voters who do not have access to cars and must rely on public transit or relatives for rides, polling place changes can be difficult to navigate. These voters plan out their trips in advance, depending on public transit routes or on the availability of friends and family. A last minute change can make it hard for them to [reach the polls](#). These polling place closures and consolidations [have been found](#) to reduce voter turnout.

Second, there were long wait times that made voting difficult. Both in-person and curbside voters experienced long lines, often waiting hours to vote in ninety-degree heat. Hundreds of voters in Richland County were still in line after midnight, more than [five hours](#) after polls had closed. Excessive wait times resulted in voters [missing work or medical appointments](#), and in some cases, the [opportunity to vote](#). Wait times across polling precinct locations, even within the same county, [varied drastically](#). For example, in Richland County, even as late-night voters were forced to stand in line for more than five hours, afternoon voters at the North Springs Center reported hour-long waits, while morning and midday voters at Brockman Elementary could be in and out in ten to thirty minutes.

Third, voting in person increased the likelihood of COVID-19 exposure. At a [Colleton County](#) polling station, a voter announced "I have COVID-19, but I want to vote." Five poll managers witnessed the incident and closed the precinct. The site was later [re-opened at 6:00 PM](#) for voters [still in line](#) after the site was cleaned and staffed with new poll workers. The situation inside polling stations was sometimes unsafe as well. Kristen Meade, a Columbia voter, noted that inside her polling station, "there was [no social distancing](#)," with many voters and volunteers packed into a small space.

Fourth, key races were inadvertently left off ballots, and voters were sometimes given the wrong ballot for their district. [Multiple district](#) or [county](#) races were left off of some ballots across the state. As a result, some precinct polling managers decided to shift to [handwritten ballots](#) without consulting their county election commission. Some inexperienced poll workers gave voters the wrong

ballot for their district. Mistakes by inexperienced poll workers were [further compounded](#) by how South Carolina districts are drawn. In South Carolina, districts can be drawn differently for various elected offices. Thus, two voters in the same polling location could have different ballots—the voters could live in the same district for a House of Representative candidate but in different school board districts. These nuances made it [difficult for new poll workers](#) to determine the correct ballot for each voter.

D. Election Count Issues

There were [minor delays](#) in the election results. High-profile races, such as the Republican Senate primary, were called [within an hour](#) of polls closing, but other district races were not finalized until a [couple of days after](#) Election Day.

These delays occurred because of the increase in absentee ballots and long wait times. First, South Carolina [state law](#) requires that all ballots be counted starting on Election Day, but absentee ballots take a longer time to process and tabulate. County officials [cannot process](#) these ballots when they arrive, even though South Carolina's [paper-based election system](#) requires all absentee ballots [be opened by hand](#) and processed, instead of collected and counted by a voting machine. Second, long wait times at the polls meant many in-person votes were still being counted [late into the night](#). For example, several in-person voters in Richland County did not cast their ballots until [midnight](#). As a result, Richland County's Election Chairman, Charles Austin, did not finish collecting and tabulating ballots until [4:00 AM](#) on Wednesday, June 10. While larger counties received high-speed scanners that could [count 72 ballots per minute](#), there were still delays across the state.

V. Next Steps

A. June 23 Runoff Primary Improvements

Disappointed with how the June 9 primaries had been conducted, the [SEC took steps](#) to improve the June 23 runoff primaries. First, it concentrated on fixing election processes in [Richland County](#), South Carolina's second-largest county. Richland County was the site of some of the biggest issues in the June 9 primary, including significant voting site consolidation and [four-to-five-hour](#) wait times. The [SEC assisted the county](#) with polling manager training, voting equipment testing, and general election operations. In the week leading up to the June 23 primary, the SEC hosted [eight in-person training](#) sessions and actively recruited an additional 240 poll workers. It also strongly

encouraged the county to hire a permanent election director to lead the office. Second, the SEC advocated for [statewide improvements](#), including more poll manager recruitment and training, plus additional polling sites to reduce lines.

Due to the SEC's improvements and low voter turnout, there were [few problems](#) with the June 23 runoff primaries. Richland County in particular had a smooth runoff. There were no major ballot issues or long lines. Precincts were adequately staffed and all poll workers had access to protective equipment. However, some of the improvement could be attributed to [low voter turnout](#). The general election is likely to have up to [three times](#) more voters than the June 9 primary.

B. Legislative Action

Since the June primaries, legislative attempts to expand absentee voting for the November election have [failed](#). South Carolina's previous [absentee reforms](#), including allowing all residents to participate and not requiring a witness signature, were limited to the June primaries. South Carolina House Democrats [proposed two amendments](#) to a coronavirus relief package that would have expanded absentee voting to the general election. However on June 24, 2020, House members voted down the two amendments, [mostly along party lines](#). Republicans said they would reconsider expanding absentee voting in [September](#) 2020 if South Carolina is "still under a state of emergency with the COVID crisis." In response, South Carolina's Democratic Party Chairman, [Trav Robertson](#), vowed to challenge the existing absentee limitations in court.

C. Recommendations

Below are some ways that South Carolina could improve both the absentee and in-person voting experience in November. These proposals are aimed at increasing access to mail-in voting, lowering wait times in person, and keeping everyone safe as the COVID-19 pandemic continues.

Absentee Ballots

One potential way to limit long lines on Election Day is to provide all South Carolina voters with the same access to absentee ballots for the November general election that they had for the primaries. COVID-19 is expected to still be a serious problem [through the end of 2020](#). Fundamental issues that plagued in-person voting, including fewer election workers and polling sites due to the pandemic, will [still be a concern in November](#). As noted above, even the record-breaking [23%](#) turnout of registered voters for the June 9 primary is almost certain to be dwarfed by turnout during the Presidential election—[68%](#) of registered voters four years ago—and this higher turnout will exacerbate the problems caused by any lack of poll workers and polling sites.

Second, South Carolina could expand the array of return options beyond the county election office. Providing additional ballot drop-off stations will make it easier for voters to return their absentee ballots on time. These drop boxes are common in other states.

Third, South Carolina could consider promoting its [online ballot-tracking program](#). This would make it easier for voters to track their absentee ballots in the mail. The current tracker allows South Carolina voters to get updates on their absentee ballot, such as when the ballot has been received by election officials.

In-Person Voting

To improve the in-person voting experience, there are several changes that South Carolina could implement. First, county election officials can engage with local community leaders and nonprofit groups to better disseminate polling information before the election. Voter outreach is an essential part of a healthy election, and the limited methods used in the primaries, such as [mailing notices](#), did not prevent significant confusion on Election Day. Giving voters more notice about any changes to their polling places would be helpful as well.

Second, state officials could hire more poll workers. Many long-time poll workers are at high-risk for COVID-19 and will likely be unable to work this November. In order to recruit more workers, [extra pay or sick leave](#) could be useful incentives. Additionally, lower risk locations, such as schools, could be recruited to act as polling stations. Large, open spaces help to [reduce COVID-19 transmission](#) since they “prevent the virus from building up in concentrated amounts.”

Lastly, the state could expand flexible in-person voting options, such as curbside voting or a ticket process, where people can get a number and come back to vote. Both options are [recommended by the CDC](#), as they would reduce voters’ exposure to COVID-19 and the likelihood of long lines.