



Millions to the Polls

PRACTICAL POLICIES
TO FULFILL THE FREEDOM TO VOTE
FOR ALL AMERICANS

J. MIJIN CHA & LIZ KENNEDY

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THE AUTHORS

J. MIJIN CHA is a Senior Policy Analyst and focuses on ideal elections and money in politics. She has written several reports, including *Registering Millions: The Success and Potential of the National Voter Registration Act*. Mijin is a graduate of Cornell University and holds a JD from the University of California, Hastings College of the Law, and LLM and PhD degrees from the University of London, SOAS. She is a member of the California Bar and an adjunct professor at Fordham Law School.

LIZ KENNEDY is Counsel at Dēmos working on voting rights and money in politics. In addition to appearing on television and being quoted in the media, Liz has written several reports, including “Bullies at the Ballot Box: Protecting the Freedom to Vote Against Wrongful Challenges and Intimidation” and “Stop the Next Citizens United: *McCutcheon v. FEC* and the Crisis of Confidence in American Democracy.” Liz is a graduate of Smith College and received her J.D. cum laude from New York University School of Law.

Dēmos is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy.

Demos.org

220 Fifth Avenue, 2nd Fl.
New York, New York 10001
212.633.1405

Contact

Elektra Gray
egray@demos.org
212.485.6014

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SUMMARY OF POLICIES

SECTION 1

Expanding And Streamlining Voter Registration

Same Day Registration

Allow eligible voters to register and vote on the same day, including during any early voting periods up through and including Election Day.

National Voter Registration Act Enforcement and Expansion

Enforce mandate that voter registration be offered at agencies serving the public, and expand the number of designated NVRA agencies to increase the reach of voter registration opportunities.

Online Registration

Allow eligible voters to register and update their registrations online.

Permanent and Portable Voter Registration

Allow a person's voter registration to remain valid when the person moves within the state.

Pre-Registration of 16 and 17 year olds

Pre-register eligible 16- and 17-year-olds to vote and automatically add these voters to voting rolls when they turn 18.

Voter Registration Drives

Permit third party voter registration drives without burdensome requirements; facilitate such drives through ready access to registration materials.

SECTION 2

Making Voting Work

Early Voting

Adopt an early voting period of at least 14 days, expand early in-person voting locations and adopt no-excuse permanent absentee voting.

Poll Worker Recruitment and Training

Provide uniform poll worker training before Election Day, a uniform wage and target public employees and high school and college students for poll worker recruitment.

Ballot Design

Create and write ballots in clear, plain language with a simple, straightforward design to ensure voters fully understand for whom and for what they are casting their votes.

Non-Partisan Election Administration

Remove partisan politics and advantage from election administration by creating a non-partisan board or office to oversee election administration with lobbying, campaign contribution and electioneering restrictions for staff.

SECTION 3

Protecting and Counting Every Vote

Restrictive Photo ID Laws for Voting

Limit unnecessary and overly burdensome photo ID laws that disenfranchise millions of otherwise eligible voters and look to state constitutions as well as federal law to protect the freedom to vote from onerous ID laws.

Provisional Balloting

Count provisional ballots on a county or statewide level for any election for which the voter was eligible, regardless of precinct; and adopt Same Day Registration to substantially decrease the need for provisional ballots.

The Right to Vote for Formerly Incarcerated Persons

Restore voting rights automatically once individuals are released from incarceration and end the practice of permanently removing the right to vote for formerly incarcerated persons.

Language and Disability Access

Provide language assistance and translation when three percent or 7,500 persons speak a primary common language other than English and create an Accessible Elections Office within the state election administration to facilitate access to voting for voters with disabilities.

Deceptive Practices and Intimidation

Ban deceptive practices and voter intimidation at the federal level and implement emergency procedures to immediately correct misinformation at the state and local levels.

Voter List Maintenance and Wrongful Challenges to Voter Eligibility

Add eligible voters to state registration databases with fair, effective and uniform standards and allow only election officials to challenge the eligibility of a voter.

Over the Horizon Ideas

Universal Voting

Include voting as a citizenship duty to encourage universal participation among eligible voters.

Improve America's Election Fund

Use federal incentives to harness state innovation to encourage adoption of best state practices for election administration.

INTRODUCTION

Voting is the bedrock of our democracy. In a government of, by and for the people, casting a ballot is the fundamental means through which we all have a say in the political decisions that affect our lives.

Yet since our nation's founding, the right to register, vote and cast a meaningful ballot has been contested. We have had to fight to expand the freedom to vote to include all of the people—persons of color, women, younger voters, language minorities, military voters, new Americans, persons with disabilities. We have enacted Constitutional amendments and passed landmark federal laws to secure these rights—even in the face of aggressive and even violent attempts to deny many of our fellow Americans the right to vote. Compared to earlier times, we have made progress over the years in securing the right to vote. Yet today, without substantial interventions, the freedom to vote is at great risk.

Across the country, state legislatures in recent years have deliberately altered policies to make it harder for citizens to cast a ballot—disproportionately affecting voters of color, low-income voters, young voters, and other vulnerable groups. Whether enacting strict photo identification requirements, restricting early voting, or limiting voter registration opportunities, too many states are now competing in a race to the bottom in election rules and administration.

At the national level, the recent Supreme Court ruling in *Shelby County v. Holder* gutted a key protection in the Voting Rights Act that ensured states with a long history of discriminatory policies could not alter their election procedures without prior approval from the Department of Justice or a U.S. District Court. Finally, our system of election administration—a patchwork of rules and requirements that vary by state—is outdated and antiquated, with far too many eligible voters encountering unnecessary barriers to registration, waiting hours to cast their vote, or having their vote rejected because of administrative errors, polling place confusion or other errors.

This is not the election system we want, nor the one we deserve.

This report outlines sixteen policies and practices that would make registration more accessible and seamless, lead to more effective and efficient election administration, and strengthen protections for voters' rights. For each reform, we highlight current best practices in the states, recommending model practices for others to pursue.

Expanding and Streamlining Voter Registration. Registering to vote, and updating that registration, should be readily accessible to eligible voters. Our proposals focus on improvements in technology and database maintenance to make registration more seamless, expanding the ability for eligible voters to register and vote on the same day, enforcing and expanding existing laws that provide registration opportunities to low-income voters, and encouraging community involvement in voter registration outreach.

Making Voting Work. Voting should not be a test of endurance or will power. Making our electoral system work at its peak potential starts with having Election Day be the last, not the only day that a voter can cast her ballot. We also propose ideas for standardizing poll worker training and ballot design, and removing partisan politics from our election administration.

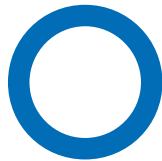
Protecting and Counting Every Vote. Even one disenfranchised voter is too many. Yet today more than 6 million citizens are unable to vote due to a prior felony conviction—a betrayal of our belief in both redemption and the inalienable right to vote. In this section we outline policies to ensure formerly incarcerated persons can regain their voting rights after serving time—ending a long-standing exclusion that has no place in our democracy. In addition, we must protect citizens from overly restrictive voter identification laws that disproportionately result in low-income, older and persons of color not being able to cast their ballot. Finally, we outline solutions to respond to the rise of unwarranted third-party voter challenges, intimidation and deceptive practices.

Looking Over the Horizon. In addition to modernizing our election system and strengthening protections of the freedom to vote, we also identify two bold ideas that deserve broader discussion as we seek to expand our nation's commitment to a truly representative democracy. In this section, we discuss the policy of voting as an affirmative duty of citizenship, and describe innovative ideas for the federal government to improve state election funding to promote voter registration and better election administration.

The quality of our election experience—our core exercise in self-government—depends on our ability to commit to ensuring every eligible person can participate fully, without encountering discrimination or unnecessary bureaucratic red tape. Together, the common-sense policies presented here will help us build the electoral system we want, and the one we deserve.

SECTION 1

EXPANDING & STREAMLINING VOTER REGISTRATION



ur democracy is unique in many ways. It is the result of a successful struggle for independence and is rooted in the belief that we are a government ruled by the people, for the people. To this end, the more people that engage in our democracy, the stronger our democracy becomes.

Given the important role voting plays in our democracy, we should make every effort to ensure all eligible persons are able to vote. Yet, barriers are raised from the beginning by requiring that eligible voters first register before they can vote. Most democracies around the world place the responsibility of registering voters on the state.¹ The U.S., however, places the responsibility on the individual, and our registration practices often raise obstacles that prevent voters from registering, even though they are eligible.

Registration hurdles lead to lower rates of registration, particularly among lower-income individuals. According to U.S. Census data, unregistered individuals in households making less than \$15,000 are twice as likely to say they are not registered because they do not know how or where to register as those making \$75,000 or more.² Registration gaps lead to voter turnout gaps. When groups of voters—whether they are lower-income, people of color, or younger voters—register at lower rates, they vote at lower rates, undermining the goal of a fully representative democracy. Arbitrary voter registration deadlines, an outdated voter registration system that relies heavily on paper registrations, and the requirement to re-register when a voter moves to a new address all add unnecessary layers of red-tape and bureaucracy to the registration process.

Modernizing our registration system is simple, effective, and would bring our democracy into the 21st century and bring more voices into our electoral system. This section looks at ways of modernizing our voter registration system by removing arbitrary deadlines, enforcing existing laws, aligning voter registration laws with our modern society, engaging voters before the official voting age, and encouraging community organizations and voter mobilization groups to register individuals.

Voter registration should be streamlined and expanded to increase voter turnout. In this section, we describe six modernizations that can help increase voter registration rates:

- Same Day Registration
- National Voter Registration Act Enforcement and Expansion
- Online Voter Registration
- Permanent and Portable Voter Registration
- Pre-Registration of 16 and 17 Year Olds
- Third Party Voter Registration

Together, these policies can remove unnecessary layers of bureaucracy and protect the freedom to vote.

SAME DAY REGISTRATION

- Voter registration deadlines present an unnecessary layer of bureaucracy that impedes the freedom to vote.
- Eligible voters should be able to register and vote on the same day.
- Same Day Registration should be made available during any early voting periods up through and including Election Day.



One of the chief impediments to full voter participation is our unnecessarily cumbersome process of voter registration. Barriers are in place from the very beginning of the process, including requiring citizens to actively register to vote and to continually update their registration each time they move. Above and beyond the requirement to register, most states cut off registration to potential voters in the month just before Election Day.³ This means that eligible voters who do not register under the arbitrarily set deadlines will not be able to vote.

People miss registration deadlines for a number of reasons, including having recently moved or being unaware of the cutoff date. As a result, millions of eligible people are unable to participate in elections. The number of unregistered voters is substantial—in 2012, 25 percent of eligible voters, roughly 51 million Americans, were not registered.^{4,5} Moreover, even those who do register in advance can find themselves left off the rolls on election day because of mistakes in processing or flawed voter purges.

There is a simple solution that can help increase registration rates, and in turn, voting rates. Same Day Registration (SDR) allows eligible voters to register to vote and cast their ballots on the same day, at the same time. SDR reduces voting bureaucracy by eliminating registration deadlines, allows registration issues to be fixed on site, and modernizes our registration process to better serve our the needs of a busy and mobile society.

Far from being an untested idea, SDR is a tried and true method to fix registration issues and increase voter turnout. SDR was pioneered by Maine, Minnesota, and Wisconsin in the early-to-mid 1970s.⁶ In the last decade, the number of SDR states has more than doubled from six to thirteen, plus the District of Columbia.⁷ In just the last five years, Same Day Registration was

adopted in California, Colorado, Connecticut, Iowa, Maryland, Montana, North Carolina, and the District of Columbia, though it has recently been repealed in North Carolina.⁸

These states' experience with SDR shows that it works. States with Same Day Registration consistently lead the nation in voter participation and the average voter turnout was over 10 percentage points higher in SDR states than in other states in 2012.⁹ Four out of five of the states with the highest turnout in the 2012 election allowed people to register and vote on the same day—Minnesota, Wisconsin, New Hampshire, and Iowa.¹⁰ Overall, nearly 1.5 million Americans used Same Day Registration to vote in the 2012 election.¹¹

Turnout Rates in SDR vs. Non-SDR States, 1980–2012, Presidential Election Years



Same Day Registration also offers those who have recently moved an opportunity to register and vote with their new address. Geographically mobile voters, who are often lower-income citizens, young voters, and voters of color,¹² are not a small population. Census data shows that over 36 million people in America moved between 2011 and 2012, nearly half of whom had low incomes.¹³ In addition, young adults of all income levels also move more frequently—for school, for jobs, for family. SDR could increase youth turnout in presidential elections by as much as 14 percentage points.¹⁴ It can also increase voter participation among all voters of color,¹⁵ as borne out by the experience of North Carolina (see sidebar).

*Reversal of Same Day
Registration in North Carolina;
attacks in Minnesota & Maine
& successful defense.*

Unfortunately, the attack on voting rights has included attempts to dismantle this successful tool for political participation. Conservative political leaders in several states have moved to repeal Same Day Registration in recent years.²⁷ Voters in Maine defeated repeal efforts in 2011. An SDR repeal bill was vetoed by Montana's Governor Schweitzer in 2011, but the legislature has placed an SDR repeal question on the ballot in November 2014.

As part of its recent rollback of voting rights North Carolina ended its highly successful Same Day Registration program, in addition to enacting a strict photo ID requirement (e.g. no student ID), shortening the early voting period, and eliminating pre-registration for 16 and 17-year-olds.²⁸ This was widely seen as an attempt to stymie increased participation by voters of color—41 percent of North Carolinians who used SDR to register and vote in the 2012 elections were African Americans, though blacks represent just 20 percent of the voting age population.²⁹

Same Day Registration also reduces the need and use of provisional ballots. Provisional ballots are offered to citizens who believe they are registered but whose names do not appear on voter rolls. But a provisional ballot frequently does not translate into a ballot that counts. Almost a third of provisional ballots cast in 2012 were rejected for a number of reasons, including voters missing the registration deadline or voting in the wrong precinct—issues that could be fixed at the polling place with SDR.¹⁶

Allowing eligible voters to register and vote on the same day greatly reduces the need for provisional ballots because eligible voters can just re-register if there are any issues. This freedom saves elections officials the time and expense of processing many provisional votes. After SDR was adopted in Iowa, provisional ballots dropped from 15,000 in the 2004 presidential election to less than 5,000 in 2008—a 67 percent decline.¹⁷ North Carolina saw 23,000 fewer provisional ballots after it adopted SDR in 2008.¹⁸

In addition to increasing voter participation and reducing provisional ballots, Same Day Registration is also very cost effective. Iowa and North Carolina reported minimal costs when introducing SDR in the 2008 presidential election.¹⁹ The state of Iowa spent less than \$40,000 to introduce SDR for its 99 counties.²⁰ North Carolina's counties cited some additional staffing needs at voting sites as the most notable expense associated with Same Day Registration.²¹ It is not just newly implemented programs that are cost effective. In a telephone survey conducted by Demos of local election officials in states with the longest experience with SDR- Idaho, Maine, Minnesota, New Hampshire, Wisconsin, and Wyoming- most respondents described the incremental cost of SDR as “minimal.”²²

Whatever costs arose were offset by savings from reducing the number of provisional ballots needed and reducing staff costs associated with last-minute processing of registrations just before the pre-election deadline.²³

Finally, the use of SDR does not compromise the integrity of our elections. States offering SDR report that existing fraud-prevention measures ensure the integrity of elections,²⁴ and elections officials familiar with SDR strongly endorse it. Mark Ritchie, Minnesota's long-time Secretary of State said, "Election Day Registration is much more secure because you have the person right in front of you—not a postcard in the mail. That is a no brainer. We [Minnesota] have 33 years of doing this"²⁵ Debbye Lathrop, the County Clerk in Laramie County, Wyoming said, "I think Election Day voter registration gives every citizen the greatest opportunity to participate in the greatest right that they have been provided."²⁶

POLICY RECOMMENDATIONS

To maximize voter participation gains, Same Day Registration should be available at all polling places and should be offered during the early voting period and through Election Day.

States have developed common-sense ways to organize the polling place to accommodate Same Day Registration efficiently and effectively. In particular:

- Polling places should be configured into two separate areas—one for voter registration and one for voting.
- Greeters and prominent signs should direct individuals to the correct areas and lines.
- Each polling place should have at least one staff person who has been trained specifically in conducting registrations on Election Day. ■

NATIONAL VOTER REGISTRATION ACT ENFORCEMENT AND EXPANSION

- The NVRA was intended to make voter registration widely available at agencies serving the public, and is an important tool for modernizing voter registration.
- Ensuring compliance with NVRA requirements increases voter registration rates, particularly among low-income populations.
- Expanding the number of designated NVRA agencies can further expand the reach of voter registration opportunities.

Congress enacted the National Voter Registration Act (NVRA) in 1993 with the goal of making voter registration more convenient and accessible. Before the NVRA, registering to vote often meant a trip to the election registrar's office, often open only during business hours.³⁰ As late as the mid-1980s, eligible voters in many states had to report in person to a central election office in order to register, regardless of how far it might be or how restrictive the office hours were.³¹

The impact of these restrictions, not surprisingly, was to dampen voter registration rates.³² Overall voter registration rates were lower in 1992 than in 1972.³³ Recognizing this problem, Congress passed the National Voter Registration Act in 1993 to encourage more eligible people to register by making voter registration more accessible and convenient.³⁴

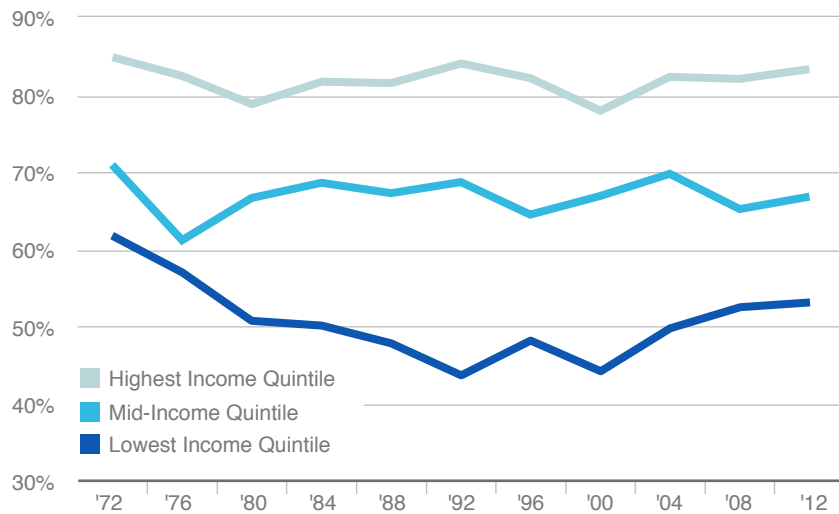
In particular, the NVRA:

- Set the first ever national requirements for accepting mail-in voter registrations,
- Required states to provide registration at numerous public agencies,
- Established the nation's first federal standards for voter list maintenance,
- Outlawed the purging of voters from voter rolls solely for non-voting, and
- Established the first national voter registration application.³⁵

When properly implemented, the NVRA can help millions of eligible voters register and engage in the political process. It can be of particular importance for encouraging registration among

low-income voters. In 1996, the first presidential election after the implementation of NVRA, voter registration among the lowest income quintile increased significantly, as the graph below shows. Moreover, after Dēmos and other groups instituted renewed enforcement efforts over the last several years (see sidebar), voter registration among the lowest income quintile of Americans had risen to 52.7 in 2012, compared to only 43.5 percent in 1992.

Voter Registration Rates and Income Levels, 1972-2012



Source: U.S. Census Bureau, Current Population Survey

Different sections of the NVRA target different populations to increase voter registration. The most well known provision, which gave the law the nickname Motor Voter, requires state motor vehicle offices to offer voter registration opportunities. Eligible citizens can register to vote when they apply for a driver's license. Under Section 5 of the NVRA, every driver's license application is simultaneously a voter registration application, unless the applicant does not sign the voter registration application.³⁶ In addition, all changes of address submitted to state motor vehicle agencies must be forwarded to election authorities, unless the registrant chooses to opt out, automatically updating the eligible voter's registration.³⁷

Section 7 of the NVRA expands voter registration access by requiring any office that provides public assistance,³⁸ as well as state-funded programs primarily engaged in providing services to persons with disabilities,³⁹ to also provide voter registration services.⁴⁰ Section 7 also requires Armed Forces recruitment of-

Enforcing the NVRA

The Presidential Commission on Election Administration (PCEA) recognized that the National Voter Registration Act is “the election statute most often ignored.”⁴⁴ When the NVRA is properly implemented by state agencies, it can lead to a marked increase in voter registrations. States must be diligent in meeting their responsibilities. Unfortunately, a decade after the NVRA’s enactment, many states had fallen out of compliance with the law, and the need to ensure full compliance continues. Dēmos and our partners work to ensure that states meet their legal responsibilities to offer voter registration services to their citizens. An increased effort to bring states into compliance with their legal duties under the law has led to more than 2.5 million additional voter registration applications from public service agencies. More work is necessary to ensure that the full potential of the NVRA is realized.

ices to provide voter registration services.⁴¹ Beyond just providing registration forms, however, Section 7 requires that applicants receive the same level of assistance when completing voter registration forms as is provided with completing the agencies’ own forms, and requires agencies to transmit completed registration applications to the appropriate election official.⁴² States are also required to designate “other offices” as voter registration agencies, which may include state higher education facilities, public libraries, city and county clerk offices, and unemployment compensation offices.⁴³

To ensure compliance with Section 7’s public agency requirements, states have adopted a set of policies that all include the designation of someone responsible for voter registration, training, clear procedures, as well as monitoring and oversight provisions. Among other things, Ohio automatically distributes a voter registration application with each benefits application, renewal, and change of address, conducts regular ongoing training programs for relevant staff members, and performs monthly data tracking and follow-up.⁴⁵ Missouri collects and reports detailed data monthly and designates an NVRA coordinator at each local Department of Social Services Office, as well as a state-wide coordinator.⁴⁶ Alabama sends a voter registration application by U.S. mail to each benefits recipient interacting with the public assistance agency from outside the office (by mail, Internet or telephone), has adopted a detailed coding system to allow accurate tracking of all voter registration applications obtained from public assistance agencies, and has instituted at least four parallel systems of oversight.⁴⁷ Colorado’s implementation program includes a web-based data reporting system.⁴⁸

POLICY

RECOMMENDATIONS

To maximize the potential of Section 7's requirement to provide voter registration at public assistance agencies, states should:

- Appoint a State-Level NVRA coordinator for each agency and local coordinators for each local office.
- Review procedures to ensure voter registration policies and procedures are in compliance with the NVRA.
- Provide regular training to front line agency employees and ensure easy availability of voter registration policies and procedures.
- Ensure an adequate supply of voter registration applications and voter preference forms for each office.
- Use technology to integrate voter registration services into covered transactions and to integrate voter data acquired through covered transactions with statewide voter registration lists.
- Implement a comprehensive oversight program including monthly data collection and monitoring to check on each office's performance. ■

Designate additional NVRA agencies

In addition to continuing outreach to lower-income eligible voters, specific communities with low voter registration rates could be reached through expanding NVRA implementation in several key ways.

For example, nearly two out of five American Indians and Alaska Natives who are eligible to voter are not registered.⁴⁹ Designating Indian Health Service (IHS) facilities as voter registration agencies would help ease barriers to registrations and could reach more than 1.9 million American Indians and Alaska Natives.

Similarly, naturalized Americans vote at rates significantly below native-born Americans. The voter participation gap between the two communities is parallel to the voter registration gap. For naturalized citizens who are registered to vote, turnout rates are comparable, or even higher, than registered native-born citizens. Therefore, making voter registration more accessible is the key to increasing participation of naturalized citizens. Designating the **United States Citizenship and Immigrant Services** as a full voter registration agency would ensure new Americans the opportunity to register to vote at all administrative naturalization ceremonies. USCIS has taken initial steps to encourage voter registration at naturalization ceremonies, but needs a more comprehensive approach to maximize the potential of this change.

The new health care law, the Patient Protection and Affordable Care Act (ACA),⁵⁰ provides an additional opportunity to register millions of new voters. Subsidized health insurance under the ACA—"Insurance Affordability Programs"—constitutes public assistance, so the NVRA's requirement for providing voter registration services applies. Successfully integrating the NVRA voter registration requirements into the **ACA Health Benefit Exchanges** could provide up to 68 million additional eligible voters the opportunity to register to vote and thus to participate in our political process.⁵¹

ONLINE REGISTRATION

- States should modernize registration procedures by allowing eligible voters to register to vote and update their registrations online.
- Online registration saves states and localities money.
- Registration rates among young voters increase with online registration.

These days, bank transfers, credit card transactions, and even medical record storage all happen online. These transactions are not only complicated but also highly sensitive, yet technology has managed to evolve to ensure the transactions are safe and secure, as well as convenient. Given the important role voting plays in our lives, it should be as accessible as buying a pair of shoes online. However, when it comes to voter registration, the use of online technology has yet to catch up to other areas of our modern life.

Like many other ways that people use the Internet, voters with access to an online voter registration system can check and update their registration status, as well as check their voting location. Using a computer to update existing voter registrations—to change an address, for example—is particularly easy and efficient. With appropriate security measures in place to prevent unauthorized access, allowing voter registrations to be updated online will help states to maintain current voter rolls, reduce confusion and problems at the polls, and reduce the need for provisional ballots because voter registration are more current and up to date.

Registering voters online also saves states and localities money. Printing and postage costs are typically borne by the government when using paper registration forms. Approximately one-third of the budgets of elections officials are spent on registration.⁵² Switching to an online system can result in significant savings at all levels of government. Arizona, for example, saw cost savings of over \$450,000 in Maricopa County alone in 2008.⁵³ The state first implemented paperless online registration in 2002 and over 70 percent of all voter registrations are now performed online.⁵⁴ In switching to an online system, Arizona found that, on average, paper registration costs were \$0.83 per registration, while the cost of an online registration was \$0.03.⁵⁵ In addition to signifi-

cant cost savings, between 2002 and 2004, the state saw a 9.5 percent increase in voter registrations.⁵⁶ Washington and Delaware also report cost savings from using online registration.⁵⁷

Using technology can also help reduce the submission of incomplete forms. Too often a voter thinks he or she has registered but an incomplete form can make for a nonexistent registration. The computer protocol can make it impossible to transmit the form with missing data, enabling voters to have greater confidence in the system. Online registration also eliminates one part of election officials' job that has proven especially onerous and error-prone—deciphering applicants' handwriting in order to enter information into the registration system.

Online registration programs also reach an increasingly Internet savvy population, especially young Americans. Nearly 76 percent of individuals in the U.S. now live in a household with Internet access.⁵⁸ Online registration particularly benefits young Americans who are among the most likely to have Internet access but are the least likely to be registered to vote.⁵⁹ A recent study of Arizona's online registration system found that young and of-color voters are disproportionately likely to register online. Registration rates among 18-24 year-old citizens rose from 29 to 53 percent after it introduced online and automated registration.⁶⁰ Additionally, the Presidential Commission on Election Administration reports evidence that turnout may be higher among those registering online: "in Arizona in 2008, 94 percent of online registrants voted compared to 85 percent of those who registered by paper."⁶¹

Currently, nineteen states either offer online voter registration, or have recently passed laws permitting online registration that have yet to be implemented, and five states offer limited online registration.⁶²

One limitation of online registration stems from state practices for capturing a voter's signature.—In most states with online registration, the service is offered only to individuals who already have a driver's license or state identification card because their handwritten signature was captured by the DMV. Some states still require a "wet signature" (i.e. a handwritten signature on file) to perfect a registration; some states will accept all the other registration information electronically and then confirm the registration upon its receipt. California allows anyone to register online, but if a valid signature is not on file with the DMV, the individual must print her registration form, sign it, and mail it

in; all the information except for the signature is transmitted electronically, and once the signature is received and added to the voter's file, the registration becomes complete.⁶³ This means that online registration is less convenient for persons who lack a drivers' license.

Delaware allows any individual with a Social Security number to register online. The system transmits the data to the appropriate county electronically, but at the end of the registration process, the user must print, sign, and mail a form generated by the system to complete the registration. The application is incomplete until the signed form is received; however, if the form is not received, the individual can still vote a regular ballot on Election Day by showing ID⁶⁴ and providing a signature at the polling place.⁶⁵ In Connecticut, a recently passed law will allow online registration for any individuals who have a signature stored in *any* database available to the state, including federal databases.⁶⁶

Ideally, states would implement technology that could electronically capture signatures, similar to signing for credit purchases or signing touchscreens. In 2010, Santa Clara County, California became the first to accept voter registration forms that were signed by hand and submitted electronically using mobile, touchscreen technology.⁶⁷ Each applicant's information and electronic signature, captured on a mobile Internet device touchscreen, were integrated into a secure PDF file and applicants were able to email the secure file to the county elections office.⁶⁸

POLICY RECOMMENDATIONS

Implementing online voter registration is the next logical step in integrating technological advances in our electoral system. In particular:

- Online registration should not require a signature on file. Applicants should be allowed to attest to the truth of statements in the application by executing a computerized mark, a process that is increasingly common in electronic consumer and real estate transactions.⁶⁹ Voters can later perfect their registration at their voting location by supplying a “wet” signature at the polling place.
- Handwritten signatures should be accepted electronically where that technology is available, similar to signing for credit card purchases or using touchscreens on mobile devices. In

addition, handwritten signatures can be collected at the time of registration, if voting in person, or from an absentee ballot.

- The online voter registration system should provide immediate confirmation of registration.
- The online system should be continuously available.
- Voters should be able to update their registrations online.
- The online portal should be well designed and with clear steps and easily understandable directions, navigation, and architecture, with appropriate forms and contact information, should they be necessary.
- Opening avenues for online registration should not disproportionately marginalize those without regular Internet access from the electoral process. In particular low-income people, people of color, and people with disabilities tend to be on the wrong side of the “digital divide.” States should ensure that online voter registration access is easily available to all eligible citizens by providing kiosks or other stations where people without regular Internet access can register to vote online.
- The Presidential Commission on Election Administration recommends that online registration systems “allow secure and direct data entry by prospective voters through multiple internet portals.”⁷⁰ DMVs, public service agencies, and trusted partners should be given state authorization to provide a secure direct portal to the state’s election site, so that when voters provide information their information is immediately and seamlessly updated in their voter registration file. ■

PERMANENT & PORTABLE VOTER REGISTRATION

- A person's voter registration should remain valid when he or she moves within the state.
- Centralized statewide voter registration databases are essential to provide portable registration.
- Permanent and Portable registration helps narrow participation gaps among young people, people of color and lower-income Americans.

Twelve percent of Americans change their residence every year.⁷¹ Between 2011 and 2012, 22 million voting-age Americans moved either within the same county or to a different county within their state.^{72,73}

Yet, because voter registration is tied to your legal residence at the time of registration, if you move, you often cannot vote unless you re-register with the new address, even if you move just down the block.

Tying voter registration to a set address adds an unnecessary level of red tape that prevents eligible voters from voting. Many people don't know that you have to re-register to vote every time you move. A quarter of Americans mistakenly believe that when they change their address with the post office, their registration automatically changes as well.⁷⁴

With Permanent Portable Registration, your registration moves with you when you move within a state. Any voter who has previously registered in the state will not lose their registration when they move. Allowing voters to stay registered when they move makes sense and is a natural evolution of a modern democracy. Permanent and Portable registration is not a new type of registration. It is just the administration of a previously valid registration.

Implementing Permanent Portable Registration is simple. An election official accesses the statewide voter registration database, which states are required to maintain under the Help America Vote Act, to confirm that the voter is already registered in the state. Once the voter fills out an affidavit with his new address or new name, the voter votes a regular ballot.

Allowing already registered voters who move to keep their registrations and vote on Election Day helps increase voter par-

ticipation. Studies have shown that Americans' mobility plays a substantial role in low voter turnout.⁷⁵ According to the Census Bureau, barely one-half (51 percent) of voting-age citizens who moved in the last year reported voting in 2012. The voting rate jumped to 76 percent for voting age citizens who had lived in their residence for five or more years.⁷⁶ One estimate concluded that if registration were portable within states, turnout would increase by as many as two million voters nationally.⁷⁷

Not surprisingly, some groups move more than others. The added need to re-register with each move widens the voter participation gap among certain demographic groups. In particular:

- Young people. A recent Census survey on geographic mobility found that individuals in their late twenties moved more often than any other age group over a 5-year period.
- Communities of color. Census respondents who self-identified as Hispanic/Latino or Black/African American moved significantly more often than White respondents.
- Lower-income Americans. Over one-half (52.5 percent) of people living below the poverty line moved between 2005 and 2010. Less than one-third (32 percent) of individuals at or above 150 percent of the poverty line moved during the same period of time.⁷⁸

Currently, Delaware,⁷⁹ Hawaii,⁸⁰ Oregon,⁸¹ and Texas⁸² allow voters who have moved within the state to update their registrations when they vote, and vote a regular ballot. Some states allow voters who have moved within a state to vote in their new county without having previously re-registered at their new address, but they can only vote a provisional ballot, which may require further action from the voter before it is counted. These states include Florida,⁸³ Maryland,⁸⁴ Ohio,⁸⁵ and Utah,⁸⁶ as well as Washington D.C.⁸⁷

Florida has recently passed a law implementing Permanent Portable Registration in 2014, for any county that “uses an electronic database as a precinct register at the polling place.”⁸⁸ Unfortunately, in the 2012 elections, Florida changed its laws to require voters who moved to vote a provisional rather than a regular ballot, and saw huge increases in provisional ballots compared with 2008.⁸⁹

Automatic Voter Registration

Automatic registration shifts the burden of voter registration from the individual to the state. States could automatically register eligible voters to vote at any opportunity where government agencies are in a position to verify a person's residence and eligibility. Individuals could decline to register and protections would be built in to ensure only eligible citizens are registered. Data from the USPS, DMV, Social Security, Medicare, Medicaid and other agencies could be used to generate voter lists, and automatically update voter registrations of existing voters whenever they move. Austria, Germany, France, Belgium, and Canada already successfully use government-run databases to develop voter lists.⁹⁰ Stateside, the Brennan Center for Justice has developed a proposal for automatic voter registration based on the Selective Service System.⁹¹

In Oregon, Secretary of State Kate Brown made a push for automatic voter registration legislation in 2013,⁹² but the Oregon Senate rejected the bill on July 7.⁹³ Under the bill, individuals would have been automatically registered to vote when a state agency received age, residence, and citizenship data and a digital copy of a signature from that individual, provided they were eligible to vote.⁹⁴ The program would have begun with data collected from the DMV (including for non-driver identification cards), and would have eventually expanded to include data from other government agencies.⁹⁵ All eligible individuals who

had records in the DMV database would have been automatically registered in a process beginning January 1, 2014, and voter registration records would be updated when individuals updated or renewed their licenses.⁹⁶ Voters would initially be registered as unaffiliated with any political party; later, they would receive a postcard allowing them to choose a party affiliation or opt out of voter registration entirely.⁹⁷

In Florida, State Senator Jeff Clemens introduced a bill in January 2013 that would have automatically registered eligible adults using state DMV data.⁹⁸ Sen. Clemens cited easing the burden on election supervisors and reducing potential voter fraud as reasons to support the bill.⁹⁹ Hawaii and Texas also considered automatic voter registration legislation in the past year.¹⁰⁰

In 2009, Minnesota passed an automatic voter registration bill, which was supported by the Minnesota Secretary of State but ultimately vetoed by Gov. Tim Pawlenty.¹⁰¹ The bill would have automatically transferred data from an application for a driver's license, identification card, or learner's permit to the Minnesota Secretary of State's office; the Secretary of State would then register all individuals it deemed eligible to vote.¹⁰² After county registration officials received the registration information, they would mail a notification to newly registered voters informing them of their registration, and providing instructions for opting out if the voter was not eligible or wished not to be registered.¹⁰³

POLICY

RECOMMENDATIONS

Voter registration should follow eligible voters when they move without requiring re-registration. Allowing this modernization increases voter turnout and can be easily implemented. In particular:

States should implement centralized statewide voter registration databases that would allow election officials to pull the registration records of any voter who moves.

Election officials should have real-time access to these centralized registries at the polls to allow for an effective system of portable registration.

States whose precincts are not already networked to the statewide voter registration database should develop a plan for connecting them. Election officials must be able to find registrations effectively and efficiently.

Ultimately, states should move to automatically register eligible voters to vote at any opportunity where government agencies are in a position to verify a person's residence and eligibility. Individuals could decline to register and protections would be built in to ensure only eligible citizens are registered. (see sidebar for more information.) ■

PRE-REGISTRATION OF 16-17 YEAR OLDS

- Eligible 16 and 17 year olds should be pre-registered to vote and automatically added to voting rolls when they turn 18.
- Targeted outreach to young eligible voters leads to substantial increases in voter registration.
- Encouraging civic engagement at a young age leads to increased participation over a lifetime.

In the 2008 election, young people voted at the second-highest rate of all time.¹⁰⁴ Voter turnout among 18-24 year olds grew by double digits from 2000 to 2008. Yet, they still had the lowest turnout of any age group. Sixty-seven percent of citizens 30 years or older voted.¹⁰⁵ In contrast, less than half of eligible voters between the ages of 18-24 voted.¹⁰⁶ In other words, in the second highest turnout of all time, more young people *did not* vote than voted.

This low level of turnout for any group is not good for our democracy. Young people face unique policy concerns and they should voice their preferences and priorities through the electoral process. Without their participation, our representative democracy becomes significantly less representative.

The primary indicator of voter turnout is registration. Once registered, voters are much more likely to turn out to vote. In the last Presidential election, the overall voting rate was 61.8 percent, but over 86 percent of registered voters voted.¹⁰⁷ The disparity in registration rates can be seen with young voters. In the 2008 election, only 59 percent of eligible voters between the ages of 18 to 24 were registered to vote. In contrast, 74 percent of eligible voters over the age of 24 were registered to vote.¹⁰⁸

Engaging potential voters at a young age is a successful way to increase voter registration, not just in the short term but also over a lifetime. Voters who are engaged at an early age are more likely to stay engaged.¹⁰⁹ Pre-registering 16 and 17 year olds to vote can be an important first step to engaging young adults. It has also been proven to work. In 2008, pre-registered young voters in Florida turned out at a rate 4.7 percent higher than young voters who registered after turning 18.¹¹⁰

Pre-registration does not require any additional voter registration databases. Young voters who are not yet 18 can be entered as “pending.” Once they reach 18, their registrations can automatically move from pending to active. Currently, Colorado,

Delaware, Florida, Hawaii, Maryland, North Carolina, and the District of Columbia allow eligible voters to pre-register at sixteen.¹¹¹ In Colorado, anyone who is an eligible voter over the age of 16 can register to vote, even if they will not be 18 by the time of the next election.¹¹²

In addition, nine states allow voters to pre-register at seventeen.¹¹³ Adding to this, 20 states allow teens to register if they will be 18 before the next election and seven states allow teens to register if they will turn 18 before the next general election.^{114,115}

Beyond pre-registration, several states have programs to further engage young voters. Hawaii's Office of Elections conducts pre-registration outreach activities in the state's high schools through the Young Voter Registration Program.¹¹⁶ The Office of Elections also recruits student volunteers to help conduct the pre-registration drives, which further engages young voters.¹¹⁷

Florida, which also provides pre-registration, has the Supervisor of Elections staff come to schools for one day and conduct registration drives through individual classroom visits or school-wide assemblies.¹¹⁸ In Osakaloosa and Palm Beach Counties, Supervisors of Elections voluntarily and on their own initiative extended their outreach activities to private schools, elementary and middle schools, and juvenile detention facilities.¹¹⁹

Washington State started a "Happy 18th Birthday" pilot program in 2008 where the Secretary of State mailed either a postage paid registration form pre-filled with the recipient's information or a postcard with instructions for Washington's online voter registration system to randomly selected young people nearing their 18th birthdays.¹²⁰ A January 2009 analysis using the state voter registration database showed that 19-20 percent of those who received the mailing registered in time to vote in the presidential primary, whereas only 8 percent in the control group did so.¹²¹

Wisconsin reaches out to young voters through a state law that establishes a "registration deputy" at every high school that is filled by a volunteering teacher or staff person.¹²² California is considering allowing teenagers as young as 15 to pre-register to vote at the Department of Motor Vehicles when they get their driver's license or learner's permit or by using the state's online and mail-in voter registration systems.¹²³

Until 2013, North Carolina had some of the best practices for pre-registering young voters, including:

- Teens were eligible to pre-register if at least 16 and register if 17, but would be 18 on or before the next general or regular municipal election and no earlier than 60 days prior to any primary election.¹²⁴
- When preregistered teenagers become old enough to register, they were automatically registered to vote by the Board of Elections and the normal verification process for all new registered voters took place at that time, including verification of the ID number and residential address.
- The forms were sent electronically by the DMV and county elections boards to the State Board of Elections to hold until the time for the verification process

Unfortunately, the entire effort was repealed by the legislature in 2013 and eligible young voters are no longer allowed to pre-register to vote in the state.¹²⁵

POLICY RECOMMENDATIONS

States should encourage civic engagement among young people by engaging 16 and 17 year olds before they are eligible to vote. In particular:

- Individuals who are at least 16 years old may complete all the necessary steps for voter registration. Pre-registered young people are then “activated” as registered voters when they become eligible to vote at age 18.
- These voters should receive notification when their registration has been activated, as well as polling location information prior to the first election in which their registration is active.
- The package of information could also include a set of frequently asked questions about the voting process, the date of the next election, and their responsibilities to re-register when changing addresses, if they are in a state without Same Day Registration or Permanent Portable Registration.
- High schools can register students at a number of school sponsored events, including high school civics class, or as part of a student assembly or “Civics Day” in which students meet with local political leaders. ■

VOTER REGISTRATION DRIVES

- Third party voter registration drives are a critical component to ensuring eligible voters are registered.
- States should permit third party registration drives without restrictive limitations.
- Boards of elections should provide materials on voter registration to registration drives.

The National Voter Registration Act substantially increased the number of places where eligible voters could register. Now, voter registration is available at motor vehicle offices, public assistance agencies, and various other sites. The NVRA also required that states accept mail-in forms, which helps facilitate third party voter registration drives, where outside organizations help eligible voters register to vote.

Third party registration drives are a common sight—tables set up outside a grocery store, volunteers standing outside during public events, and door to door registration drives are just a few examples. These efforts help bring voter registration opportunities to people who many not have had the time or opportunity to go to a motor vehicle office or other offices where registration is available. Through third-party drives, eligible voters complete a registration form and the third party sends in the completed form to the Board of Elections.

Unfortunately, too many states have enacted restrictions that unnecessarily burden the ability of third party groups to conduct voter registration drives. These include prohibitions on paying registration workers per registration application, requiring organizations that conduct drives to register with the state, imposing training requirements, limiting the number of applications available to persons not registered with the state, time limits for submitting completed forms, and imposing high penalties for violations.¹²⁶ Many of these steps, and certainly in combination, create unnecessary hurdles that burden efforts to bring more American citizens into the process to have their voice heard.

States like Florida and Texas have made headlines with the passage of burdensome and restrictive legislation aimed at curtailing third party voter registration.¹²⁷ In 2011, Florida enacted such harsh restrictions on voter registration programs that traditional leaders in fostering civic participation, such as the League

Accepting the Federal Voter Registration Form

Recently, Arizona passed a law requiring voters to present documentary proof of citizenship when submitting their voter registration forms. The Supreme Court struck down the law because it violated the National Voter Registration Act's requirement that all states accept the federal registration form and unnecessarily required further identification.¹³⁴

Not to be deterred, Arizona and Kansas are seeking a court order to compel the U.S. Election Assistance Commission to amend voter registration forms to require registrants prove that they are United States citizens.¹³⁵ While the case is being considered, both Kansas and Arizona announced plans to create a two-tiered voter registration system that implements separate registration systems for state and federal elections.¹³⁶ For state elections, proof of citizenship could be required to complete registration.

Already, these two-tiered systems are costing people their right to vote. As of November 2013, 18,000 Kansas residents have had their registrations "suspended" because they registered with the state form but did not show proof of citizenship.¹³⁷

There is no need for Arizona and Kansas's additional barrier to voter registration. The National Voter Registration Act (NVRA) already requires that voters attest, under penalty of law, that they are U.S. citizens. Adding additional requirements only works to create another layer of red tape to voter registration.

of Women Voters, were forced to cancel their programs.¹²⁸

Many of these restrictions were found by the courts to be unduly restrictive and were struck down because they imposed an "onerous, perhaps virtually impossible burden."¹²⁹ A federal judge in Florida, for example, found that certain restrictions, "could have no purpose other than to discourage voluntary participation [in] constitutionally protected activities."¹³⁰

In Texas, a court found that the state "now imposes more burdensome regulations on those engaging in third-party voter registration than the vast majority of, if not all, other states" and granted a preliminary injunction enjoining laws that prohibited those conducting voter registration drives from submitting applications by mail, banned non-Texans from being able to participate in registration drives, and limited third party voter registrars to work only in their home county, among other onerous and unnecessary provisions.¹³¹ Unfortunately, these laws are currently in effect after the 5th Circuit reversed the injunction¹³² and denied plaintiff's petition for a rehearing by the full 5th Circuit panel.

POLICY RECOMMENDATIONS

The states that have the best policies in this regard tend to allow third party registration without restrictive regulations: Alabama, Connecticut, District of Columbia, Idaho, Kansas, Montana, New York, North Dakota, South Carolina, Tennessee, and Vermont.¹³³ In addition:

- Policies should be established that enable groups that have registered voters to follow through and contact those they registered to encourage voter participation in elections.
- Boards of elections should provide materials readily, and assist with training those who volunteer to register voters when possible to increase successful registrations.

With the continuing transition to online registration, states should partner with third party registration groups to facilitate registration, allowing trusted partners to provide a secure direct portal to the state's election site, so that when voters register through these trusted partners' websites their voter registration file is immediately updated. ■

SECTION 2

MAKING VOTING WORK

In 2012, over 10 million voters waited for over half an hour to cast their ballot; over 5 million voters waited over an hour in line just to cast their ballots, as the Presidential Commission on Election Administration's report found.¹³⁸ In parts of Miami, voters waited up to seven hours to vote.¹³⁹ In one Miami suburb, the last vote wasn't cast until 1am—five minutes after Governor Romney had started his concession speech.¹⁴⁰ The lines were so long that President Obama said in his remarks on Election Night, “I want to thank every American who participated in this election. Whether you voted for the very first time or waited in line for a very long time—by the way, we have to fix that.”

Long lines don't impact everyone equally, however. A recent report shows that young people and people of color are more likely to face delays in voting than other voters.¹⁴¹ This “time tax” forces certain citizens to pay more in time to vote than other citizens.¹⁴² More than an inconvenience, data indicate that hundreds of thousands, if not millions, of eligible voters are unable to vote due to the time tax.

But, just fixing long lines on Election Day only treats the symptom, not the cause of electoral troubles. Long lines to vote are the result of a system currently suffering from several imperfect practices and procedures that hinder election administration, which begin long before Election Day. Problems start with restricting voting to only Election Day, preventing eligible voters from casting their vote any time before that one day, which also happens to be a work day. It's not hard to see how this limitation can decrease voter participation. For example, many working parents must juggle childcare and work responsibilities on Election Day and may miss their one chance to vote if traffic is bad or a caretaker is late that day. Plus, without the chance to vote earlier, voters may be more likely to experience long lines and delays on Election Day.

Other changes are needed to streamline and improve the voting process. Better training of elections staff and poll workers and adequate staffing levels can reduce confusion and wait times and help ensure that eligible voters cast a ballot that will count. In the voting booth itself, better ballot design and clear instructions can reduce the length of time it takes to vote, as well as the likelihood of errors that result in mistaken or cancelled votes.

Finally, in many states elections are run by partisan officials who may have a stake in election outcomes—or may at least be perceived to have such a stake. This raises the question of whether, intentionally or not, partisan interests may affect decisions on how elections are run, how polling place resources are allocated, and how other vital electoral procedures are carried out.

Ensuring nonpartisan election administration can avoid these problems and boost public confidence in the election process.

Americans deserve a voting system that is responsive to their needs and works efficiently to facilitate their participation in democratic governance. We have the tools and policies at hand to make voting work for every eligible voter—not a burdensome exercise that takes hours and leaves voters uncertain of whether their vote has been properly cast.

This section looks at simple changes in practices and policies that can ensure an efficient and timely voting experience that serves the needs of a modern democracy:

- Early Voting
- Poll Worker Recruitment and Training
- Ballot Design
- Non-Partisan Election Administration

Together, these policies will ensure that we have an electoral process that is efficient, straight-forward and less susceptible to partisan manipulation.

EARLY VOTING

- Early voting allows eligible voters more time to review issues and cast their ballot.
- Early voting can increase voter participation.
- States should expand early in-person voting locations and adopt no-excuse permanent absentee voting.

In a representative democracy like ours, the more people that vote, the stronger our democracy becomes. Given this truth, our voting procedures should provide the flexibility to accommodate every eligible person who wants to cast a ballot. Yet many states still limit the one opportunity for casting a ballot to a single Tuesday in the middle of the work week.

Restricting voting opportunities to a single day no longer serves the needs of a modern democracy. Most people must now take time out of their workday to vote and while some laws exist that provide employees with paid time off in order to vote,¹⁴³ many of those laws limit the time allowed to just two hours. For those who cannot afford to take hours out of their workday, the other options to vote are to go before or after work. It's not hard to see how childcare, family obligations, or non-traditional work schedules further decrease the voting window on Election Day.

This logistical problem has an easy solution: extend the time period in which eligible voters can cast their votes. Instead of Election Day being the one day for voting, Election Day could be the last day that eligible voters can cast their ballot. Early voting is a time period before Election Day that lets eligible voters cast their votes at a time that is more compatible with their schedules. More than two-thirds of all states allow for some form of early voting, although the time period for early voting varies from state to state. The average early voting period is about 19 days before Election Day.¹⁴⁴

Early voting has several benefits. Voting before Election Day decreases wait times and shortens lines on Election Day because voting is spread out across a larger number of days.¹⁴⁵ As there are fewer voters at one time and less crowded polling centers, the burden on poll workers is reduced on Election Day.¹⁴⁶ Election officials are also supportive of the policy and after the 2012 election many called for improved access to early voting.¹⁴⁷

Early voting can also potentially narrow the race and class

voter turnout gap. If Election Day is the only day in which voters can vote, they must balance work obligations, childcare, and other responsibilities that can deter them from voting, not because of apathy but simply because of logistics. Working and lower income people, in particular, have less flexible schedules. Early voting has the potential to help ease these competing burdens by providing people with more choices about when they can vote.

Academics continue to study the impact of early voting on turnout but usage of early voting has recently surged among traditionally underrepresented voters. The 2008 election marked a dramatic increase in early voting among African American and Latino voters.¹⁴⁸ And in Florida, where approximately 50 percent of ballots were cast early in 2012,¹⁴⁹ African-American usage of early in-person voting has exceeded White usage in four of the five most recent federal elections.¹⁵⁰ Research suggests that turnout increases are maximized when early voting is combined with Same Day Registration.¹⁵¹ Moreover, early voting is popular with voters. In nine states, more than 30 percent of voters used early voting. In 2012, nearly a third of voters cast their ballot before Election Day, more than double to rate of the 2000 election.¹⁵²

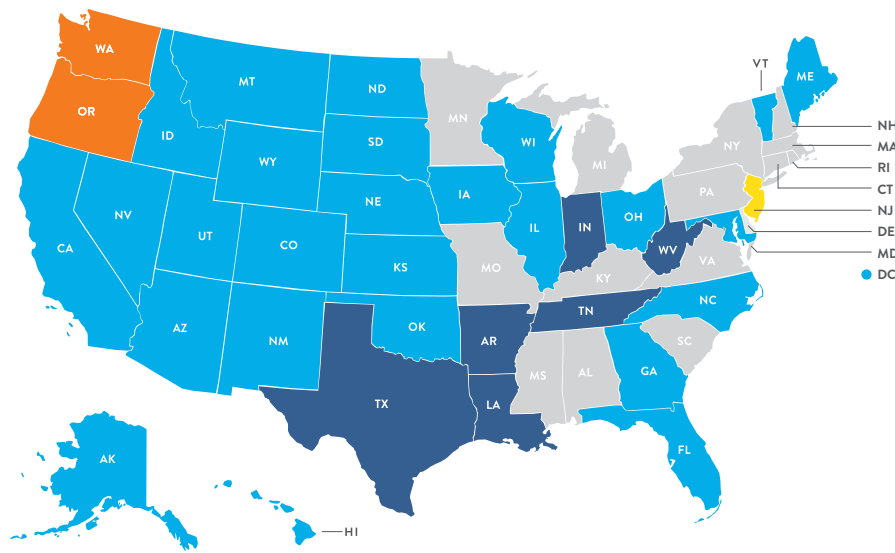
There are two basic forms of early voting. Early In-Person Voting allows voters to cast a ballot by appearing in person at a local elections office or other designated location during a set time period prior to Election Day. Absentee Voting allows voters to submit their ballots by mail or by dropping them off at designated locations. With absentee voting, voters simply apply for and receive an absentee ballot in the days or weeks before Election Day. Of the more than 47 million Americans who voted early in 2012, 29 million ballots were cast by mail, and 18.5 million through early in-person voting.¹⁵³

Some states restrict absentee early voting only to those who can demonstrate an “excuse” or “cause,” which tend to be narrow categories, such as being entirely absent from the city or county on Election Day.¹⁵⁴ However, this restriction does not take into account the work schedules and family responsibilities of many citizens. Ideally, absentee ballots should be available to any eligible voter without requiring a narrowly defined reason or “excuse” to obtain and vote an absentee ballot. Even better, seven states—Arizona, California, Colorado, Hawaii, Montana, New Jersey and Utah plus the District of Columbia offer permanent absentee voting for all eligible voters.¹⁵⁵ This designation allows

voters to join a permanent absentee voter list and then continue to receive a ballot by mail in subsequent elections without having to continually reapply.

The map below shows the breakdown of early voting, absentee voting, and no-excuse absentee voting among the states.

Absentee and Early Voting



- No-Excuse Absentee Voting
- All-Mail Voting
- No Early Voting: *Excuse Required for Absentee*
- Early Voting & No-Excuse Absentee Voting
- Early Voting

Source: National Conference of State Legislatures, <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx>

When Minnesota begins to permit no-excuse absentee voting in 2014, there will still be 14 states left that do not provide for early voting and require an excuse for an absentee ballot.¹⁵⁶ A concentration of Eastern states—Connecticut, Delaware, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Virginia—do not have early voting or no-excuse absentee. Other states lacking either early voting or no-excuse absentee voting are Alabama, Kentucky, Michigan, Missouri, Mississippi, and South Carolina. These restrictive practices erect unnecessary barriers that make voting more challenging than it needs to be.

Vote by Mail

Going beyond allowing no-excuse absentee voting or permanent absentee voting, two states, Oregon¹⁵⁷ and Washington,¹⁵⁸ conduct their entire elections by mail. Oregon began the first limited use of vote by mail in 1981 and in 1998, Oregon voters amended state law to require that primary and general elections be conducted through vote by mail.¹⁵⁹ In 2007, the state legislature approved all elections to be conducted by mail.¹⁶⁰ A ballot package, which contains a ballot, a secrecy envelope and a return envelope, is mailed between two and three weeks before the election to every registered voter.¹⁶¹ The ballot can then be returned by mail, dropped off at a designated drop site, or returned to any county election office.¹⁶² A change of address, name or political party can be done through a new voter registration card or a visit to the county elections office up until Election Day.¹⁶³

In 1993, the Washington State legislature extended mail voting to all citizens and a 2005 law allowed counties to choose whether or not to conduct elections exclusively by mail or offer both mail-in ballots and in-person polling places.¹⁶⁴ In 2011, the state moved to an entirely vote by mail system.¹⁶⁵ Ballots are mailed to registered voters at least 18 days before Election Day.¹⁶⁶ Similar to Oregon, Washington State mails out a ballot packet that includes the ballot, a secrecy envelope and a return envelope.¹⁶⁷ Ballots must be postmarked by Election Day, dropped at a designated ballot drop box by 8pm on Election Day, or returned in person to the county elections department by 8 pm on Election Day.¹⁶⁸ Sixty percent of ballots are not returned by mail, but rather at drop boxes or in person.¹⁶⁹ Voters can change their voter registration information online, by mail or at county election offices.¹⁷⁰

Voter turnout rates in Oregon and Washington are consistently higher than both the national average and also states with more restrictive mail-in ballot policies.¹⁷¹ Vote by mail offers more flexibility and ease of voting, particularly for voters who do not have flexible work schedules. Voters also have more time to study issues and candidates before casting their votes. Vote by mail also streamlines the electoral process and electoral administrators only need to focus on mail-in ballots, rather than mail-in ballots and polling places.

Hawaii held an all-mail special election for Congress in 2010.¹⁷² The voter turnout was 54 percent, markedly higher than the 13.3 percent turnout for the 2003 special election.¹⁷³ The mail-in election also saved roughly \$300,000, simplified logistics, and decreased the impact of last-minute negative campaigning.¹⁷⁴ Colorado passed a bill to mail a ballot to every voter while still providing in-person voting.¹⁷⁵

As states consider moving to all mail-in voting, policies and procedures must be put into place to ensure voter turnout doesn't decrease, particularly among low-income and communities of color who already have lower turnout rates. For instance, voters should not be removed from voting rolls during the 9060 days before an election—and never without full compliance with the voter protections in the NVRA—which is the time period during which vote by mail applications are generally received and ballots begin to be mailed out. Ballot packages should be classified as forwardable mail. Voters should still be able to vote at voting centers and polling places on Election Day as the mail-in program is rolled out.

POLICY RECOMMENDATIONS

- Adopt an early voting period of at least 14-days. A minimum period of 14-days before Election Day helps maximize early voting opportunities. Election Day must remain a focal point and early voting should continue through the weekend before the election.
- Expand access to early in-person voting locations. The number, type, and distribution of in-person voting locations currently vary by state. States and political subdivisions must ensure that in-person early voting sites are sufficiently numerous, convenient, and equitably located.
- Adopt “No excuse” absentee voting. States should permit any registered voter to request an absentee ballot, without limitation (so-called “no excuse” absentee voting). ■

POLL WORKER RECRUITMENT & TRAINING

- States should provide uniform poll worker training before Election Day to ensure Election Day runs smoothly.
- Polls workers should receive a uniform wage across the state.
- Poll worker recruitment should target public employees and high school and college students.

The formula for a well-run polling place is not complicated. At the heart of it, a sufficient number of properly trained poll workers is necessary to smoothly run an election process. Poll workers undertake a full spectrum of responsibilities from checking voter registration to directing voters within the polling place to ensuring that equipment is properly running and ballots are safeguarded. They are a voter's first stop if there are any questions or problems on Election Day.

Yet, although poll workers are key to a smoothly run polling place, the Presidential Commission on Election Administration found that “one of the signal weaknesses of the system of election administration in the United States is the absence of a dependable, well-trained corps of poll workers.”¹⁷⁶ There are no uniform standards for poll workers nationwide, and often not even within a given state. Pay, training requirements, and recruitment processes vary widely from state to state and sometimes from county to county. Remarkably, some states do not even require their poll workers to be trained. Only 30 states require that all of their poll workers undergo training and the remaining states have different requirements as to which poll workers must be trained.¹⁷⁷ The result is that poll workers may not have the tools to solve problems or crises that arise at the polling place, which leads to delays, confusion and frustration.

Even if training is mandated, it is often inadequate. Poll workers receive 2.5 hours of training, on average.¹⁷⁸ In a survey of poll workers in New Mexico, just 43 percent said that their training included enough hands-on work with voting machines and roughly 35 percent said that their training did not spend enough time on election laws and procedures.¹⁷⁹ Overall, only 22 states develop training materials for every jurisdiction within the State, leaving more than half of the states without any uniform training materials or guidelines.¹⁸⁰

The states that do have proper training protocols provide great examples for other states. North Carolina has extensive guidelines and opportunities for poll worker training. The state has written materials and instructional video developed by State Board of Elections staff with pro bono assistance from the Community College System, which reaches all 100 counties.¹⁸¹ The state also offers a Precinct Official Certification Program whose goal is to have at least one certified precinct official in every polling place in the state.¹⁸² North Carolina's training program requires poll workers to attend one large symposium, followed by two statewide training sessions.¹⁸³

North Carolina's guidelines also require local elections offices to use the statewide uniform poll worker training program¹⁸⁴ and training before each election,¹⁸⁵ offer two hour training sessions with additional sessions as necessary, and engage in training of county elections staff by the state Board of Elections. The trained staff, in turn, trains poll workers,¹⁸⁶ provides stipends to attendees & distributes instructional DVD/VHS tapes,¹⁸⁷ and offers statewide training seminars, online poll worker training for all of the counties, and special workshops.¹⁸⁸

Maryland requires training for all poll workers before presidential and gubernatorial primaries and again before the general election.¹⁸⁹ Texas's Secretary of State's office develops web-based training that is made available to all counties, which makes access to the materials easier.¹⁹⁰

In addition to implementing uniform training requirements, states should also establish uniform pay for poll workers and uniform staffing requirements for polling places. Twenty-seven states establish minimum pay rates for poll workers.¹⁹¹ Of these states, 14 states tie pay to the state or federal minimum wage and the remaining 13 establish a basic minimum pay rate. One of the best examples of poll worker pay is Alaska.¹⁹² The state has several pay options. Elections workers, language assistance workers, and youth vote ambassadors all receive \$9.50 an hour, which is significantly higher than the state's minimum wage of \$7.75 per hour.¹⁹³

Adding to lack of training and poor pay, understaffed polling places can create confusion for both poll workers and voters, contributing to long waiting times at the polls. To address this issue, the Election Assistance Commission began the Help America Vote College Program in 2004, which distributes grant money for poll worker recruitment initiatives at the state and

local level. Since the program began, the EAC has awarded more than \$1 million to 34 colleges, universities, and nonprofit organizations.¹⁹⁴

States with the best practices on staffing polling places base their allotment of poll workers on the number of registered voters served by the polling place, rather than a fixed number for all polling places of any size. South Carolina, for example, requires three managers for the first 500 registered voters and then three additional poll managers for every additional 500 registered voters, or fraction of 500, thereafter.¹⁹⁵

Wide recruitment also helps bring more interest in serving as a poll worker. The majority of states have a preference for poll workers to be residents of the precincts in which they work.¹⁹⁶ California and Massachusetts open the door for more poll workers because they allow state residents to serve anywhere in the state.

Also allowing municipal, state or federal employees to serve as poll workers without any penalty would increase the potential pool of poll workers. The Department of Agriculture, for example, changed its policy to allow employees to serve as poll workers without penalty.¹⁹⁷ California also permits all state employees to take time off to serve as poll workers without loss of pay.¹⁹⁸ Going even further, Orange County has a program that set a goal of 10 percent of poll workers being staffed by county employees and pays county employees a full day's pay plus a \$50 stipend.¹⁹⁹

In addition to government employees, students are another population that should be encouraged to serve as poll workers. Engaging in civic activity at an early age can lead to increased political and electoral participation.²⁰⁰ Half of the states allow 16 and 17 year olds to work at the polls.²⁰¹ Alaska's Student Election Assistant program engages students 16 or older by appointing them to the youth vote ambassador program by the director of elections, offering a training program and providing compensation for the youth vote ambassadors.²⁰²

The Missouri Youth Election Program allows students aged 15-17 to participate on Election Day and aid the local election authority and poll workers at the polls.²⁰³ New York City's Poll Worker Initiative recruits and trains students to serve as poll-workers and provides for on-campus poll worker trainings at select City University of New York campuses across the five boroughs.²⁰⁴ California's Student Poll Worker Program allows eligible students to be appointed as poll workers on Election Day

and pays them between \$65 and \$150 for service.^{205,206}

In Franklin County, Ohio the Board of Elections has partnered with Kids Voting Central Ohio to promote high school seniors serving as poll workers. Students who are seniors, in good academic standing, and at least 17 years and older may participate with the permission of their school district, teachers and parents. Every year, new students become involved.²⁰⁷

Encouraging young people to get involved in election administration increases the likelihood that they will continue to be engaged in future elections. In Virginia, for example, the University of Virginia Center for Politics (CFP) received funding from the EAC to expand its Student Poll Worker Program and all of the University of Virginia participants said that they were likely to serve as poll workers again in the future.²⁰⁸

Finally, allowing poll workers the option to work a full or split shift, like California and Nebraska, helps to encourage more participation because people with less flexible schedules can choose to work a split shift and still be able to participate in Election Day.^{209,210}

POLICY RECOMMENDATIONS

To ensure a smooth Election Day, local, state and federal elections should adopt the follow policies:

- States should provide uniform statewide poll worker training before Election Day and standardize poll worker training hours, curriculum, assessment for poll worker proficiency, and materials to be completed before each election. Additional compensation should be provided for training.
- Establish uniform minimum poll worker wages no lower than the state or federal minimum wage (whichever is higher).
- Adopt uniform staffing requirements for workers, including split shift and/or half days options, and a formula for adequate staffing at the polls based on registered voters in precinct before the election.
- Implement poll worker recruitment, advertisement, and incentives to increase the number and quality of poll workers.
- Provide comp time to public employees who work as poll workers.
- Provide incentives for high school and college students to work as poll workers. ■

BALLOT DESIGN

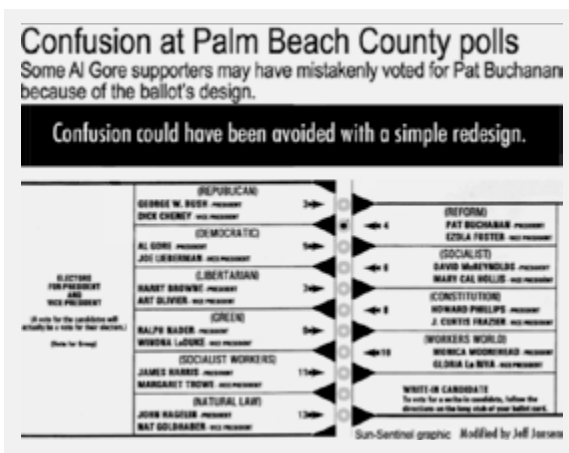
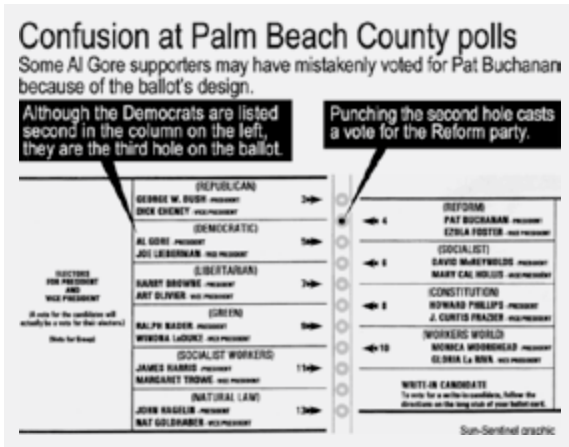
- Ballot design should be simple and straightforward to ensure voters understand for whom and for what they are casting their votes.
- Ballots should be written in clear, plain language.
- Ballot design should focus on the ABCs: Accuracy, Brevity and Clarity.

It seems almost too basic to have to state that the ballots used for voting must be simple and straightforward. Yet, past experience has shown that ballot confusion is common and can have disastrous consequences. In the 2000 Presidential election, poor ballot design caused confusion among Florida voters, resulting in some voters casting their ballot for a different

candidate than they intended.²¹¹ The Florida ballot, shown below, required voters to punch a circle next to the candidate for whom they wanted to cast their vote. However, poor layout resulted in confusion over which circle went with which candidate. As a result, many voters cast their vote for the wrong candidate.

However, as shown on the following page, a simple fix would have made the ballot clearer.

Yet, even though the second ballot may be less confusing than the original, it is still confusing. Too many graphic symbols crowd the ballot and the two columns of candidates make it more likely that a voter picks a candidate different from her intention. Simply listing all the candidates straight down in one column would have made the ballot far clearer, as the sample ballot below shows.²¹²



Poor ballot design can also result in “overvotes,” where voting machines detect more than one candidate selected for a contest.²¹³ In these cases, no vote is recorded for the contest, regard-

Name	
Candidate A	<input type="radio"/>
Candidate B	<input type="radio"/>
Candidate C	<input type="radio"/>
Candidate D	<input type="radio"/>
Candidate E	<input type="radio"/>
Candidate F	<input type="radio"/>

less of the voter’s actual intent.²¹⁴ Poor ballot design also disproportionately affects voters who are poor, elderly, disabled, and new to voting.²¹⁵ Research shows that for 90 percent of the adult population to be able to read and understand the content, the ballot should be written at a 3rd grade reading level.²¹⁶

There are few set standards for ballot design in state law, but Minnesota and Washington have worked to ensure their ballots are accessible and easy to understand for their voters. Minnesota worked with design professionals and usability experts to redesign the instructions on the absentee voter submission envelope after more than 4,000 absentee ballots were not counted in 2008, mainly because voters failed to sign their ballot.²¹⁷

Minnesota’s efforts were successful and as a result of the redesign, the number of unsigned absentee ballots decreased by 79 percent in 2010. Washington State passed a bill in 2010 that requires ballots to have a clear delineation between the instructions and the area to vote.²¹⁸ The Secretary of State must also establish standards for ballot design and layout. These steps help ensure that the voter experience with ballots are in the forefront of priorities when designing ballots.

PRINCIPLES OF BALLOT DESIGN

The good news is that creating ballots that are easy to understand is relatively simple. Ballot designers can think of the ABCs for ballot design: Accuracy, Brevity and Clarity:

Accuracy

- Ballots should use fill-in-the-oval rather than connect-the-arrow options.

- Instructions should be included on the ballot itself that define and warn about the consequences of casting a spoiled ballot and explain how to correct a spoiled ballot.

A ballot design team for ballots and election materials should be assembled and potential ballots tested with voters to determine accurate and understandable language translation, best voter design preference, and maximum usability.²¹⁹

Brevity

- There should be only one language per ballot.
- Each contest and measure should be on its own page when states use a Direct Recording Electronic (DRE) voting system.
- Voting instructions and displayed voting materials should be written at a 3rd grade reading level.

Clarity

- Reconfiguration of the write-in line should be considered to prevent voters from selecting a candidate and then writing the same name on the write-in line.
- Ballots and supporting materials should use plain language, clear colors and fonts, and universally understood icons.²²⁰
- Ballots should only have one or two different colors to streamline design.
- Candidates for the same office should not be listed in multiple columns or on multiple ballot pages. ■

NON-PARTISAN ELECTION ADMINISTRATION

- Election administration should not be affected by partisan goals.
- Partisan election administration increases the risk of disenfranchisement.
- Non-partisan election administration boosts faith and confidence in the electoral process and promotes fair and accurate electoral results.

If anything should be free from politics or partisan fighting, it should be our election administration. Regardless of political ideology, everyone can agree that our elections should be conducted in a non-partisan and transparent manner. Yet, in counties and states around the country, election administrators are elected or partisan appointees. This dynamic is a recipe for potential conflicts of interest. The PCEA determined that “because the selection of election officials on a partisan basis can risk public confidence in the quality and impartiality of administration, the responsible department or agency in every state should have on staff individuals chosen solely on the basis of experience and expertise.”²²¹ Running elections should be separated from running for office.

The role of election administrators is significant: They oversee all aspects of conducting elections and implementing election policies and procedures at the state and local level.²²² On the local level, election administrators determine who can vote, where they can vote, and how they can vote. Their responsibilities include maintaining voter registration lists, drawing precincts, selecting polling place sites, procuring equipment, recruiting and training poll workers, canvassing the vote, and evaluating and implementing improvements to the electoral process itself.²²³

At the state level, election administration covers a spectrum of election-related logistics, including the maintenance of the state-wide voter registration file and the implementation of federal and state laws and policies concerning elections.²²⁴ This can include ballot design, polling place hours, and provisional ballot use. The importance of keeping the process non-partisan and independent to maintain the voting public’s confidence in the voting process cannot be overstated.

The consequences of partisan politics creeping into election administration are grave. The 2004 Ohio experience shows what happens when politics enters the who, when, and where of election administration. In 2004, Ohio's top election official, Kenneth Blackwell, was also the co-chair of President Bush's re-election committee.²²⁵ As Secretary of State, Blackwell had broad powers to interpret and implement state and federal election laws covering everything from processing voter registrations to conducting official recounts.²²⁶ Blackwell was vocal about his strong partisan views and publicly denounced John Kerry as "an unapologetic liberal Democrat."²²⁷ An investigation by Rep. John Conyers looked into more than 50,000 complaints from voters and concluded that the voting problems that arose were "caused by intentional misconduct and illegal behavior, much of it involving Secretary of State J. Kenneth Blackwell."²²⁸

A similar situation arose four years earlier in Florida in 2000. Controversy surrounded the state's recount and the Secretary of State, Katherine Harris, was at the center of controversy due to irregularities in vote counting and election administration. In addition to overseeing the state's election administration, Harris was also co-chair of George W. Bush's Florida campaign.²²⁹ An extensive investigation by the U.S. Commission on Civil Rights into Florida's election found that there was, in fact, widespread disenfranchisement due to restrictive statutory provisions, wide-ranging errors and inadequate and unequal resources in election administration.²³⁰

Through their investigation, the commission found that African Americans voters were nearly ten times more likely than white voters to have their ballots rejected.²³¹ African American voting districts were also disproportionately hindered by antiquated and error-prone equipment and poorer counties, especially those with higher populations of people of color, were more likely to use voting systems with higher spoilage rates than more affluent counties with higher populations of white voters.²³² African-Americans were also disproportionately purged from voter rolls.²³³ The Commission concluded by recommending non-partisan election administration for full accountability and transparency.²³⁴

Current Best Practice

The most advanced model for non-partisan election administration is Wisconsin. A recent review of Wisconsin's Government Accountability Board (GAB) found that it was a genuinely non-partisan institution whose decisions did not favor either major party.²³⁵ Both parties were at times satisfied and dissatisfied by the GAB's action, but more importantly, the GAB fairly and evenhandedly interpreted and implemented the elections laws it is charged with implementing.²³⁶ The review concluded that the GAB's, "manner of decision making has been meticulous, careful, and judicious," and "The GAB thus serves as a worthy model for the remaining 49 states, all of which still have partisan or bipartisan chief election authorities—despite the emerging international consensus that independence from partisan politics is essential to proper election administration."²³⁷

Wisconsin's GAB is made up of six former judges that are nominated by a panel of four state Appeals Court judges, appointed by the Governor, and confirmed by the Senate.²³⁸ Each Board member serves staggered six year terms with one member's term expiring each year.

To prevent any potential conflicts of interest, the GAB has several restrictions. For one, no Board members may hold another office or position that is a state public office or a local public office, except the office of circuit judge or court of appeals judge.²³⁹ In addition, no member, while serving on the board, may become a candidate for state office or local office.

GAB members cannot have been a member of a political party or an officer/member of a committee in any partisan political club or organization for one year immediately prior to the date of nomination.²⁴⁰ No member may make a contribution to a candidate, for state office or local office while serving on the board or 12 months prior to that service.²⁴¹ Finally, GAB members cannot be a lobbyist or an employee of a principal, except for serving as a circuit judge or court of appeals judge.²⁴²

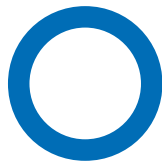
PRINCIPLES FOR NON-PARTISAN ELECTION ADMINISTRATION

Nonpartisan election administration can be conducted through a commission or a board or a single office. Diversity should be an important consideration in the composition of any board or commission. The nonpartisan entity should adhere to the following principles:

- Non-partisan Elections Administration entity should appoint a professional nonpartisan CEO that is hired and fired by Elections Board.
- Civil service based hiring practices should be applied for administrators.
- Pre-Election Administration Plans (EAPs), or any written plan, should be adopted to institutionalize ‘best practices’ across elections.
- Strict lobbying, campaign contribution, & electioneering restrictions should be adhered to by staff and the CEO that is retroactive to at least 12 months before appointment or hire date.
- A stable & statewide uniform elections board funding formula should be implemented based on county population, past election needs, and adjusted to inflation to ensure that election commissions are continually fully funded and are not dependent on year to year funding. ■

SECTION 3

PROTECTING & COUNTING EVERY VOTE



ur democracy thrives only when every eligible citizen's right to vote is protected. Yet, the past few election cycles have seen unprecedented attempts to strip citizens of this fundamental right. In the 2008 election, up to three million registered voters were prevented from voting because of various administrative problems.²⁴³ The consequence of losing these votes is not insignificant: The number of people barred from voting in 2008 because of various technical and administrative problems exceeded the popular vote margin of the 2000 and 2004 presidential elections.²⁴⁴

Our electoral system also continues to face serious challenges in the form of voting discrimination based on race and ethnicity. Unfortunately, the Supreme Court's recent decision in *Shelby County v. Holder*,²⁴⁵ which struck down a key provision of the Voting Rights Act, undermined one of the most important tools that previously protected the right to vote against such discrimination. The VRA had long required states and localities with a history of discrimination in voting to obtain preclearance from the U.S. Department of Justice or a federal district court before implementing changes in voting practices or procedures. The preclearance process ensured that the change in voting procedures would not be discriminatory in purpose or effect.

In June 2013, the Supreme Court, in a sharply divided 5-4 ruling, eviscerated this protection by declaring that the "formula" used to determine which states should be covered by the preclearance requirement was out of date, citing evidence that discrimination had decreased somewhat over time in the covered states. Justice Ginsburg, in dissent, said that this reasoning resembled throwing away your umbrella in a rainstorm because you are not getting wet.

The *Shelby County* ruling requires a response by Congress to repair the damage the Court's decision has done to the Voting

Rights Act and restore its key protections against racial discrimination in voting. The recent introduction of the bipartisan Voting Rights Amendment Act of 2014 (HR 3988) is a promising step toward that goal. Key elements of the legislation include:

- A revised coverage formula to identify jurisdictions that should be subject to preclearance requirements, updated to respond to the Supreme Court's objections.
- Enhancements to the standards for granting preliminary injunctions in voting cases so that discriminatory voting changes can be halted more readily, given the cutbacks to preclearance requirements.
- Disclosure/transparency requirements to ensure that important changes in voting practices and procedures are disclosed to the public.
- Expansion of the provisions of the VRA that allow for judicial determinations that a particular jurisdiction should be subject to preclearance requirements (the so-called "bail-in" process).
- Expansion of the authority to appoint federal observers to monitor polling places where there is concern about possible discrimination or intimidation at the polls.

The Supreme Court's weakening of the Voting Rights Act, unfortunately, came at a time when many states have decided to enact laws to make voting more difficult. One example is legislation restricting the kinds of identification that will be accepted at the polling place. Overly restrictive photo ID laws present an unnecessary layer of red tape that eligible voters must cut through before they can exercise their fundamental right.

Another aspect of the electoral process that too often results in disenfranchisement is the overuse of provisional ballots. When issues arise at the poll, otherwise eligible voters are often given a provisional ballot, which is not counted in the same manner as regular ballots. Provisional ballots are typically set aside for additional processing, and may or may not be counted even though the voter was fully eligible.

Millions of people are also stripped of their right to vote based on current or previous incarceration. Many formerly incarcerated individuals lose their right to vote forever, even though they have completed their sentences and served their debt to society. Given that the United States incarcerates more of our citizens than any other nation, permanently stripping this population of

the right to vote is a major blight on our democracy. The impact is also felt more strongly in communities of color, which bear the brunt of harsh and often discriminatory criminal justice policies.

Disabled Americans and Americans whose primary language is not English also are at greater risk of losing their voice in our electoral system. Overly complicated language can confuse and discourage non-native English speakers from voting, even though they are American citizens and eligible voters. Likewise, complicated polling place layout or physically challenging polling places can prevent voters with disabilities from being able to cast their votes on Election Day.

Adding to the web of legal and policy challenges to protecting and counting every vote, the last few elections have also seen the rise of outside groups that use deceptive tactics, intimidation, voter challenges, and physical harassment to keep voters from the polls. While such tactics may be associated with repressive state or local officials, they may increasingly be used by private citizens targeting specific communities of eligible voters to dissuade these voters from exercising their right to vote.

Protecting and Counting Every Vote will ensure that all eligible voters can be confident that their votes will be counted and they can cast their vote without fear of harassment or intimidation. This section will discuss:

- Restrictive Photo ID Laws for Voting
- Provisional Balloting
- The Right to Vote for Formerly Incarcerated Persons
- Language and Disability Access
- Deceptive Practices and Intimidation
- Voter List Maintenance and Wrongful Challenges to Voter Eligibility

Voter suppression and intimidation should not be tolerated in our democracy. Together, these policies will help ensure that every individual's right to vote is protected and that every vote cast is counted.

RESTRICTIVE PHOTO ID LAWS FOR VOTING

- Overly burdensome photo ID laws add an unnecessary layer of bureaucracy that disenfranchises millions of otherwise eligible voters.
- Photo ID requirements place tremendous fiscal burdens on states and localities.
- States should look to their constitutions to protect the freedom to vote from onerous ID laws.

Restrictive photo ID laws for voting are a level of unnecessary red tape and bureaucracy that hinder the freedom to vote. Strict laws that require narrow types of government-issued ID go above and beyond normal registration requirements. Rather than protecting the integrity of our electoral system, restrictive photo ID laws are an example of politicians enacting overly restrictive requirements to manipulate the voting system for their own advantage. As the Pennsylvania House Majority leader said, “Voter ID, which is going to allow Governor Romney to win the state of Pennsylvania: done.”²⁴⁶

Indeed, far from protecting the integrity of our elections, restrictive photo ID laws take away the right to vote for millions of eligible voters. For instance, when Pennsylvania implemented new restrictive photo ID laws, about nine percent of the state’s already registered voters did not currently possess the necessary identification required at the polling place.²⁴⁷ In 2012, 8.5 million people were registered to vote in the state.²⁴⁸ If the ID requirements had been in place, 765,000 eligible voters would not have been able to vote.

Though the state’s law has been challenged in court, it is just one example of the scale of disenfranchisement among eligible voters that can occur through restrictive, unnecessary photo ID laws. Furthermore, while these laws are often defended as necessary to protect our elections, the threat of voter fraud is minimal, if not near zero. A recent study analyzed all cases of alleged voter fraud since 2000 and found just 10 cases of voter impersonation out of 146 million registered voters during that time period, or 1 out of every 15 million voters.²⁴⁹

The new, restrictive ID laws being enacted in many states go above and beyond what is required for voter identification.

Under the federal Help America Vote Act (HAVA), the only voters required to present identification for voting are first-time voters who registered by mail.²⁵⁰ The permissible IDs include utility bills and other more readily available forms of identification, rather than being limited to government-issued photo IDs. If the first-time voter does not have any of the permitted IDs, she can cast a provisional ballot.²⁵¹ The ID requirement for first-time voters can also be waived under HAVA if the eligible voter submitted either a driver's license number or the last four digits of their Social Security number *and* the state or local election official can match the submitted information to a state identification record.²⁵²

At least 30 states require some form of identification to be presented at the time of voting before an eligible citizen can vote, but fewer than ten states have passed strict photo ID requirements, and many of these are being challenged in court.^{253,254} In states with strict voter ID laws, a voter without valid ID is given a provisional ballot that is kept separate from regular ballots.²⁵⁵ If the voter does not return within a short period of time after the election to present an acceptable ID, the provisional ballot is never counted. What constitutes valid ID also varies among states with some requiring a photo ID and others allowing Social Security cards, utility bills, and other forms of government issued documents.²⁵⁶

The most onerous voter ID laws require both a photo ID and are “strict” where the provisional ballot is kept separate and not counted if the voter does not return with appropriate ID. Currently, Georgia, Indiana, Kansas, and Tennessee require both a photo and are strict ID states.²⁵⁷ Arkansas, North Carolina, Mississippi, Pennsylvania, Texas, Virginia, and Wisconsin have all passed similar restrictions but only Texas's law is in effect.²⁵⁸

The danger to overly restrictive voter ID laws is that voters who cannot produce the restrictive forms of IDs required are at risk of not having their vote counted—even if they are eligible voters. This segment of the population is not inconsequential 11 percent of Americans, or approximately 23 million citizens of voting age lack the required photo ID and could be turned away from the polls on Election Day.²⁵⁹

These laws also disproportionately affect people of color and poorer citizens, who are less likely to have the required forms of ID, especially photo ID.²⁶⁰ Twenty-five percent of voting age African-Americans do not have a government issued photo ID.²⁶¹ At least 15 percent of eligible citizens making less than \$35,000 a year also do not have a government issued photo ID.²⁶² Nearly 20 percent of 18-24 year-olds do not have photo ID with their current address and name.²⁶³ All of these constituencies are at risk of being disenfranchised and denied their basic, funda-

mental right to vote.

Finally, implementing overly restrictive voter identification laws is expensive. Photo ID requirements, in particular, are fiscally burdensome to states. States that require photo IDs to vote must provide them free of charge because otherwise the photo ID requirement would amount to a de facto poll tax.²⁶⁴ Indiana, for example, spent more than \$10 million over four years on photo IDs for voting.²⁶⁵ A recent analysis found that photo ID legislation would cost a minimum of \$276 million and could cost up to \$828 million to implement.²⁶⁶

POLICY RECOMMENDATIONS

The clearest way to protect the right to vote is to eliminate any ID requirements that go beyond a signature affidavit at the time of voting. In addition:

- The requirements set forth in HAVA should be a ceiling and not a floor. States should not impose further requirements beyond those in HAVA, as detailed in the text.
- HAVA's prescriptions for first-time voters who register by mail should not apply to in-person registrations, including registration drives via local community organizations.
- States should also amend their constitutions to provide an affirmative right to vote. Onerous ID laws can then be challenged as violating the state's constitutionally protected right to vote. ■

State-Level Constitutional Right to Vote

A part from Arizona, every state affirmatively and explicitly grants the right to vote in its state constitution.²⁶⁷ Of the 49 states, 26 state constitutions state that elections shall be “free,” “free and equal,” or “free and open.”²⁶⁸ However, state courts have largely under-enforced the right to vote, because they have too closely followed federal court jurisprudence regarding voting rights.²⁶⁹ An opportunity exists for states to better protect the right to vote through enforcement of their state constitutional provisions.

BEST STATE PRACTICES

New Mexico's State Supreme Court has interpreted that a state constitution's “free and equal” or “free and open” elections clause means that “all eligible voters should have the chance to vote.”²⁷⁰ In Wisconsin courts have interpreted the state constitution to provide greater protection to the right to vote than the federal constitution.²⁷¹

A recent Missouri Supreme Court decision illustrates the difference between the lenient constitutional scrutiny of burdens on non-fundamental interests and stringent scrutiny of burdens on fundamental rights. Holding that voting is a fundamental right under the Missouri state constitution, the Missouri Supreme Court barred enforcement of the state's ID requirements.²⁷²

State courts should follow Missouri's lead and interpret the right to vote as a fundamental right and apply a “strict scrutiny” standard when reviewing any law or regulation dealing with voting rights or procedures. Any policy that infringes this fundamental right should be forced to show a **compelling state interest**, the law or policy must be **narrowly tailored** to achieve the goal or interest, and it must be the **least restrictive** means by which the compelling interest is achieved. Any law or policy that does not meet all three of these standards should be struck down as unconstitutional.

PROVISIONAL BALLOTING

- Provisional ballots are not counted as regular ballots and should be used in only very limited situations.
- Provisional ballots cast solely because an eligible voter voted in the wrong precinct or polling place should be counted as a regular ballot for any office for which the voter was eligible to vote.
- Adopting Same Day Registration would substantially decrease the need for provisional ballots because eligible voters can simply re-register if there are registration issues.

The scenario occurs regularly on Election Day: a voter will show up at the polling place only to find that his or her name is not on the voting rolls. Sometimes an incomplete registration form is to blame. Other times, people have moved since registering and may show up at the wrong polling place. But in many cases, processing errors by election administrators, overly aggressive purging procedures, or other mistakes outside of the voter's control result in the voter being mistakenly left off the voting rolls.

Under the Help America Vote Act of 2002 (HAVA), voters whose names cannot be found on the voter rolls on Election Day or whose eligibility is challenged must be provided a provisional ballot.²⁷³ These provisional votes are subsequently counted if local election officials are able to verify, by a set deadline, that the individual is a legitimate voter under state law.²⁷⁴ The Presidential Commission on Election Administration found that “high rates of provisional balloting can . . . lead to longer lines, as voters and poll workers attempt to address confusion regarding a voter’s registration status and to provide the appropriate ballot. . . . States that require large number of voters to cast provisional ballots slow down the voting process.”²⁷⁵

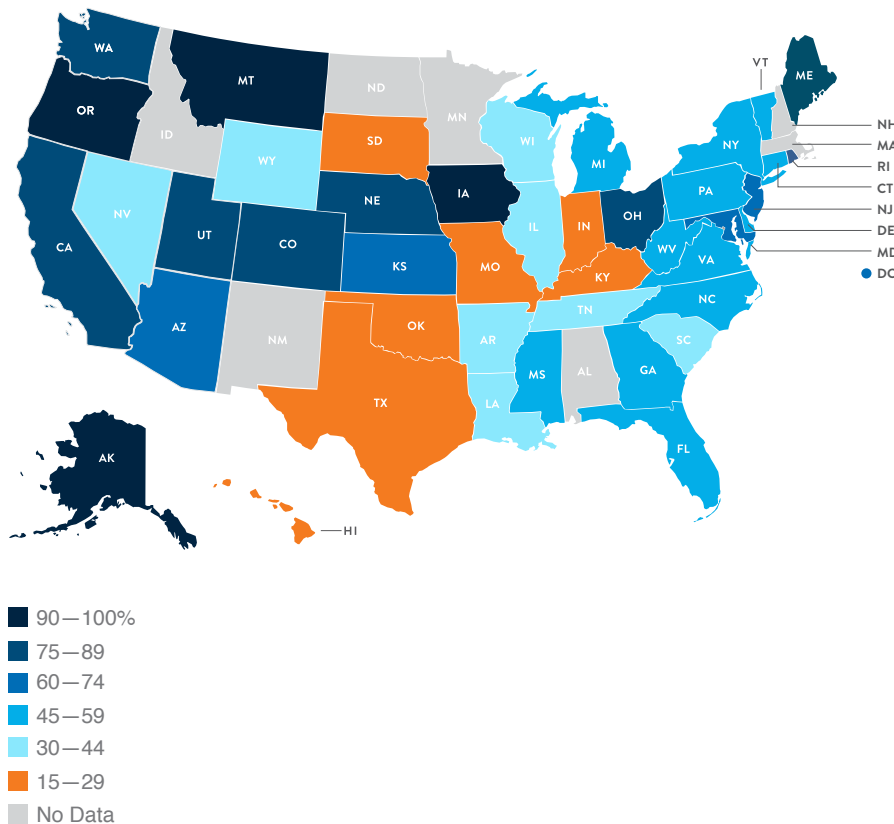
States’ policies on provisional ballots vary. For 31 states and Washington D.C, provisional ballots must be cast in the correct precinct in order to be counted.²⁷⁶ Fourteen states allow for a broader application and will count the provisional ballot as long as it is cast in the correct jurisdiction.²⁷⁷ Four states, Idaho, Minnesota, New Hampshire, Wisconsin, and Wyoming are exempt from HAVA provisional ballot requirements because they had same day registration when HAVA was implemented, which allows eligible voters to re-register on the day they vote if there are any registration issues.²⁷⁸ North Dakota is also exempt because it does not require voter registration, at all. Maine also has same day registration but still allows voters to cast challenge ballots.²⁷⁹

tions, and envelopes that contained no provisional ballots.²⁸⁵ These errors were in some cases committed by voters but many were a result of administrative problems at the polls.²⁸⁶

The map below shows the breakdown of the percentage of provisional ballots that were counted by state in the 2008 election.

Percentage of Provisional Ballots Counted

Provisional ballots counted in the Nov. '08 election



Source: Pew Charitable Trusts, 2009

While provisional ballots are intended to be a safeguard, the high rate of disqualified provisional ballots in many states suggests that the use of provisional ballots should be as limited as possible, and states should instead implement procedures that will allow as many voters as possible to cast a regular ballot at the polls. Ideally, measures such as Same Day Registration should be implemented to allow eligible voters to simply re-register at the time of voting, and cast a regular ballot that will be counted, if an eligible voter encounters any questions about the voter's registration at the polling place.

POLICY RECOMMENDATIONS

- States should adopt Same Day Registration to decrease the need for provisional ballots. In states that provide Same Day Registration, voters who discover a mistake in their registration when they appear at the polling place can simply re-register and then vote a regular ballot, greatly reducing the need for provisional ballots.
- If a voter is required to cast a provisional ballot solely because he or she voted in the wrong precinct or polling place, the votes cast on the provisional ballot should be counted as a regular ballot for any office for which the voter was eligible to vote (e.g., presidential, statewide, or countywide offices).
- If a provisional ballot is cast, the voter should be permitted to cast the ballot and written registration affirmation at the current polling place rather than having to go to a central elections office. ■

THE RIGHT TO VOTE FOR FORMERLY INCARCERATED PERSONS

- Nearly six million people are denied the right to vote due to felony offenses, even if they have completed their sentences.
- One out of every 13 eligible African Americans of voting age has lost their right to vote.
- States should not permanently take away the freedom to vote from any citizen. At a bare minimum, the right to vote should be automatically restored once a person is released from incarceration.

Prohibiting citizens from voting defies our democracy's principle of one person, one vote. Yet across the country nearly six million citizens have been stripped of their right to vote due to prior convictions, even long after they have completed serving their sentences.²⁸⁷ The vast majority of these individuals, 75 percent, are no longer incarcerated and live in their communities without the ability to fully participate.²⁸⁸

The U.S. has the highest rate of incarceration in the world.²⁸⁹ Currently, over two million individuals are incarcerated—an increase of 500 percent over the past 30 years.²⁹⁰ Laws that permanently strip these individuals of the right to vote means that even more of our citizens will be denied the freedom to vote in the years to come.

Stripping formerly incarcerated individuals of the right to vote has a long and ugly racist history. Felony disenfranchisement laws have been used as a means to restrict political power. In the wake of the Civil War, felony disenfranchisement was enacted in part as a reaction to the elimination of the property test as a voting qualification. These laws served as an alternate way for wealthy elites to restrict the political power of those who might challenge their political dominance.²⁹¹

Beyond disenfranchising poorer individuals, in the period following Reconstruction, several Southern states specifically tailored their disenfranchisement laws in order to bar Black male voters by targeting offenses believed to be committed most frequently by the Black population.²⁹² For example, Alabama's provision disenfranchised a man for beating his wife, but not for killing her because the author estimated, "the crime of wife beating alone would disqualify sixty percent of the Negroes."²⁹³

Discriminatory police practices combined with rigid and racially biased drug laws have resulted in a disproportionate number of African Americans being arrested and convicted of felonies. As a result, one out of every 13 eligible African Americans of voting age is disenfranchised.²⁹⁴ In total, nearly eight percent of African Americans are disenfranchised because of such laws, more than four times more than the rate of non-African American disenfranchisement.²⁹⁵ In Florida, Kentucky and Virginia, more than 20 percent of African Americans of voting age are disenfranchised.²⁹⁶

Almost every state in the U.S. takes away the right to vote from citizens convicted of felonies. Maine and Vermont are the only states that allow people currently incarcerated to vote.²⁹⁷ Once individuals have completed their sentences and are out of prison, however, most states continue to withhold the right to vote for ex-felons, as seen in the chart below. Thirty states do not allow persons on probation from felony convictions to vote and 35 states do not allow persons on parole to vote.²⁹⁸ Thirteen states continue to disenfranchise people even after they have successfully fulfilled their prison, parole, or probation sentences Alabama, Arizona, Delaware, Florida, Iowa, Kentucky, Mississippi, Nebraska, Nevada, Tennessee, Virginia, Washington, and Wyoming.²⁹⁹

Summary of State Felon Disfranchisement Restrictions in 2010

No Restriction (2)	Inmates only (13)	Inmates & Parolees (5)	Inmates Parolees, & probationers (19)	Inmates Parolees, probationers, & Ex-felons (11)
Maine	Hawaii	California	Alaska	Alabama
Vermont	Illinois	Colorado	Arkansas	Arizona ²
	Indiana	Connecticut	Georgia	Delaware ³
	Massachusetts	New York	Idaho	Florida
	Michigan	South Dakota*	Iowa* ¹	Kentucky
	Montana		Kansas	Mississippi
	New Hampshire		Louisiana	Nebraska* ⁴
	North Dakota		Maryland*	Nevada ⁵
	Ohio		Minnesota	Tennessee ⁶
	Oregon		Missouri	Virginia
	Pennsylvania		New Jersey	Wyoming
	Rhode Island*		New Mexico	
	Utah		North Carolina	
			Oklahoma	
			South Carolina	
			Texas	
			Washington*	
			West Virginia	
			Wisconsin	

* indicates a recent change (since 2004)

1. Governor Tom Vilsack restored voting rights to ex-felons via executive order on July 4, 2005. Governor Terry Brandstad reversed this executive order on January 14, 2011

2. State disenfranchises recidivists.

3. State requires a five-year waiting period.

4. Nebraska reduced its indefinite ban on ex-felon voting to a two-year waiting period in 2005.

5. State disenfranchisement recidivists and those convicted of violent felonies.

6. State disenfranchises those convicted of felonies since 1981, in addition to those convicted of select crimes prior to 1973.

Prison-based Gerrymandering

A long-standing flaw in the decennial census results in prison-based gerrymandering, where roughly 2 million incarcerated people are counted in the wrong place for purposes of redistricting.³⁰⁴ Although people who are incarcerated generally cannot vote, and remain legal residents of their home communities under the laws of most states, the Census Bureau currently counts incarcerated people as residents of the prison where they are incarcerated, not where their homes may be.³⁰⁵

Prison-based gerrymandering gives people who live near large prisons extra influence at the expense of voters everywhere else, undermining the one person, one vote principle of the 14th Amendment. It also creates incentives for elected officials to increase the incarcerated population.

For example, upstate New York has been steadily losing population.³⁰⁶ In the 2000 Census, almost one-third of the persons credited as having “moved” into upstate New York during the previous decade were people sentenced to be incarcerated in upstate prisons. While counted for redistricting purposes, these “new residents” cannot vote and cannot interact in other meaningful ways with the cities and towns where they are incarcerated – they cannot shop, eat at restaurants, buy or rent homes, use public transportation, or engage in any of the normal activities of an actual resident of the prison town. But as long as incarcerated persons are counted for redistricting purposes, it creates an incentive for elected officials to increase the incarcerated population in order to keep their seats or

offices, rather than risk losing a seat due to a population decrease.

Fortunately, states and localities are working to end prison based gerrymandering. New York, Maryland, Delaware and California have passed legislation to use state correctional data to ensure districts are drawn on data that counts incarcerated people at home.³⁰⁷ New York and Maryland have successfully defended their plans in court and implemented this reform in drawing their districts following the 2010 Census; California and Delaware will implement their reforms for the redistricting following the 2020 Census.

The legislative or executive branches in several states (Virginia, Colorado, New Jersey, Mississippi) require or encourage local governments to modify the census and refuse to use prison populations as padding. More than 200 rural counties and municipalities around the country make these adjustments on their own.

On the federal level, the Census Bureau changed its 2010 data publication schedule to make it easier for states and localities to identify prison populations in the Census redistricting data.³⁰⁸ However, states must rely on their own data to assign prisoners to their proper home districts, and the new release was not early enough for every state to benefit. Moving forward, the Census Bureau should change its “usual residence” rule to count incarcerated persons as residents of the community where they resided prior to incarceration.³⁰⁹

The number of disenfranchised voters runs into the millions, in an era when electoral outcomes can be affected by tiny margins. For example, in 2000, the Presidential election was decided by only 537 votes in Florida, a state that, at the time, had one of the most restrictive disenfranchisement laws.³⁰⁰ As a result, an estimated 600,000 individuals who had fully completed their sentences were ineligible to vote, nearly 1,000 times the winning margin.³⁰¹ There is no way to know how many of the 600,000 would have voted and who they would have voted for, but it is clear that it could have had a significant impact on the national election.

Restoring, or better yet never removing, the right to vote for formerly incarcerated individuals would result in millions of voters being brought back into the electoral system, further strengthening our democracy, and helping to restore political representation to disenfranchised communities.

POLICY RECOMMENDATIONS

- The freedom to vote should not be taken away as a result of a felony conviction.
- Alternatively, to set a floor for the remaining 48 states that do strip voting rights, Congress should pass the Democracy Restoration Act, (DRA) introduced first in 2008 by former Senator Russ Feingold and Rep. John Conyers. The DRA would set a uniform federal policy that would automatically restore the rights of an individual previously convicted of a felony to vote in federal elections, unless the individual is still serving his or her sentence at the time of the federal election.³⁰²
- On the state level, similar policies should be adopted that would at a minimum automatically restore the right to vote for anyone convicted of a felony once released from incarceration. Currently, 13 states plus the District of Columbia automatically restore voting rights upon release from prison.³⁰³ ■

LANGUAGE AND DISABILITY ACCESS

Language Access

- Over 25 million residents have limited English proficiency.
- Proper translation procedures and practices can directly increase voter participation.
- States should provide language assistance and translation when three percent or 7,500 persons speak a primary common language other than English.

To function properly, our election system must ensure that all eligible voters are able to access the voting process. In our diverse society, many new Americans who have completed the arduous process for attaining American citizenship may be confronting the opportunity to vote as a new experience. While ballots are often complicated and confusing even for proficient English speakers, those with limited English proficiency face special difficulties in deciphering the ballot and casting their votes.

This experience affects millions of citizens. The Limited English Proficient (LEP) population rose by 80 percent between 1990 and 2010.³¹⁰ Currently, there are 25.2 million LEP U.S. residents-- and not just within immigrant communities. Native American communities also have members with limited English proficiency. For example, among Arizona's Navajo voting-age citizens in Apache, Coconino, and Navajo Counties, approximately one-third are considered to have limited English proficiency.³¹¹ According to the Presidential Commission on Election Administration, "limited English proficiency should not be experienced as a limited or second-class citizenship."³¹²

The Voting Rights Act (VRA) sets the current federal standard for language access in voting. In particular, Section 203 of the VRA targets those language minorities that have suffered a history of exclusion from the political process: Spanish, Asian, American Indian, and Alaskan Native persons.³¹³ Language translation requirements under Section 203 are triggered in two ways: 1) when either more than five percent of the citizens of voting age of the State or political subdivision are members of a single language minority and are limited-English proficient or, 2) more than 10,000 of the citizens of voting age of the political

subdivision are members of a single language minority and are LEP, whichever is lower.³¹⁴ The LEP group must also have an English literacy rate below the national average.

If a political subdivision contains all or any part of an Indian reservation, Section 203 requires language translation when more than five percent of the Native American or Alaska Native citizens of voting age within the reservation are members of a single language minority and are also LEP.³¹⁵

Section 203 also requires that all covered jurisdictions provide oral assistance when needed in the minority language. Both written and oral assistance must be available throughout the election process from registration to Election Day activities and assistance is required for all Federal, state, and local elections.³¹⁶ For Native Americans and Alaskan Natives whose languages are unwritten, only oral assistance and publicity is required.

In addition to translation services, Section 208 of the VRA allows all limited English proficiency voters throughout the U.S. to obtain assistance in voting from a person of their choice, as long as this person is not the voter's employer, or an agent of the employer or of the voter's union, regardless of the voters' language or the jurisdiction's obligations under Section 203.³¹⁷ The PCEA found that "many poll workers are not aware of or do not comply with this provision of federal law."³¹⁸

The federal requirements of the VRA set a floor for translation requirements and several states have gone above and beyond the federal requirements. California and Colorado both have lower population requirements than the VRA for triggering language translation. Both states consider assistance to be needed when three percent or more of voting age citizens lack sufficient English skills to vote without assistance, or when citizens or organizations provide information supporting a need for assistance.³¹⁹

New Jersey and Texas also require bilingual materials when a certain percentage of registered voters speak a primary language other than English. In New Jersey, bilingual sample ballots must be provided for election districts where Spanish is the primary language for 10 percent or more of the registered voters.³²⁰ Also, two additional election district board members who are Hispanic in origin and fluent in Spanish must be appointed in these districts.³²¹

Texas specifies that bilingual election materials be provided in precincts where persons of Spanish origin or descent comprise five percent or more of the population of both the precinct and

the county in which the precinct is located.³²² While similar to the federal requirement, Texas does not require that the group's English literacy be below the national level. In these covered precincts, the following materials must be presented bilingually: instruction cards, ballots, affidavits, and other forms that voters are required to sign.³²³

Beyond translation services, Maricopa County, Arizona makes an effort to have properly trained poll workers by working with the community college system to recruit bilingual poll workers.³²⁴ The county conducts extensive training with poll workers in Spanish and English on voting procedures. County elections officials also hold monthly outreach meetings with community groups and much of the discussion focuses on recruiting and training bilingual poll workers.

Maricopa County also offers voter registration workshops in Spanish for community groups, political parties, and other groups that conduct voter registration drives within the Hispanic community. Finally, the county utilizes a bilingual coordinator who is a regular presence in Spanish language media and is responsible for minority language outreach.³²⁵

Proper translation procedures and practices can directly increase voter participation. Voter registration among Latinos and Filipino Americans in San Diego County rose by more than 20 percent after the county complied with federal law in 2004.³²⁶ Vietnamese American registrations rose by 40 percent after the county voluntarily added Vietnamese to its list of languages in which it would provide assistance.³²⁷

POLICY RECOMMENDATIONS

The following policies will help ensure that voters who speak another primary language besides English can participate fully in the electoral process.

- Trigger language assistance and translation when either 7,500 people or three percent of the population of voting age citizens, whichever is smaller, speaks a common language other than English.
- Mandate language access education to all poll workers when the language assistance requirement is triggered.

Require states to ensure the proper translation in the prevail-

ing dialect and word usage of the non-English speaking group serviced when the language assistance requirement is triggered. ■

Disability Access

- Thirty-five million voting age Americans have disabilities.
- States should create an Accessible Elections Office within the state election administration to facilitate access to voting for voters with disabilities.
- States should also establish mobile voting locations in and around facilities that assist voters with disabilities.

Similar to the challenges facing voters with language barriers, Election Day can be a frustrating and disempowering experience for the 35 million voting-age people with disabilities in the United States. Nearly one out of seven voting-age Americans has a disability.³²⁸ Polling places with stairs to climb, narrow hallways that do not easily permit wheelchair access, darkly lit voting booths, and no alternative voting procedures for persons who have other physical disabilities can present insurmountable barriers for disabled Americans.

Currently, the Voting Accessibility for the Elderly and Handicapped Act requires that all polling places for Federal elections are accessible to handicapped and elderly voters.^{329, 330} It requires any disabled voter assigned to an inaccessible polling place will be provided with an alternate means for casting a ballot on the day of the election. It also requires each state to make registration and voting aids available for Federal elections for handicapped and elderly individuals, including instructions that are printed in large type at each permanent registration facility and telecommunications devices for polling place and information for the deaf population.

In addition, Sections 261 and 291 of the Help America Vote Act (HAVA) set minimum standards for making ballots and polling places accessible. These policies authorize payments to states and local governments to ensure access to the polls for individuals with disabilities.³³¹ They also require each polling place to have at least one fully accessible voting machine that enables confidential voting by people of all abilities, including those with vision impairments.³³² Under HAVA, persons with disabilities must have the same opportunity for participation, including privacy and independence, afforded to other voters.

Another program established by HAVA³³³ provides financial assistance to support training in how to use voting systems and technologies that individuals with disabilities would use, including non-visual access. This program supports the following: (1) Promoting full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote, and accessing polling places; (2) Developing proficiency in the use of voting systems and technologies as they affect individuals with disabilities; (3) Demonstrating and evaluating the use of such systems and technologies by individuals with disabilities (including blindness) in order to assess the availability and use of such systems and technologies for such individuals; and (4) Providing training and technical assistance for non-visual access.

The program also provides funds to make polling places, including the path of travel, “accessible to individuals with disabilities in a manner that provides the same opportunity for access & participation (including privacy & independence) as for other voters.”³³⁴ In addition, funds are also provided to implement programs that inform individuals with disabilities, including blindness, about accessibility of polling places. Funds may also be used to support the training of election officials, poll workers, and election volunteers.

Examples of implementing these standards at the state level include California, where the Secretary of State established a State-wide Voting Accessibility Advisory Committee (VAAC) in 2005 to advise, assist, and provide recommendations to the Secretary of State on how voters with disabilities can vote independently and privately.³³⁵ Then, in 2010, the Secretary of State contracted with the Department of Rehabilitation to update uniform state-wide Polling Place Accessibility Guidelines.³³⁶

The state also established uniform statewide polling place standards for table heights, clearance areas, and pathway flows for disabled persons as well as parking and ramp accommodations.³³⁷ Prior to each election, the Secretary of State also asks voters with disabilities to participate in a brief confidential survey to provide information on ways to improve accessibility.³³⁸

Maryland provides touchscreen voting units which use a headset and keypad; blind voters and voters with low vision are able to vote by listening to the ballot selections and by using the keypad.³³⁹ Voters may also use high contrast and large print functions of the voting unit and the touchscreen for voters who

need to sit while voting.³⁴⁰

Curbside voting is a method that allows elders and individuals with disabilities the flexibility to vote outside of a polling place if they so desire. According to a recent GAO study, 23 states provided curbside voting on Election Day in 2012.³⁴¹ Virginia, as an example, allows any voter that is disabled or over the age of 65 to request to vote outside the polling place as long as they are within 150 feet of the entrance.³⁴²

POLICY RECOMMENDATIONS

The following policies and practices will help ensure disabled Americans have equal access and opportunity on Election Day.

- Create an Accessible Elections Office within the state elections administration, which monitors problems, receives complaints, assesses compliance, and disseminates best practices throughout the state.
- Provide regular training for poll workers and election officials on current state and federal laws regarding the rights afforded to voters with disabilities.
- Encourage states to establish mobile voting locations in and around long-term care facilities and other places that service the disabled.
- Pursue aggressive monitoring & enforcement of state and federal laws that require disability access by both the Department of Justice Disability Rights and Department of Justice Civil Rights sections and state level counterparts. ■

DECEPTIVE PRACTICES AND INTIMIDATION

- Voter intimidation and misinformation campaigns have significantly increased in recent years.
- Congress should pass a ban on deceptive practices and voter intimidation at the federal level.
- States and local governments should have emergency procedures in place to immediately correct misinformation about elections.

In the crucial battleground states of Ohio and Wisconsin, 145 anonymous billboards noting that voter fraud is a felony punishable by up to 3.5 years in prison and a \$10,000 fine popped up in predominately African America urban areas around Milwaukee, Cleveland, and Columbus two weeks before the 2012 election. The signs were designed with large white letters reading “VOTER FRAUD IS A FELONY! Up to 3 ½ years & \$10,000 Fine!” with a big picture of a judge’s gavel.³⁴³

The selective placement of these billboards belies any argument that they were merely intended to be informative. They are instead an example of voter intimidation meant to discourage potential voters of color through scare tactics. Recent elections have also seen a rise in coordinated incidents of phone calls targeting voters that misrepresent times and locations of voting, policies and endorsements of particular candidates,³⁴⁴ and flyers, mailer, and billboards that misinform, discourage, and intimidate targeted voters.

Deceptive practices are intentional disseminations of false or misleading information about the voting process in order to prevent an eligible voter from casting a ballot, such as providing misinformation about when and where to vote.³⁴⁵ Voter intimidation is the use of threats, coercion, harassment or other improper tactics to interfere with the free exercise of the right to vote.^{346,347} Voters of color are disproportionately targeted for misinformation and intimidation tactics.^{348,349} These tactics endanger the integrity of our elections and impede an individual’s fundamental right to vote.³⁵⁰

On top of interfering with the fundamental freedom to vote, unwarranted challenges and voter intimidation tactics deplete resources and distract election administrators.³⁵¹ They are toxic for elections and toxic for democracy.

Voter Intimidation

The Voting Rights Act of 1965 and the National Voter Registration Act of 1993 prohibit persons from intimidating or attempting to intimidate, threaten or coerce another person for the purpose of interfering with the right to vote freely in federal elections. Voter intimidation, coercion or threats interfering with the right to vote are also criminal offenses.³⁵² However, because the maximum penalty for conviction on a charge of voter intimidation under federal guidelines is a fine and/or no more than one year in prison, the law has not eliminated voter intimidation schemes in the past.³⁵³

Yet, while there are legal avenues in place to stop it, voter intimidation can be difficult to curtail because of the subtlety of the tactics and a lack of clarity in existing laws. In North Carolina, for example, there is a state law that bans any person from interfering with or attempting to interfere with any voter when inside the voting enclosure or when marking her ballot. However, the narrow definition of “voting place” and “voting enclosure” combined with a lack of enforcement diminishes the effectiveness of the law.^{354,355} For example, in 2008 a predominately African American group was heckled and harassed at an early voting center in Fayetteville by a group of mostly white protesters as they went in to vote.³⁵⁶ Poor enforcement of existing law meant this harassment was allowed to occur.

Intimidation tactics have also included:

- Police officers scanning lines of voters looking for people with outstanding warrants.³⁵⁷
- Signs posted at the polling place warning of penalties for “voter fraud” or “noncitizen” voting, or illegally urging support for a candidate.³⁵⁸
- Poll workers “helping” voters fill out their ballots, and instructing them on how to vote.³⁵⁹
- Flyers and radio ads containing false information about where, when and how to vote, voter eligibility, and the false threat of penalties.³⁶⁰

Voters continue to also face physical harassment. In New Mexico in 2008 a private investigator was hired by a Republican Party official to go to the homes of newly registered minority voters and interrogate them about their citizenship status.³⁶¹

Several voters at two precincts in the predominately Muslim neighborhood of Dearborn, Michigan reported the presence of police scanning the long lines for voters with outstanding warrants as well as poll workers giving increased scrutiny to voters who “appeared” Muslim.³⁶²

North Carolina’s State Board of Elections received numerous reports of physical and verbal intimidation during the 2012 election including campaign and party supporters breaching and moving buffer zone barriers, as well as approaching voters within the buffer zone. A polling place worker was even injured and required emergency medical attention while attempting to protect the buffer zone from an overly aggressive electioneer. Voters also reported being approached in their vehicles while they waited in the curbside voting zone and individuals using profanity and aggressive language to supporters of opposing candidates or political parties.³⁶³

Misinformation

Misinformation on electoral logistics, eligibility, and process is often spread through robocalls and flyers, mailers, and/or billboards. Robocalls, or automated calls with incorrect information, are often used to deter voters from going to the polls. Deceptive robocalls across the country continue to give voters incorrect polling location information.³⁶⁴

Voters in recent elections in New York, Colorado, Virginia, Florida and New Mexico reported receiving harassing robocalls falsely claiming to be from one of the candidates running for office in the area when in fact those campaigns had not activated the calls.³⁶⁵ These calls to registered voters in the days before the election also falsely claimed that their registrations were cancelled and that if they tried to vote they would be arrested.³⁶⁶

In 2012, the State Board of Elections in North Carolina received numerous reports from around the state of voters receiving calls providing a slew of misinformation, including that: they can vote by phone or online, if they are affiliated with a certain political party that they must vote on a date different than the actual election day, if they have an outstanding ticket they cannot vote, and they are required to re-register each time they vote.³⁶⁷

In 2012, voters in Arlington, Accomack, Augusta, and Northampton counties in Virginia reported receiving phone calls on Election Day saying voters would be arrested if they attempted to vote on Election Day or that their polling locations

had been moved, although none of the locations had changed.³⁶⁸ In another example, students at Virginia Tech were falsely told by people at the polling place that registering to vote in Virginia could affect their scholarship or tax dependency status and would obligate them to change their car registration and driver's license to their permanent address.³⁶⁹ Also in Virginia, flyers were distributed to voters falsely stating that, "Due to larger than expected voter turnout in this year's electoral process," people supporting Republican candidates vote on November 4th (actual Election Day) and Democrats vote on the following day in 2008.³⁷⁰

Communities of color in Milwaukee, Wisconsin received flyers from a fictitious organization called the "Milwaukee Black Voters League," falsely informing voters that those who already voted in *any* election that year could not vote again during the 2004 elections. The group also asserted that anyone with even minor infractions, like parking tickets, was disqualified from voting. Flyers like these are often deceptively printed on official-looking local government letterhead with the wrong election date or other misleading information.³⁷¹

In an attempt to combat misinformation, the federal Telephone Consumer Protection Act requires that automated political calls identify the caller-- but not the entity that paid for the call-- and give the caller's telephone number.³⁷² In addition, eight states require a live operator to obtain the called person's consent before playing the recorded message, unless the person has made a prior agreement to receive the call.³⁷³ Thirteen states require disclosure during an automated call of the person or entity paying for the call or for whom it is made.³⁷⁴

On the state level, Missouri explicitly prohibits knowingly providing false information about election procedures for the purpose of preventing any person from going to the polls.³⁷⁵ In Maine, automated calls that name a candidate within 21 days before a primary election or 35 days before a general election must clearly state the name of the person who made or financed the call, except for automated calls paid for by a candidate that use the candidate's own voice and support that candidate. Automated calls used for conducting polls must identify the caller and are limited to 8:00 AM to 9:00 PM. Push polls must state that it is a paid political advertisement, who has paid for the advertisement, and the name of the company calling if different. The caller must also disclose a valid telephone number and address.³⁷⁶

POLICY RECOMMENDATIONS

- Congress should enact H.R. 5815 (112th): Deceptive Practices and Voter Intimidation Prevention Act of 2012,³⁷⁷ which makes knowingly deceiving any person about the time, place, or manner of conducting any federal election or the qualifications for or restrictions on voter eligibility for any election a federal crime. In addition to a criminal penalty, the act also provides a private right of action for victims of these practices and requires the Department of Justice to investigate and act within 48 hours after receiving a report of deceptive practices or voter intimidation.
- The penalties for convictions of voter intimidation should be increased, at both the state and federal level, to a maximum of five years in prison and a \$100,000 fine and any attempt or conspiracy to intimidate voters should be punished equally harshly.
- Any person who engages in voter intimidation should be barred from holding public office for a set amount of time.
- The U.S. Attorney General should be required to report to Congress a compilation of incident reports within 90 days of a federal election.³⁷⁸
- States and local governments should also enforce existing laws by actively monitoring & criminally prosecuting those who commit deceptive practices to intimidate voters or disrupt turnout.
- State and local governments must have in place emergency procedures to immediately correct information spread by deliberate misinformation campaigns. ■

VOTER LIST MAINTENANCE AND WRONGFUL CHALLENGES TO VOTER ELIGIBILITY

- States should ensure eligible voters can be added to state registration databases with fair, effective and uniform standards, and should only remove voters in compliance with the National Voter Registration Act and other applicable laws.
- Only election officials should be able to challenge the eligibility of a voter.
- When a voter is challenged, the burden of proof should fall on the challenger with a specific and timely adjudication process.

Eligible Americans should not have to overcome burdensome barriers to cast their ballots. Unfortunately, voters in recent elections have encountered wrongful challenges and intimidation, particularly in key battleground states and targeted counties. Voters have faced misguided attacks on their eligibility both before Election Day through improper voter list purges and also on Election Day through voter challenges, often targeted at voters of color. Unwarranted challenges to voters' eligibility can result in eligible voters being kicked off voter rolls and lead to problems at the polls for everyone seeking to cast a ballot by depleting resources, distracting election administrators and leading to longer lines for voters. Such activities present a real danger to the fair administration of elections and to the fundamental freedom to vote.

Maintaining up-to-date voter registration rolls is important to ensure an accurate list of eligible voters. When done properly, list maintenance procedures remove dead or ineligible voters from the voter rolls in compliance with federal law. However, sometimes purges of voter rolls are done in a way that targets certain populations and endangers the voting rights of our fellow Americans.

In 2012, Florida, for example, the governor and secretary used motor vehicle databases to compile lists of voters that allegedly might be non-citizens, and threatened to remove them from the rolls unless they could prove their citizenship. But these lists were criticized for having “limited and often-outdated citizenship information that carried a high risk of making lawful voters look like noncitizens.”³⁷⁹ Initially the list had over 180,000 voters, and 87 percent of those targeted to have their registrations cancelled

were people of color. Florida's county election supervisors were alarmed by the unreliable data used by the state, and refused to move forward with the purge. The Department of Justice filed suit to block the purge as violating federal law.³⁸⁰ A federal judge refused to block the purge, however.³⁸¹

Also in 2012, in North Carolina a group called the Voter Integrity Project challenged thousands of voter registrations, claiming the people were dead. However, the election officials had to throw out many of the challenges because of the flawed data-matching practices used to generate the list. And hundreds of eligible, registered, North Carolina voters had to prove to the Board of Elections that they were still alive.³⁸²

Texas election officials were reported to have “repeatedly and mistakenly matched active longtime Texas voters to deceased strangers across the country . . . in an error-ridden effort to purge dead voters just weeks before the presidential election,” in 2012.³⁸³ Voters in legislative districts across Texas with heavy concentrations of Hispanics or African-Americans were more often targeted in that flawed purge effort, according to the Chronicle's analysis of more than 68,000 voters identified as possibly dead.³⁸⁴

In conjunction with improper list purges, in recent years private groups have also increasingly attempted to police voter registrations. These activists have taken it upon themselves to challenge the validity of voter registrations, both before and on Election Day. State and nongovernmental challenges to voter registrations are on the rise and too often are based on faulty data. One method often used is called “voter caging.” Voter caging is the practice of sending non-forwardable mail to registered voters and using any returned mail as the basis for building lists of voters to challenge.³⁸⁵

There are real consequences when purges and mass challenges succeed in throwing thousands of eligible voters off the voter rolls. In 2004, the Ohio Republican Party challenged 35,000 newly registered voters just two weeks before the election.³⁸⁶ Most of those voters lived in urban, Democratic-leaning neighborhoods. The 35,000 names were identified through a classic caging operation with undelivered mail used as the basis of the challenge. Two voters and the Ohio Democratic Party filed suit, and the court stopped the purge, finding that the voters' constitutional rights were endangered by the last minute challenges.

To protect the freedom to vote, voter eligibility should be

challenged only under strictly defined circumstances and only by trained election officials. Yet, 39 states currently allow private citizens to challenge prospective voters in person on Election Day.³⁸⁷ Of these states, only 15 require polling place challengers to provide some documentation in support of the claim that the challenged voter is ineligible.³⁸⁸ Twenty-eight states allow private citizens to challenge registered voters before an election.³⁸⁹ Of these states, only eight require challengers to produce any initial documentary evidence of a voter's ineligibility beyond a brief written statement that alleges disqualifying characteristics.³⁹⁰

The best state practices protect against unwarranted voter challenges. Alabama, Kansas, Oklahoma, and Wyoming all prohibit private citizens from challenging voters.³⁹¹ Among the states that do allow private citizens to challenge voters, the best practices limit the circumstances in which a challenge can be issued, require some form of proof that the potential voter is ineligible to vote, and require decisions on eligibility to be made by trained officials.

For example, Kentucky only allows elections officials and designated individuals to challenge a voter.³⁹² In addition, challengers must attend training and if they violate election laws, they may be required to leave the polling place and be prohibited from serving as challengers for five years. Challengers must sign an oath that states the reason for the challenge and the oath is then forwarded to the state and county attorney to determine whether anyone has voted illegally. Challenged voters can still cast a regular ballot if they sign a written oath that attests to their qualifications.

Only a registered voter that has been designated by the chair of the county committee of a political party named on the ballot may challenge a voter's identity or qualification in Missouri.³⁹³

Because Ohio experienced serious difficulties with challenges at the polls in 2004, it implemented a series of amendments to its procedures, including requiring that any challenge to a voter's eligibility must be made at least 20 days prior to an election, requiring a hearing before canceling a voter's registration, and granting election boards discretion over whether challenges are "facially sufficient" enough to hold a hearing in the first place.³⁹⁴ Moreover, returned mail and evidence from foreclosure proceedings are insufficient by themselves to warrant a challenge. Only election officials may challenge a voter on Election Day.³⁹⁵

Colorado law has some excellent provisions protecting voters

from having their registrations improperly challenged. For example, it requires the challenge to be in writing accompanied by documentary evidence. Although Colorado allows individual voters to be challenged at the polls on Election Day, pre-Election Day challenges must be made 60 days before an election.³⁹⁶ Hearings are also required, which provides important protections for challenged voters.³⁹⁷ Critically, the challenger is required to appear and bears the burden of proving the allegations in the written challenge.³⁹⁸ In Colorado, if voters are challenged on Election Day then they have the right to vote a regular ballot after signing an affidavit.³⁹⁹

Nevada generally does a good job of protecting voters from improper pre-Election Day challenges.⁴⁰⁰ In Nevada, a voter may only challenge the registration status of another voter registered in the same precinct, which protects against widespread voter challenge campaigns.⁴⁰¹ Challenges must be made in writing, signed by the challenger, and must include grounds for the challenge based on the challengers personal knowledge.⁴⁰² Nevada's protections could be improved by requiring that the statements be made under oath and subject to penalties.

POLICY RECOMMENDATIONS

Voter Registration Database Maintenance

States and localities should ensure that their voter registration databases:

- Comply with the NVRA when maintaining voter registration lists, including the requirement that voters be kept on “inactive” status on the rolls for two federal election cycles.
- Use fair, effective, uniform, statewide matching protocols.
- States should not impose exact match standards, but rather employ substantial match standards.
- Ensure transparency about the process used for matching.
- Do not remove voters without verification, notification to the voter, and an opportunity for the voter to contest the removal.
- Provide access to confirm registration by phone or on the Internet.
- Ensure integrity of database technology.
- Do not reject registration on the basis of a mismatch with Social Security.

- Do not use Department of Motor Vehicle databases for citizenship verification.

Voter Challenges on and before Election Day

States and the federal government should work together to establish fair, uniform, and transparent standards and procedures for voter eligibility challenges. The guidelines should include stringent requirements on when a challenge can be made, only allow certain trained individuals, not any private citizen, to challenge a voter's eligibility, and documentation or other proof that challenges the eligibility of a voter. In addition:

- Only election officials should be able to challenge the eligibility of a registered voter on Election Day.
 - The challenger must retain the burden of proof to show by clear and convincing evidence that the registered voter is no longer eligible to vote.
 - The challenger must provide documentary evidence supporting the specific grounds for the voter challenge.
 - Challenges must be based on personal knowledge of the facts upon which the challenge is being made, and the challenger must sign an oath under penalty of perjury.
 - Challenges must be in writing and include the basis for the challenge and the facts supporting the challenge.
 - The grounds for challenge should be limited to citizenship, residency, identity, and age.
 - Making frivolous challenges should be a misdemeanor.
 - Jurisdictions should require a preliminary review of challenges to determine if the challenge has merit, before notifying the challenged voter. There must be sufficient grounds for a challenge before a registered voter is inconvenienced.
 - Returned mail should not be considered prima facie evidence to sustain a challenge.
 - A hearing must be held before a challenged registered voter is stricken from the voter rolls.
- States must also establish fair, uniform, and transparent standards and procedures standards for adjudication of challenges.

- The burden of proof should fall on the challenger to prove a challenge is valid.

- States should also detail what forms of evidence are required to sustain a successful challenge and specifically exclude returned mail and evidence that a voter's home is in foreclosure should be considered sufficient.
- Jurisdictions should require challenges to be filed within a specific period of time before an election, which should be at least 60 or more days before an election.
- Filing frivolous challenges should be made a misdemeanor.⁴⁰³
- Jurisdictions should consider requiring “preliminary” reviews of challenges to determine if the challenge is plausible before a hearing is held. ■

OVER THE HORIZON IDEAS

Making our election system function for all of our citizens should be a bedrock commitment of our nation. The current disparities by class and race in voter registration--and thus, voter turnout—undermine an essential tenet of our democracy: of, by and for the people. In order to address the current inefficiencies and inadequacies in our election procedures, we have outlined a robust set of policy recommendations and best practices. At the same time, we also believe the project to perfect our democracy is one that demands we reach higher—and think more boldly about ways to ensure all adult citizens are full participants in our elections. The two ideas presented here—Universal Voting and a federal plan to Improve America’s Election Fund to incentivize states to invest in their election systems— should be added to the national conversation about how to reach our democracy’s highest promise: that of one person, one vote.

Universal Voting

The health of a democracy corresponds to the level of participation among its citizens. In some democracies, citizen participation is so important that voting is a requirement for all citizens. Countries with universal voting systems see a voter turnout rate that is anywhere between seven and sixteen percentage points higher than the U.S.⁴⁰⁴ Thirty-two countries require their citizens to vote for at least one office or in at least one jurisdiction.⁴⁰⁵ Of these countries, 19 enforce the duty to vote, usually by imposing a small fine on those that do not vote.⁴⁰⁶ The fine provides an incentive to participate but is not overly punishing for those who want to exercise their right not to vote.⁴⁰⁷ The option of voting for “None of the Above” also allows an alternative for those who do not wish to endorse any of the candidates.

If voting is made a requirement for citizens, then procedures and practices must be adopted to facilitate voting and eliminate barriers that cause so many Americans to miss out at the ballot box. In Australia, for example, Election Day is always on a Saturday so that most eligible voters are not torn between their obligations as workers and as citizens. Voting in Australia is also made more convenient allowing people to vote at a variety of places, including polling places or by mail or at mobile teams at hospi-

tals, nursing homes and remote localities.⁴⁰⁸

In the United States, the greatest benefit to universal voting would be a potentially significant increase in voter participation. Here, a large segment of our eligible population does not vote. The 2008 election saw historic levels of turnout, but overall turnout was still just over 62 percent.⁴⁰⁹ In comparison, voter turnout in Australia is consistently between 93-95 percent.⁴¹⁰

There is also a significant gap in turnout based on income levels in the U.S. In 2012, only 46.9 percent of eligible voters in the lowest income bracket voted.⁴¹¹ In contrast, 80.2 percent of voters in the highest income bracket voted.⁴¹² Universal voting could likely increase participation among all groups that currently have low levels of participation because the mandate could very well facilitate improvements in election administration that would make voting more convenient and accessible.

Universal voting may also help ease political polarization. Currently, with a polarized electorate, moderate and independent voters are more likely to be turned off of electoral politics, resulting in an over-representation of partisan voters. If everyone voted, the entire political spectrum would be represented and the partisan nature of our politics could be diffused because politicians would have to answer to a wider ideological spectrum. In addition, there is no evidence to indicate that universal voting benefits either party so there is no partisan advantage to the system.

There is concern that universal voting would remove the freedom to *not* vote, either as a political statement or as an exercise of choice. Particularly in the American context, elevating voting to a civic duty would generate heavy opposition from a wide variety of groups, from those concerned with anything that could be perceived as government overreach to traditional civil libertarians who could see voting as a right to be exercised by the individual not a duty that is imposed by the government. The option of choosing “none of the above” on the ballot, and appropriate exemptions for persons who may have a religious objection to voting, could alleviate these concerns.

Opponents of universal voting also argue that an increase in voters could result in elections being decided by misinformed or uninformed voters. But the U.S. long ago rejected literacy or other educational tests for voting, recognizing that a true democracy entrusts all of the people to participate in the exercise of self-government. Moreover, universal voting would provide

additional incentives to parties candidates and election officials to produce informative election materials and conduct outreach to help educate voters.

Finally, universal voting does not necessarily remove registration barriers. If eligible voters run into registration issues, the requirement to vote could complicate their experience, rather than provide a solution. Adopting automatic voter registration would help make universal voting more successful. As discussed earlier, eligible voters could be automatically added to voter rolls as soon as they turn 18, streamlining registration and removing bureaucratic hurdles. Coupling universal voting with automatic voter registration could provide a streamlined, accessible process that brings far more eligible voters into the electoral process.

Improve America's Elections Fund

In an effort to harness the best thinking at the state level, the Department of Education provides \$4.35 billion in discretionary grants awarded to states leading the way with ambitious plans for implementing coherent, compelling, and comprehensive education reform.⁴¹³ The program provides best practices examples to all states and local school districts throughout the country on educational reforms and advances specific goals of the Department of Education.

Likewise, a fund to improve America's elections could be created to encourage improvements at the state level. Tapping into the best practices of states, the Election Assistance Commission, or other appropriate agency, could administer a program that would provide grant money to states that improve their election administration in certain areas. Some possible areas for improvement could be:

- Adopting Same Day Registration
- Adopting Early Voting periods
- Increasing overall voter registration
- Decreasing time to vote at polling places on Election Day

States are still facing budget deficits and the opportunity to receive funds for election administration will be a strong incentive to improve their overall performance. The grant program could be structured to encourage applications from areas with lower electoral participation so as to achieve overall improvement, rather than only rewarding states that currently have high

voter turnout. Best state practices could be collected and shared to improve election administration nationwide.

These are just two of the ideas that can be conversation-starters for envisioning the next generation of electoral reforms. Continuing to protect and ensure the freedom to vote will take creative thinking and the engagement of voters, advocates, scholars, election administrators, and elected officials. The next evolution of our electoral system should build on our current successes, learn from the mistakes, and look to engage millions more eligible voters. ■

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388. Montana and North Carolina require the poll challenger to produce actual affirmative evidence of the voter's ineligibility. Montana Code (Annotated) § 13-13-301(1) and Montana Administrative Rules 44.3.2109(2); North Carolina General Statutes (Annotated) § 163-90.1(B) ("no challenge shall be sustained unless the challenge is substantiated by affirmative proof. In the absence of such proof, the presumption shall be that the voter is properly registered or affiliated"). Thirteen other states require the challenger to produce an affidavit but do not require any additional proof from the poll challenger beyond his or her word that the challenge is valid. Arkansas Code (Annotated) § 7-5-312(H); Colorado Revised Statutes § 1-9-202; Florida Statutes (Annotated) § 101.111(1); Indiana Code (Annotated) § 3-11-8-21; Iowa Code (Annotated) § 49.79; Kentucky Revised Statutes (Annotated) §§ 117.245(2) and 117.316(2); Maine Revised Statutes (Annotated) Title 21-A, § 673(1); Maryland Code Election Law, § 10-312; Minnesota Statutes (Annotated) § 204C.12(2); New Hampshire Revised Statutes (Annotated) § 659:27-A; New Jersey Statutes (Annotated) § 19:15-18.2; Nevada Revised Statutes (Annotated) § 293.303(1); Virginia Code (Annotated) § 24.2-651.
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ABOUT DĚMOS

DĚmos is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. DĚmos is supported by a variety of sources including foundations, labor organizations and individual funders.

CONTACT

Elektra Gray
egray@demos.org
P: 212.633.1405

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