

Meeting of the Select Committee on 2020 Emergency Election Support

Wednesday, June 3, 2020 – 1:00 p.m.

Members:

- Bradford E. Cook, Chairman
- Representative Barbara J. Griffin
- Katherine M. Hanna
- Kathy L. Seaver
- Senator Tom Sherman
- Eugene Van Loan III

Also participating:

- David Scanlan, Deputy Secretary of State
- Orville “Bud” Fitch, Legal Counsel, Secretary of State’s Office
- Nicholas Chong Yen, Assistant Attorney General

Select Committee meeting

- Chairman Cook opened the meeting at 1:00 p.m.
- Chairman Cook called the roll. All members were attending remotely, alone.
- At some point during this meeting, the draft report will likely be posted on the Secretary of State’s website so members of the public joining us can follow along. Many changes and suggestions have been made to it, so it’s not exactly what we’ll discuss in its entirety.
 - It has an inaccurate exhibit A on it, with the wrong names of committee members; it was a draft at the outset of the committee. That will be replaced with the accurate version.
- Approval of last Wednesday and Thursday’s minutes: Ms. Seaver moved adoption, seconded by Mr. Van Loan. Adopted by unanimous roll call vote, except for Rep. Griffin, who abstained as she had not yet reviewed the minutes.
- Chairman Cook: Today’s meeting is devoted to the review and editing of the draft report of the committee. As I indicated, I’ve already received many editorial corrections and some substantive corrections. When we reach the sections drafted by subcommittees, I may call on the members of the subcommittee to explain it to the extent they can.
 - You’ve also received two documents: one is a table of contents and the other is an action matrix with some statutory references.
- Chairman Cook: On the first page, it should say “he appointed”, not “decide” and “appoint”. Minor mistake to be corrected.
 - Second page: I included the understandings, a summary of the CARES Act, and the operating principles, which we came up with and Mr. Van Loan was responsible for proposing to us. Sen. Sherman had one suggested amendment on the operating principles, and that was in number one, on the second line, it should read: “encourage that all possible steps be made” instead of “reasonable steps”. This is in an effort to emphasize that safety of voters and poll workers is our top priority.
 - Mr. Van Loan proposed: “reasonably possible”.
 - Sen. Sherman: That’s fine; I just wanted it to be stronger than “reasonable”.

- Chairman Cook: Let's use: "reasonably possible."
- Rep. Griffin: We should also be mindful of shifting CDC guidelines and how there may be different circumstances in the fall.
- Chairman Cook: Further down in the report, especially in the PPE section, Sen. Sherman and I discussed a prefatory statement which would say: "This is based on information we have in the first week of June, and we know conditions will change and folks should stay tuned."
- Mr. Van Loan: I hope we don't obsess about drafting specific language today. I think we should speak more conceptually versus getting down into the weeds.
- Chairman Cook: Under basic assumptions on page 3, Sen. Sherman suggested there should be another baseline assumption: That the safest way to vote in a time of pandemic is by absentee. We've operated on this assumption throughout the process but it's not explicitly stated.
- Sen. Sherman: I agree with all these assumptions. The closest to what I was trying to do was #5, but I really want to stress the whole reason we're doing this is because of COVID-19 and its impact on elections, and we've all agreed the safest way to vote is by absentee. Perhaps #1 should be something like: "The process of voter registration and casting ballots with the lowest risk to municipal officials, election workers, and voters will be the absentee option," or verbiage along those lines. We certainly hope everybody votes, and the safest way to do that for everyone involved is by absentee.
- Mr. Van Loan: I don't have a problem with that; I think it's been implicitly understood by all of us that as long as it's clear that this is something that we're doing because of the pandemic and that we're not making any kind of overarching recommendations that we favor absentee versus in-person voting, which is beyond our purview and I wouldn't agree with.
- Sen. Sherman: Maybe start with a phrase like: "In the presence of the 2020 COVID-19 pandemic..." and then go into the statement about absentee voting being safest. This would be a 2020 specific statement.
- Rep. Griffin: I understand, but I was comfortable with the assumptions as they were. I don't know that the people who vote in Dixville Notch would agree with you.
- Sen. Sherman: I can guarantee that the Department of Health and Human Services would agree that the people in Dixville Notch would be safest if they vote absentee.
- Rep. Griffin: That's a general statement. We'd all be safer if we didn't go outside every day. I don't want to diminish the issue, but given the changes in the CDC guidelines over the last few weeks, I hesitate to say that. I think the statement that COVID-19 will not have been eliminated as a factor affecting both elections is an accurate statement.
- Chairman Cook: I'm happy to add one that is written in the limited way Sen. Sherman and Mr. Van Loan discussed, saying that specific to this year, because of the pandemic, the safest way for poll workers and voters to register and vote is by absentee.
- Sen. Sherman: I can wordsmith an embellishment of #2 that would capture my suggestion.
- Ms. Seaver: Let's talk about #1—it's not September 2nd it's the 8th.
- Chairman Cook: Noted.
- Chairman Cook: Sen. Sherman is going to send language before tonight so I can get it into the report.
- Chairman Cook: Down in the course of the committee's public hearings statement, I suggest putting the words "basic system of election laws" before "election laws". Then the sentence at the end that

says “However certain changes may require an executive order or 2020-only changes...” is consistent with the rest of the report, but may need to be clarified.

- Mr. Van Loan: Do we have a dollar figure to discuss yet?
- Attorney Fitch: We’re not at the stage where we can discuss that.
- Sen. Sherman: Typos in the first paragraph under Roman III: In the second line it should be “the Committee set *its* priorities” without an apostrophe, and the third line it should be “but *that* the federal funds are limited”.
 - “Publicizing availability of action by mail”: I don’t know if we should call that mail or *absentee*, because absentee doesn’t necessarily require mail, since there are drop-off provisions.
- Rep. Griffin: If you look at the table of contents, we called that section “publicizing election procedures for 2020” in the body of the document, so if you follow that list in order of paragraphs that follow, it should be “accounting firm expenses”, “PPE”, “prepaid postage”, “publicizing election procedures for 2020”, and then in the body of the document we go to “leasing of additional ballot counting machines”, because I think the other three things listed which we all agree need to be addressed...Some of them are non-appropriation items, but I think that title will work better.
- Sen. Sherman: One last typo: In the section on the Secretary of State’s hotline, there needs to be a “T” in “adopted”.
- Chairman Cook: the prefatory blurb says this is based on the situation in June; conditions will change and the Secretary of State should consider those conditions in coordination with local elected officials.
- Sen. Sherman: In the PPE section, there’s a small change under “additional considerations”, three pages in, “physical design of polling place”, 2) For protection of the workers, every table will have a plastic/Plexiglas shield with a document opening at the base. I put sneeze guard in parentheses, because I want to make sure we’re all using the same terminology.
 - On the next page there are booths discussed, small letter (b) 1. Surface. Rep. Griffin brought up using disposable paper, so I added: surface – cleaned, or disposable paper be changed between every voter. I wanted to be thorough. Huge thanks to Ms. Seaver for her help on the subcommittee.
- Ms. Seaver: Under additional considerations, to say there need to be three lanes going into each table, it might be taken by clerks to mean they have to have three. We have four for presidential elections; we usually have two for town meeting, but for primary we may have 3 depending on the number of absentee ballots cast. Saying there has to be three may cause confusion.
- Sen. Sherman: Maybe we just drop the number.
- Ms. Seaver: Maybe we say they must have separate lanes going into each table. Also, we have an 8-foot table, so we have someone on one end then a stanchion dividing that person from outside the polling area from the person inside, but they’re at the same table. Later on you say there will be 2 tables to give out ballots and in reality, half the tables are in the polling area and half are outside of it. What if we get rid of tables and say just observe social distancing?
- Mr. Van Loan: My experience is that I check in and get a ballot at the same table.
- Chairman Cook: We can fix that and make it more general.
- Mr. Van Loan: On the next page, after #7 “undeclared table eliminated” there’s a section on PPE supplies needed. Is that section necessary?

- Sen. Sherman: That’s for the entire physical design of the polling place, including the needed inventory.
- Rep. Griffin: So that needs another heading above it that says “suggested materials for polling places - PPE supplies suggested”.
- Sen. Sherman: The polling place has the greatest need. This list is really specific to the polling place, so it’s got everything: wiping down tables and materials, etc. But maybe Rep. Griffin can wordsmith the title for that section of PPE.
- Chairman Cook: “PPE supplies needed for the polling place.”
- Mr. Van Loan: I assumed prior discussion of PPE needs covered that.
- Sen. Sherman: It’s a very similar list. The idea here is this section was on PPE, so when I said “additional considerations” I was going back to the doctor’s concept of putting in a template of a reasonable design and the PPE needed to facilitate that template. I’m not wedded to this but I’d rather have more PPE lists than fewer, and make sure each section has that list.
- Mr. Van Loan: This should be clarified so it doesn’t appear redundant or inconsistent.
- Sen. Sherman: I think you could take out the second list and leave it above “additional considerations”—keep that list there. I want to make sure it’s inclusive and nothing is dropped.
- Chairman Cook: We’ve got a numbering issue because if we keep that request we’ll make it #8, but the paragraph that starts with: “If a voter refuses...” We’ve got to have a title for that.
- Sen. Sherman: Under “additional considerations” the first one was physical design of polling place, and the next one is “If a voter refuses...” so you could put a Roman I and Roman II if you wanted to.
- Rep. Griffin: Is there a different flow of people who don’t have PPE?
- Sen. Sherman: Yes.
- Ms. Hanna: In the section about “If a voter refuses PPE...” Governors in other states have required citizens to wear masks during COVID-19. Do we want to discuss the proposition of asking our Governor to do the same?
- Mr. Van Loan: I’d like to speak to this. This is something I feel strongly about. I don’t know what the Attorney General’s office has to say about it, but personally I don’t think it is illegal or unconstitutional for the state to say “If you wish to vote in these circumstances, and assuming we have the same or worse COVID-19 concern, if you wish to vote in person at the polls you must wear a mask or you must have gloves and we’ll supply them.” You should at least leave this as an option for municipalities.
- Attorney Chong Yen: We understand there are already some communities in NH that have released local ordinances relative to face coverings: Nashua and Salem have already done so. I don’t have a sense as to the position of the Attorney General; I don’t know yet if that issue has percolated, but I do know that with respect to the Nashua ordinance, a lawsuit was filed by a resident re: the requirement for face coverings. I believe it is *Andrew Cooper v. City of Nashua* in Hillsborough Superior Court. I can find the complaint and send it to the committee if it would be helpful, just to keep in mind the expectations of how the public may react relative to those requirements might be helpful for your consideration.
- Mr. Van Loan: I recognize the way it’s drafted now we’re not saying that we necessarily want to provide all kinds of options for someone who doesn’t choose to wear PPE, but if you are going to do it and provide options, the one that I would recommend against is allowing someone to show up at the polls, decline to use PPE, and be given the opportunity to vote by absentee, because it’s going to be difficult to deal with people that come in and decline to wear PPE and now we have to jump

through hoops to arrange for them to vote absentee. I don't think we should offer/encourage the option of not wearing PPE. Those who decline PPE should be moved to another line and have to wait until they can be accommodated.

- Ms. Seaver: It's more disruptive to close off the line and get them in another line: that's more disruptive, and I believe wouldn't fly legally. We once tried to close the line for a half hour to finish absentee processing and we were slapped for doing it. Closing the line isn't a good option. The only way you can do it is absentee because the law allows for them to be brought outside. You process them as absentee and they don't enter the polling place. That's a cleaner way on election day to handle this. I'd like to see this not have the option 2 to close the line. I don't see that being viable.
- Ms. Hanna: I believe people should be able to vote by absentee if they refuse to wear PPE.
- Chairman Cook: How about we preface the whole section with: The committee strongly believes everyone voting in person should be wearing an appropriate mask if the COVID-19 situation is still prevalent on election day.
- Mr. Van Loan: What if we leave it to the Secretary of State?
- Deputy Secretary Scanlan: We have dealt with similar issues in the past, whether it's whether someone can wear campaign slogans, etc. There are individuals that will test the system, and usually that results in a conversation with the Attorney General's office and the local election officials and we figure out the best way to address it to ensure everyone's rights are protected and the process goes smoothly.
- Sen. Sherman: I sat down and thought about all the different scenarios: How could we accommodate this? I'm fine with having the Attorney General do that, but I think it's a good idea to have that pointed out: This will be potentially something that arises, and what's going to be the solution? I put everything I could think of on the table, but if the will of the committee is that we go back and say the Secretary of State, with the resources of the Attorney General's office, will deal with that situation using what Chairman Cook said at the beginning: We strongly urge everyone to participate with face coverings and social distancing, but in the event that a voter refuses, we will follow a protocol outlined by the Secretary of State. I don't want to lose the whole section because it's important to include as a consideration.
- Committee agreed to leave it up to the Secretary of State, and to remove the listed options.
- Chairman Cook: Prepaid postage is the section where there are several changes Sen. Sherman submitted.
 - First one: right before Roman II, on the next page, I added that we'll decide to have one mailing before the September primary. The Secretary of State may decide to do a second mailing prior to the November election if conditions indicate it is necessary and funding is available, because my thought was we'd say that because of cost we're going to have one every-household mailing and we've got to talk about what we'll recommend, whether it's a postcard or envelope. We can discuss that.
 - Re: the initial informational mailing, we had consensus there would be at least one mailing. If we had consensus it goes to every household, there was a question about how many households?
- Sen. Sherman: The 528,078 figure came from Vicky.
- Ms. Hanna: If we decide on this, the lead-in should be that the committee believes strongly that prepaid postage should be paid for two major elements: the mass mailing and the return of all

absentee ballots both in the primary and in the general election. Something broad that would state at the outset what our consensus is about prepaid postage.

- Chairman Cook: I think that's wise.
- Deputy Secretary Scanlan: Draft report is now up and printable off the Secretary of State's website. Anyone interested can find it on our webpage dedicated to the product of this committee.
- Chairman Cook: Committee recommends that postage costs be paid from federal funds for an every-household mailing and return postage for ballots for each election.
- Sen. Sherman: I want to ensure we gave mention in the draft that I sent to Chairman Cook: I had a section that is not in the final report and it talked about a pre-general election absentee mailing. That actually is picked up by Chairman Cook's statement: The Secretary of State may choose to underwrite a second mailing. And, the concern I had, and I think the reason Chairman Cook took it out, was over several concerns including the checklist as a source for addresses for, one of which is the checklist is old and second is that it may use up unnecessary funds because of redundancies. I have no problem with that not being in there, but I wanted to recognize we had the concept in the draft about a single large mailing that should go out before the general election, similar to the initial mailing we're talking about. I think Chairman Cook's comment does cover that and gives the Secretary of State wiggle room to do that if they have extra funds.
- Chairman Cook: The subcommittee recommends that the Secretary of State adopt one of following three options: a postcard, a postcard with a tear-off, or an envelope with an absentee ballot application. Obviously those things vary in price. We have the pricing grid as an exhibit to the report if people want to review it. I think one of the main recommendations that makes sense to me...I think one of the best recommendations is that the Secretary of State either have or retain a postage consultant or meet with the post office to see what's the most efficient and cost-effective way to get this done.
- Sen. Sherman: I would consider changing this format. I think all three have merit but leaving it up to the Secretary of State, unless the committee feels strongly otherwise, and saying that the subcommittee recommends that the Secretary of State consider the three options.
- Chairman Cook: Do we want to recommend one over the others?
- Sen. Sherman: I want to give him the three options and let him decide which is best.
- Mr. Van Loan: On the next page after the third option it gives the estimated cost of every-household mailing. Which mailing is that?
- Sen. Sherman: Testimony from post office was an every-household mailing or every-door direct you can do whatever you want in terms of what you send, up to a limit, so the cost is the same.
- Mr. Van Loan: Even for post cards?
- Sen. Sherman: That's what she said.
- Ms. Hanna: Do we need to say one way or another as to whether we're in favor of paying? If we go with B, do we need to say whether we're in favor of paying the postage for the voter to send it back in to the clerk?
- Chairman Cook: I think we should be clear on whether we think we should or shouldn't do it. There are a couple considerations re: cost, even if the postage up to 3.3 oz., it is the same price. The tear-off one would allow something to be sent back to clerk that could get you an absentee ballot or registration application. If we send an envelope and send application itself, then that could be returned to the clerks in a number of ways not just by mail. I think there's a logistical issue in a

mailing to every household that has a return of anything: it would be going back to many different places and I don't know how you do that in a mass mailing.

- Ms. Seaver: part of the information on the informational page will tell you to go to the Secretary of State's website and look up your clerk. It gives address, name, and contact info.
- Sen. Sherman: The benefit of the mailing with the sheet and the application in it is you've relieved the clerks of potentially one entire step, which is somebody requesting the application and having to send it back. That's one less mailing and so you're saving postage by including the application in the first place.
- Chairman Cook: If the postage is the same, notwithstanding several voters in one household, I think I would favor recommending to the Secretary of State that it be in an envelope to all households with a simple instruction sheet and absentee ballot application.
- Mr. Van Loan: I raise the question of visibility, and Sen. Sherman talked about political literature and what really catches people's eye, and I think there was some discussion at the time that a postcard would be more likely to be something that people would look at. The Secretary of State's logos could be put on it. I'm not advocating either way, but I don't want that discussion to be forgotten.
- Sen. Sherman: I want to second what Mr. Van Loan just said: You can do whatever you want with the envelope because it's going to every household, so it won't have a typical address on it. You can have as much literature and graphics on it as you want.
- Ms. Hanna: One thing that we may be missing on the envelope that encloses the actual application for an absentee ballot is a distinct separate request for a registration packet. When we talked about the reply postcard, and Vicky had done a nice mockup of that, it said "please send our household three applications for absentee ballot; please send our household two packets for registration", etc. and then you drop it in the mail. If it's the envelope only including the application for an absentee ballot I think we need to have another sheet in there saying "Please send me three registration packets".
- Sen. Sherman: Except that the application—if you're not registered—you automatically get registration packet. I don't know why they'd want to do absentee registration and not get an absentee ballot.
- Ms. Hanna: I agree and that's a nuance that we all know: If you ask for an app for absentee ballot the clerk will send you a registration packet if you're unregistered. The average person out there who's not registered doesn't know that, so there has to be in that envelope very clear instructions: "If you're worried about not being registered please know if you ask for the absentee ballot you'll get registered." It needs to be clear.
- Ms. Seaver: There's a box to check for absentee registration right on the ballot request application.
- Sen. Sherman: One of the later recommendations in the report is having a separate box you can check for COVID-19 concern. Putting in that checkbox for absentee registration like Ms. Seaver just said and putting in a checkbox for COVID-19 concern, then you've got one-stop shopping. I want to take back what I said about recommending all three: After this discussion I'd recommend this to the Secretary of State because it provides the most information and opportunity at the same cost and is cost saving for the clerks.
- Ms. Hanna: Could we add to the envelope that contains the absentee ballot request a checkmark that the household could say: "Please send three more"?
- Chairman Cook: You could put that in the instructions.

- Rep. Griffin: I think we ought to recommend one of the three. I come back to: At a certain point, there's some voter responsibility. I have concerns that anything other than a postcard is getting paid for. If we have a hotline for people to call with a recording and a postcard with the number, it might be best. I have concerns about putting a big emphasis on the ability to register and get a ballot at the same time, and it's not because you can't do it, but we are pushing absentee registration. I'm not sure that's covered by what the Attorney General's office orders are right now. I think that the orders that created this committee relate to gatherings of more than ten people, and that's why voting can be done by absentee. I don't think that applies to registration so I have hesitancy in that regard because I think we're going too far afield. I heard a lot from clerks that registration packets have problems. I want to do it in the way the clerks can handle the best and maybe Ms. Seaver can answer that.
- Ms. Seaver: We've done it both ways. To this day we scrutinize those forms before they get to the supervisors so there's not missing dates of birth, etc.
- Sen. Sherman: If we mail this out and get the info out and we get just 10% response, that's still 52k voters/residents/households reached, so maybe even more voters. 5% would still be over 20k people. That's still a significant bang for your buck. I think the idea of the envelope with the application in it is going to make the lives of poll workers easier and save clerks time and money because this will bypass that application request process.
- Chairman Cook: How many people think we should provide the three options in the report? Rep. Griffin thinks we should provide SOS with all three options and not recommend one.
- Mr. Van Loan: Why are they mutually exclusive? If you list the three options, can't we list them and say the one we favor?
- Chairman Cook: We could do that. How many people favor the envelope with the application in it and the all-inclusive instructions in it versus the other two? All members agreed except Rep. Griffin.
- Chairman Cook: The second and third options are permutations of each other.
- Rep. Griffin: I think you put all three in and say that the majority of committee thinks option C will provide the most benefit in process for voters. This was agreed upon.
- Chairman Cook: Next page: Participation... extra word in it so we crossed out the second one.
 - Sen. Sherman called me with some clarifications. In A, it should be "absentee registration ballot application" not "requests". B should be absentee registration ballot for primary election, not application. C should be absentee registration ballot for general election, not application. Also suggested taking out the language "verbal or mailed" and instead of saying "application" saying "material".
 - Sen. Sherman: That's true in both paragraphs. If you do that, then Chairman Cook's question at the end of each paragraph should read "the committee recommends that postage for the return of absentee ballots be paid for federal funds, yes or no." What we're talking about are the ballots in B and C, not the applications. A is the application.
 - Sen. Sherman: The fact that I was confused about this just shows that this isn't simple stuff. My hat's off to all election officials in NH for their amazing work on this.
- Chairman Cook: We should formally ratify the understanding around what we should pay for. Today's discussion has reinforced that but I want a decision: What we're saying we'll pay for is the mailings to every household and return postage for all absentee ballots. My question there is whether we're also talking about the increased postage to send out an increased number of absentee ballots to municipalities?

- Ms. Seaver: As I understand it the Secretary of State was going to use a formula to determine that. The postage is going to come from us, but they were going to use a formula, based on how many absentee ballots were cast last time versus this time to reimburse. I thought reimbursement would come to towns based on what we send out.
- Chairman Cook: Are we recommending towns be reimbursed for increased postage, or do they absorb that cost?
- Mr. Van Loan: Can we put ballpark numbers to what we think we should pay for? I'm not clear on it. I see the estimate for the postage on the mass mailing is about \$100k and Rep. Griffin's work says the additional prep is going to be arguably another \$100k, so that's a ballpark \$200k item, correct?
- Chairman Cook: We know the postage costs for household mailing—I'm not sure prep costs \$100k.
- Deputy Secretary Scanlan: I think Rep. Griffin's numbers are in the ballpark. That would probably be a minimum amount.
- Ms. Hanna: Question for Rep. Griffin: I thought your \$100k estimate went to making a catchy postcard versus the envelope idea of just printing and such.
- Rep. Griffin: That was the ballpark that came from. I'm not sure about paper because my experience is limited to the coffee shop down the street, so I don't know how the Secretary of State would deal with the envelope and full page inserts because now you're talking about including folding in production which a postcard wouldn't require. There are pluses and minuses on both ends.
- Mr. Van Loan: As I understand, return postage for absentee ballots at the general election is estimated at somewhere between \$273k and \$314k based on the draft report.
- Sen. Sherman: Correct.
- Mr. Van Loan: If we pick an average of \$350k, that falls in between, or we can pick the high number. The next question is if we also recommend doing the return postage for the primary ballots the numbers are between \$88k - \$116k. Again, let's pick \$100k. If we did those three things we're talking around \$700k.
- Sen. Sherman: I think this is money well spent.
- Ms. Hanna: Asked Sen. Sherman: Did you ever cost out the return postage for the registration packet?
- Sen. Sherman: That comes back with the ballots. If you send in the application for a ballot, that form we all tried to work on, that will come back, the clerk will review and find that your registration is either no longer valid or you're a new resident and need to register, then you'll get the packet along with the ballots. That would be the outgoing, and then coming back in you fill out a registration packet plus your ballot, so that's included as one mailing.
- Ms. Seaver: To clarify, Attorney Fitch reminded us last time that if we are sending out the whole packet we do write on the return envelope that it'll include that registration and we're allowed to slit the outer envelope to take that out if there's time or more supervisors' meetings, the clerks can get that into the system prior to it being considered election day same day registration.
- Mr. Van Loan: in that event, when everything comes back to the clerk, you're going to get an absentee ballot filled out in the inner affidavit envelope, the mailing envelope, and inside the mailing envelope you'll have the material to register, and it could include a lot of other stuff: copies of your license, copies of your water bill to prove domicile...whatever. Right?
- Ms. Seaver: It has to or it's not valid. Yes.
- Mr. Van Loan: The postage that we're going to prepay is going to be based upon a 2 oz. return envelope. What if it's heavier for some reason?

- Ms. Seaver: Then we'll get it with postage due. That happens sometimes.
- Mr. Van Loan: Meaning you have to pay the postage?
- Ms. Seaver: Yes, it happens a lot with absentees. Since that's a possibility, but the remedy is very clear (postage due) we should pay for the postage due. If we're paying for the return postage on a prepaid basis at the assumption that the prepaid basis is the envelope will have an average weight and we'll require that amount of postage we've agreed to. If it comes back with other stuff, the town will have to pay it and we should reimburse for that.
- Ms. Hanna: If tomorrow someone asked for a registration packet, you'd do that now and not wait for ballots, right?
- Ms. Seaver: Yes.
- Ms. Hanna: If tomorrow somebody sent in a request for an absentee ballot and they were not registered, would you wait until the ballots are printed to send them both the registration packet and the ballot or would you send the registration packet right out?
- Ms. Seaver: I'd send the registration packet right out.
- Ms. Hanna: I was concerned if clerks waited until ballots are printed there'd be short turnaround time. Do you think that guidance from the Secretary of State's office applies statewide?
- Ms. Seaver: Yes but it needs to be reiterated. There are lots of newer election officials out there.
- Ms. Hanna: I'd ask to include a reiteration of that in our report and ask Ms. Seaver to draft the language that we're suggesting that the Secretary of State guide clerks with to that effect.
- Chairman Cook: In Roman III in the postage section, where it says "total cost of postage...outbound postage from clerk's offices..." We wouldn't be paying that if all we're paying is return for absentee ballots and every-household mail. Does everyone agree? We'd therefore strike 3A.
- Ms. Seaver: No.
- Sen. Sherman: Outgoing mail is addressed in B and C.
- Chairman Cook: Do we strike that or keep it, in which case we have less money?
- Mr. Van Loan: I don't think I'm in favor of this but I don't think it would double the cost. The point is, we're talking about the outgoing mail under the CARES Act all we can pay is to supplement, not supplant, so we would only be paying for the additional absentee ballots that were going out compared to whatever our base year is for numbers.
- Ms. Seaver: I'm confused. I thought in 3 these were the factors we used to consider the number we already arrived at above. That number is already part of C.
- Chairman Cook: Under C you've got outgoing and return added up—that gets well over \$700k when you combine primary and general.
- Sen. Sherman: If you look at the grid, Chairman Cook is correct that it's clearly spelled out: you've got outgoing at \$273k - \$415k then return at \$273k - \$415k, right Vicky?
- Mr. Van Loan: For mailing absentee ballots back, we've never paid for that. So 100% of cost of mailing absentee ballots back should be subject to the CARES Act money, but mailing the absentee ballots to the voter has always been paid for, and so if we pay for it we're only entitled to pay for the spread between what it usually is and what it will be because of COVID-19.
- Chairman Cook: So do we pay for outgoing postage?
- Rep. Griffin: We're doing the eternal balancing act the Secretary of State's office does with everything on election law. Ours is between getting the absentee ballot there and making sure the poll workers and polling place is safe. When we talk about postage numbers and looking at how

much they eat up, we really don't have a good handle on what the PPE numbers are for all the polling places. I was surprised at the shield number. I agree; it's a lot. But I also think we could control discussion by talking about who is paying postage? If it's return postage, are we doing that as a prepaid thing the Secretary of State is distributing to everyone? That's clearly CARES Act money. Ms. Seaver is talking about mailing more absentee ballots, and she knows how many she's sent in the past, so towns will have to be reimbursed for the difference.

- Rep. Griffin: Why would we say we're not going to reimburse the towns? That's the point of this committee. I think that's more important than it is to be paying for voters' return postage for ballots.
- Mr. Van Loan: I think there's a difference between paying outgoing and paying for the incoming. Paying for outgoing is not going to increase absentee ballot voting because people are going to vote absentee if they want to vote absentee whether postage is paid for or not because it's going to be paid for by someone else anyway. That won't influence how many people vote by absentee. Also, paying for the return postage definitely will increase absentee voting because the voter will not be paying his own postage.
- Ms. Seaver: I think you can't make a distinction; maybe Deputy Secretary Scanlan can correct me. I think you can't make a distinction in saying we pay for all return and not all outgoing; I think we can only pay for that percentage that was caused by COVID-19. You're going to have that original amount anyways with no COVID-19 at all. I thought everything was driven by that. But maybe because we never paid for it before it would be allowed. I don't think it would be allowed.
- Deputy Secretary Scanlan: This is the \$60 million question—the money is available to help us put on an election so people can vote and do so safely, and we know that as a result of that, in the current situation, the towns are going to incur significant costs that they haven't had to cover previously. It's important that we keep the towns as whole as possible in that process. And then the other part of that is: how do we make it as convenient on voters as possible? That's where the discussion about paying for postage comes in.
- Ms. Hanna: Is this exactly the type of thing we should be using HAVA funds for?
- Mr. Scanlan: First of all we are discussing the appropriate use of the \$3.2 million that we have specifically for this purpose in CARES Act funds distributed through HAVA is. We've discussed other HAVA funds and how they're currently used and to the extent we dip into those funds to pay for this one-time event, we at some point in the near future would be going to the general fund and asking for money from NH taxpayers to pay for the federal mandates that we're obligated to follow.
- Chairman Cook: Which means existing HAVA funds are almost all committed.
- Ms. Hanna: I would say from my perspective that if there's any election that warrants the use of those extra HAVA funds or a small portion of them, I'd hope you'd consider this one.
- Ms. Seaver: For a quick analysis, we probably spend \$20k for entire town for a year of postage. There's got to be some give and take for reimbursement.
- Sen. Sherman: Listening to this, I think it's the wish of the committee, were we to have adequate resources to pay the PPE costs, the outbound postage costs (the difference), and to encourage the safety of the elections by paying the return on the ballots. Frankly I think these numbers are a little fuzzy because I don't think anyone expects 85% of voters to vote absentee. We don't have a postage specialist yet, and I suspect these will be lower total numbers than what we're thinking for the postage and that we should rank both of them as high-priority. PPE we all believe is high-priority—protecting everyone. And give that guidance to the Secretary of State that these are three high-

priority issues. Recognizing what you've said about HAVA, is there any of this that we've discussed in our priority list that could be covered by the remaining security funds, which are \$1.2 million? If we look at all this, and in the end you're looking at \$4 million versus \$3.2 million, do we have any additional wiggle room in those security funds without touching HAVA? There's a 20% match on all of this which decreases costs by that much. My gut feeling is our priorities are affordable and they're affordable because we've used high estimates; we've not talked much about the security funding that's available if we go over, and I think these are all reasonable priorities.

- Deputy Secretary Scanlan: The answer to your question is yes, there's some wiggle room. We have spent over \$1 million in those security funds, and there is a program that was in place required by the EAC on how we plan to spend those funds over 5-year period after receiving them for security purposes. Current situation allows us to deviate from that plan to address current needs so there is some flexibility.
- Sen. Sherman: Aren't we essentially talking about 80% of these totals? It's the difference between the numbers of people who accessed absentee ballots last time versus how many will be mailed ballots as a result of COVID-19. That brings it down. Then we've got the fact that this is an 80% match not 100%. When you start looking at these reductions what we've done is we've said these are good programs worth funding, we want to make municipalities whole and encourage people to stay home and vote absentee. The PPE and these two funding outgoing and return postage...We're struggling because they're all important. Really looking at the numbers and doing the 80% rule and Mr. Van Loan's idea about talking about the difference and not the total, I think we can afford it and recommend these as a committee as high-priority—all three of them.
- Deputy Secretary Scanlan: Yes, there is a 20% match. Based on our numbers we've crunched, towns will incur that much above what we're able to give them in CARES Act funding, so that's where the match would come from.
- Mr. Van Loan: Let's go back to my \$700k which includes one mass mailing—not two—includes the return of the absentee ballots for the primary, and it includes return of absentee ballots for the general. That came to about \$700k. Based on what we've been talking about, let's say it's \$600k. Now the question is: Should we be willing to reimburse or pay for up front for the outgoing mail of absentee ballots for the primary and general. Although these numbers don't involve a spread under the CARES Act formula, if we took total amount of \$100k for primary and \$400k for general election, that's another \$500k and it isn't going to be that much, so let's round it to \$1 million. If we want to do those four things we need to understand we have pre-committed about \$1million.
- Mr. Van Loan moved to keep the Roman III in and the other things we've decided already.
- Chairman Cook: 3a is paying outgoing cost of absentee ballots for both elections.
- Mr. Van Loan: Moved we cover that incremental cost. Seconded by Ms. Seaver. Passed by roll call vote with Rep. Griffin voting against.
- Chairman Cook: Stuff at the top of the next page we've already agreed will stay as written from our other votes. Question on drop boxes: Do we say to the municipalities if you want them we'll pay for them, or not?
- Rep. Griffin: Ms. Seaver has explained that in her town there's a drop box they've modified and use quite often. My concern is not using them under certain circumstances and having towns think they'll be reimbursed might be problematic because I don't see drop boxes going away afterward.

- Ms. Seaver: I totally agree with Rep. Griffin. It needs to be said whether they can use them because currently they can't, but the ones that have them can use them if that's what we decide and ones without would have to get their own.
- Sen. Sherman: I think this is optional for towns. I'd like to see secure drop boxes for clerks used for absentee ballots.
- Chairman Cook: So we keep the paragraph but the answer in the last sentence whether it should be paid for with federal funds. We recommend them but won't pay for them.
- Chairman Cook: Publicizing election procedures for 2020 elections: Ms. Hanna sent a statement I edited. It was very nicely done. The only question for us to decide is Roman II on the next page which is the hotline question. Mr. Van Loan asked the Secretary of State two questions: one was on buying/leasing additional voting machines for communities to use for absentee ballots and the other was a hotline for voters. The Secretary of State is amenable to both ideas if they're affordable. Does the committee want to approve establishment of a hotline with the caveat that it must be affordable, as it's not our top priority?
- Rep. Griffin: I'm in favor of it.
- Chairman Cook: Okay we'll do it if we can afford it. Then we get to the additional machines question. I think there were a couple objections to this. The two problems with buying additional machines would be there aren't enough for everyone. The other concern is machines last forever and won't just be used for 2020, thus CARES Act funding might not apply. I took the liberty to talk about leasing them just for this year.
- Ms. Seaver: Does anyone have any thoughts or has talked to LHS to see if they even have a couple hundred extra machines to lease?
- Mr. Van Loan: Before we asked Deputy Secretary Scanlan whether they're leasable, my proposal wasn't to make these available to all the hand-count towns; that involved a training regimen and Deputy Secretary Scanlan and I discussed it and he said no, we can't do that. The only purpose of this would be to provide an inventory for the big towns and cities that have huge numbers of absentee ballots and machine count and don't already have a spare or two they can use to create a dedicated absentee box and machine. How many that would be I don't know, but I don't think it would be a very large number, but you don't know until you ask.
- Deputy Secretary Scanlan: They are leasable and just to start off, the cost of a machine if a town were to acquire one is about \$3,500; to lease one would be \$1k per election. If there was a lease for the primary and general it would be \$2k.
- Ms. Hanna: We spent a lot of time on envelope size for returning absentee ballots because of the folding issue. Am I correct that your suggestion about renting machines is in large part to address that issue?
- Mr. Van Loan: Yes.
- Ms. Hanna: I'm in favor of leasing machines.
- Chairman Cook: At the price they're at, if it's \$1k for the general, I'm happy to have a recommendation that the Secretary of State consider doing this after determining need and the extent of money left over. It's not high-priority.
- Rep. Griffin: I think it's a good idea. By mid-October you're going to have a good idea of what communities have high absentee ballot return rates.
- Chairman Cook: To the extent money is available, do we agree with recommending leasing when need is determined? Committee agreed.

- Chairman Cook: Roman IV, non-spending recommendations. I want to go through them. Applications for absentee ballot requests for registration by mail: That goes to the form. Mr. Van Loan wrote a long section on processing of different things.
- Mr. Van Loan: To Ms. Hanna's question: If we're recommending that the commencement of processing absentees can start as soon as the polls open, there's this provision in the law that permits 10 voters to vote or make a motion and demand that absentee ballots can't be opened until the close of the polls. That may go by the wayside. Originally I thought we don't need to mention that, but we probably do, because if it isn't taken care of and someone wants to obstruct the process they can do it.
- Chairman Cook: If we put in the report that that can happen, we give a roadmap as to how to do it. I worry about that. For 2020, from what we've heard, if someone chose absentee ballot I'd give them one shot at the apple and say they can't vote on election day if you filed an absentee ballot.
- Mr. Van Loan: Deputy Secretary Scanlan, do you have any idea whether the executive orders that may come out after we finish our work are likely to favorably look upon notion of accelerating processing of absentee ballots, including things like checking the checklist before election day?
- Deputy Secretary Scanlan: All I can say is there will probably be discussion on that after we get through the filing period and start looking at how the processing of absentee ballots might look closer to the election. I know the particular provision we're discussing has been a topic in the past for legislation, which never went anywhere. It's never been abused or used, and that's not to say it couldn't be, and it'll certainly be on our list of topics to discuss as we look at how the actual procedures will take place for the upcoming elections.
- Chairman Cook: If we mention it, it should be here, or in the last section on 2020-only law changes. We should probably include it. Mr. Van Loan, why don't you add that to the editorial changes you're sending me?
- Sen. Sherman: I've gotten suggestions from moderators and what they're looking to do is 1) open the return envelope and check them off the checklist and hold onto the affidavit envelope with that intact, and that keeps the ballot with the voter, and 2) process down to level of ballot, check them off checklist as absentee, and do away with the two-hour rule. No matter what we recommend or say might be useful in this process, the general vote in the larger cities and towns is that there's no way they will be able to get this job done if they have a significant increase in absentee ballots on election day. I think we should have it there as an option. It will require either executive order or 2020-only election law change, but it's one of the fundamentals.
- Rep. Griffin: I agree it's an issue but I'm not sure how big an issue it'll be. We heard clerks are opening the physical envelopes ahead of time. If we're successful in getting higher absentee ballot turnout there's less people checking in which means disruptions will be minimized.
- Chairman Cook: Mr. Van Loan, please include the needed changes in your document.
- Ms. Hanna: Mr. Van Loan, I think you were going to include a provision here that says in conjunction with recommending processing start days earlier, obviously all that will be subject to public scrutiny.
- Mr. Van Loan: I've started to draft that and will include that point.
- Chairman Cook: From the last page of Mr. Van Loan's materials is a footnote of the committee being split on the question of waiving documentary evidence for absentee registrations. The question is whether an affidavit like same-day registration can be used in an absentee registration situation or whether the presently required documentation should be maintained.

- Sen. Sherman: I recall in that discussion the point again that I don't see any reason why absentee should be significantly more difficult than in-person registration, especially in 2020. My recommendation for 2020 is to allow an affidavit with a signature and a photo to suffice in absentee registration process versus requiring all documentation, which you don't have to have to register same-day in-person. We'd like to see fewer same-day registrations if possible.
- Ms. Seaver: I don't entirely disagree. The reasoning is that at election if they come in, you'd have to send them home to get documentation. If it's absentee they should have that documentation at home. That's the difference in assumptions.
- Chairman Cook: After the supervisors of the checklist's last meeting, if registration comes in, doesn't it get processed the same way as election day registrations?
- Mr. Van Loan: The general problem of telling the voter they didn't submit the requisite information to register absentee can be solved in part if the Secretary of State should be recommending very strongly to the supervisors that they don't wait until six days prior to election to have their meeting to deal with all people they've received registrations from. That recommendation will ease the burden we've discussed.
- Chairman Cook: Tell me if you're in favor of the affidavit or the present proofs required.
- Ms. Seaver: If it's a one-time only thing for 2020 I'd be in favor if it were changed to affidavit process.
- Ms. Hanna: Yes I'm in favor of the affidavit for this election only and I also want to say that if we don't agree on that, at the very least people should be able to use iPhone to take pictures of documentation.
- Mr. Van Loan: Not in favor of affidavit.
- Rep. Griffin: Not in favor of affidavit.
- Sen. Sherman: There are lots of people who don't have copiers in their home. I'm in favor of the affidavit process for absentee registration.
- Chairman Cook: This would take serious law change, so this is on presumption that someone with the power to would agree to do so.
- Sen. Sherman is ready for this change.
- Chairman Cook: My gut says we should require the same proofs. I'm in favor of maintaining the status quo. Recommendation is 3-3, so footnote is correct that the committee is split. If the legislature wants to decide this for us, go to it.
- Chairman Cook: Then we get to the other stuff. We've heard from clerks saying they're planning to do this: I don't think we have money in the CARES Act till to do it.
- Mr. Van Loan: I think the FAQs said the Secretary of State put out to the supervisors absolutely recommends that supervisors and clerks make special accommodations during this period for people to come in and register, correct?
- Deputy Secretary Scanlan: Yes, we're asking them to be as accommodating as possible.
- Chairman Cook: Is that okay to leave, with the caveat we have no money to pay for it? Committee agreed to this.
- Chairman Cook: Election day procedures: Sen. Sherman's committee discussed this extensively. The point in including it here is that we don't have extra money to pay for it. I've gotten feedback from individuals and the paper that towns have separate ability to apply for CARES Act funds.

- Chairman Cook: Added and substitute staffing: We talked about this from day 1 because it was an additional cost necessitated by the COVID-19 crisis. I put in the recommendation it should not be paid for with federal funding.
- Sen. Sherman: The only comment I have here is we heard from several polling place people that staffing can vary by polling place and isn't necessarily based on need. That means that for us to pay more because people want to make more money...The ratio of voters to staff varies across the state. I would not recommend paying extra and if we are going to pay extra, it would be using some formula the Secretary of State's office devises that would be based on voter volume through a polling place rather than just wanting more staff.
- Ms. Seaver: The last sentence: "sufficient staff to handle anticipated surge"—they were looking at coming up with a formula for that to determine degree of increase.
- Ms. Hanna: One of my concerns with surge of absentee ballots and registrations is the turnaround time for the clerks. I assume that that varies greatly among different clerks' offices but in this particular case we are really going to need a rapid turnaround for sending out ballots, sending back packets, etc. I would hope that part of our recommendation could be that there be some guidance in this critical election and given the surge of everything, some guidance on turnaround times, which should be linked to issue of extra staff, because I would like it if the clerks could think early on rather than later about what are they going to face in terms of needing more staff for prompt turnaround time.
- Ms. Seaver: In my situation, I did the job for 41 years and I work part-time for them, so we've already said we're saving a lot of that chunk, and I'll go in every single day including weekends if we have a drop box to get that done. Turnaround has always been instant in our town. But you've got little towns that only work one day a week, and they may have full time jobs elsewhere. There needs to be direct guidance saying this year it's extremely important because of the numbers to get things out on time.
- Chairman Cook: Extra staff sometimes means extra hours by existing staff. That costs extra money.
- Chairman Cook: Free publicity: We've been talking from the get-go about coming up with plans and pushing that information out. Town and city clerks are already educating voters in their localities. It's a very important piece. We've all seen the number of stories on voting in the last month—constant conversation.
- Chairman Cook: Switching back on primary day: In Rep. Griffin's matrix she showed the statute that already allows this. What we're saying to municipalities is if you're not availing yourself of it, you should start.
- Chairman Cook: Ballot size: 8.5" x 11" is what the committee agreed to.
- Sen. Sherman: I didn't see in Mr. Van Loan's stuff...We got testimony about instructions—not ballots and not applications—but instructions in more than one language. We were urged to encourage the Secretary of State to have materials available in the same languages DHHS makes programming available in. I think this is very important.
- Deputy Secretary Scanlan: We can work on that. We try and stick as close to the statute as we can on guidance; part of the problem previously is when we've tried to simplify things, someone takes offense to what was drafted and we end up in court. The practice has been to keep it as close to statute as you can. Most of the guidance on our website related to registering and absentee voting is a recitation of the statute. That's something we can look at.

- Chairman Cook: Secretary of State’s website: They have a contractor working on improving the website. Keep trying—it’s an important tool. If additional money is left over, the Secretary of State should consider enhancing educational and informational efforts on the website.
- Ms. Hanna: Our subcommittee thought it would be a really helpful thing if the Secretary of State’s office had a one-stop page or section for voting and registering during the COVID-19 period so one could go there and find the registration forms, also the absentee ballot application—very much like the Secretary of State recently did on the form for change of party. That’s on the website and with one click you can find the form, download it, and print it. That’s the kind of thing we’re advocating for.
- Chairman Cook: That’s reflected in the report.
- Sen. Sherman: I want to recognize the spirit and testimony that Luke Cuomo gave. There are multiple benefits from putting these things on the website, especially when there aren’t security issues. These interactive PDF portals could save the clerks a lot of time and postage money, and one of the largest benefits is they have required fields so if you don’t complete your required information the request doesn’t go through. Right now clerks have to remediate errors and missing information. This is a 2020 and beyond suggestion. Change in affiliation shows how nimble your office can be and my hat is off to you—it was up within a week of the executive order. We also heard from the disabled population. If these things could be done that don’t require statutory changes it would be great.
- Chairman Cook: Interactive portal example will be included in list of things not requiring security.
- Rep. Griffin: I think as we talk about automating things that there’s a legislative component also. The failsafe of the NH election system has been election officials knowing people in their community and the more automated it is, the more risk there is of losing that.
- Mr. Van Loan: I cover this in a section I wrote. I don’t believe we should be advocating that at this time when cybersecurity is a big issue.
- Chairman Cook: Agrees completely.
- Chairman Cook: Finally, independent and third party candidates: It’s almost impossible to get on the ballot for these folks. The law is very tough. We heard from the libertarian party on this. Do we want to have language on independent candidates and third parties? It would require a law change and the Governor has already opined on this subject that he won’t include this in an executive order. Does the committee want to point that out? I think including it demonstrates further all the things made more difficult by the pandemic. Committee agreed it should be mentioned, as it’s testimony the committee received.
- Chairman Cook: Section 5 talks about law changes for 2020. Tried to tailor this carefully as a message to those in authority to do something and also to ensure it’s limited as 2020 only. Any issues with this section?
- Ms. Hanna: One minor change: The second or third sentence that says “it’s unlikely changes enacted by legislature of fundamental nature would be able to be implemented...” I don’t think that’s up to our committee. That’s up to the legislature.
- Chairman Cook: I will remove that.
- Mr. Van Loan: We all agree this is of significant importance from a political point of view. We might want to consider moving this up to the introduction.
- Chairman Cook: It’s referenced in the introduction, but let me think about that. Conclusion is thanks and appreciations. Exhibit A will be replaced.

- Sen. Sherman: In the thanking component, I want to be sure we are thanking the public and the people who've devoted their time to following along with us. I want to recognize those who have followed along and provided input. It's been critically helpful.
- Chairman Cook noted the unbelievable dedication and hard work these election officials do largely as volunteers.
- Ms. Hanna: Before we adjourn I want to bring up the question of where the Attorney General's opinion on absentee registration. We started talking about it our first day and this is almost our last day. I'd suggest that we find out from Attorney Chong Yen whether we'll have that by tomorrow, and assuming that we don't, I'd suggest we either withhold our report until we get it or we reserve the right in our report to revisit some of the issues that we're recommending about because much of it depends on what the Attorney General's office says about absentee registration and whether there's going to be an executive order on that.
- Attorney Chong Yen: I think both options as you outlined them are totally reasonable and understandable. With respect to the guidance, it will be a memorandum published before the end of the week by the Attorney General's office and the Secretary of State's office.
- Sen. Sherman: I doubt we have influence on your thoughts on this but we've all worked under the assumption that the opinion does extend to absentee registration, and it would be a terrible disappointment to find that it didn't.
- Attorney Chong Yen: I've maintained throughout these meetings, and continue to maintain, that the same analysis applied to absentee ballot requests will apply for the absentee voter registration process.
- Rep Griffin: I think it's helpful to go back and read the executive orders. I don't want to hold up this committee for that opinion because things tend to take a long time.
- Mr. Van Loan moved to adjourn, seconded by Sen. Sherman. Unanimous roll call vote. Meeting adjourned at 4pm.