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Permanent Portable Voter Registration

by **Michelle Kanter Cohen**

In 49 out of 50 states, voter registration is a prerequisite to exercising the right to vote.¹ But Americans are highly mobile, a fact that has a broad impact on otherwise-eligible voters' ability to keep their registrations current and stay on the voter rolls. Indeed, more than 30 million citizens move every year.² Because a voter's eligibility is based on legal residence, this high mobility rate threatens the ability of eligible voters to cast ballots that count.

Permanent portable registration is an innovation that seeks to address this problem by allowing a voter who moves anywhere within the state where he or she is already registered to update his or her address at the polls and vote. Federal laws over the last 20 years—the National Voter Registration Act (NVRA) and the Help America Vote Act (HAVA)—make this step forward logical, because they put increased responsibilities for voter registration on state (as opposed to local) election officials.

Federal law currently protects some voters who move, but only to an extent. The National Voter Registration Act (NVRA) of 1993 requires states to allow voters who move within an election jurisdiction—usually a county—and within a congressional district to vote in a federal election regardless of whether they had previously updated their information.³ But no federal law protects voters who move to a new county or congressional district. In addition, voters who move to a new state or political subdivision within thirty days of a presidential election and miss the registration deadline must at minimum be allowed to vote for President and Vice President at their former residence, either in person or by absentee ballot, if they met the requirements at the former residence when they moved.⁴ These minimal protections are inadequate to preserve voters' right to cast a ballot.

This paper defines permanent portable registration, discusses its numerous benefits, and suggests best practices when implementing permanent portable registration. In addition, this paper reviews the status of permanent portable registration in the states.

What is Permanent Portable Voter Registration?

Permanent portable registration allows any voter who has previously registered in the state to stay registered, as long as the voter remains eligible, regardless of whether the voter has submitted a new voter registration form prior to the election. The voter simply updates her information at the polling place when she votes. Where it is enacted, this innovation expands protections currently available under federal law for local moves to all in-state movers.

With the passage of HAVA in 2002, which required all states with voter registration to establish a statewide voter registration database, registration has increasingly become a state's responsibility instead of a solely local issue. HAVA's requirement makes it easy for states to easily implement portable registration: an election official can simply access the statewide voter registration database to confirm that the voter is already registered in the state. Once the voter fills out an affidavit with his new address (or changed name), the voter is able to vote a regular—not provisional—ballot.

States also have the option of achieving permanent portable registration through Same Day Registration (SDR). Voters who have failed to update their addresses can simply re-register at the polls and cast a valid ballot.⁵

Portable registration is a significant issue because millions of Americans move every year. From 2011-2012, more than 5.1 million voting-age Americans moved to a different county—commonly a new election jurisdiction—within their state. An additional 16.9 million voting-age Americans moved within the same county over that same time period.⁶ But according to data from the Cooperative Congressional Election Study (CCES), the largest national survey of voter experiences, people who moved within the two years preceding an election are most likely to have registration-related difficulties at the polls.⁷ A recent Pew study estimated that 12.7 million registrations nationwide, or approximately 7 percent, appear to be out of date and no longer reflect the voter's current information.⁸

The Benefits of Permanent Portable Registration

Making a voter's registration permanent and portable has many benefits to both voters and election officials:

Permanent portable registration improves turnout among voters who move.

Studies have shown that Americans' mobility plays a substantial role in low voter turnout.⁹ According to the U.S. Census Current Population Survey, only 51 percent of voting-age citizens who moved in the last year reported voting in 2012, while 76 percent of voting age citizens who had lived in their residence for five or more years reported voting.¹⁰ Among those who reported not voting in 2012, people who moved recently reported with much greater frequency that registration problems were the cause: 11.7 percent of nonvoters who had lived at their residence for less than a year reported registration problems as the reason; but among nonvoters who had lived at their residence for three years or more, only three percent pointed to registration problems as the reason.¹¹ One estimate concluded that if registration were portable within states, turnout would increase by as many as two million voters nationally.¹² In fact, states with permanent registration systems had some of the highest voter turnout rates in the 2012 election, among them Colorado, Maine, Minnesota, and Wisconsin.¹³

Permanent portable registration reduces the impact of mobility disparities among historically underrepresented populations.

Many groups that are already historically underrepresented in the electorate—such as young voters, low-income Americans, and minorities—are disproportionately likely to change their residences more frequently. The need to re-register with each move exacerbates already wide gaps in voting behavior between demographic groups.

For example, younger Americans are highly mobile. Individuals in their late twenties reported the highest five-year mover rate as compared with other age groups

in a recent Census report regarding geographic mobility. Similarly, census respondents who self-identified as Hispanic/Latino or Black/African American had significantly higher mover rates than White respondents. Lower-income Americans are also highly likely to move. Over the last five years, people below 100 percent of the poverty level had the highest mover rate, 52.5 percent, compared with those at higher percentages of poverty status. People at or above 150 percent of the poverty level had a significantly lower five-year mover rate of 31.6 percent.¹⁴

Permanent portable registration uses existing resources to help more eligible voters cast valid ballots.

As discussed earlier, all states requiring voter registration already must have a centralized statewide voter registration database, and the NVRA already requires election officials to allow limited portability for some voters who move within a jurisdiction. Election officials can use existing resources to identify state registrations for voters who have moved. Essentially, they can expand a process already available to some voters.

Allowing updates to registrations at the polls improves accuracy and saves election officials time processing completely new applications.

If voters have to file a completely new voter registration application when they move, election officials in the new county must process that entire registration again, including conducting HAVA's identification procedure,¹⁵ sending out notices if the application is incomplete, and, in a paper-based procedure, deciphering handwriting. Allowing voters to update addresses at the polls cuts the risks of introducing new errors and delays into the process at all of these stages.

Portable registration is in line with voters' expectations.

According to the Cooperative Congressional Election Study (CCES), one in four voters wrongly believes that registrations are automatically updated when voters change their address with the Postal Service.¹⁶ When voters appear at the polls with that expectation and find that they are not on the rolls, the result can be

disenfranchisement, overuse of provisional ballots, and longer lines at the polls. Portability would allow those voters whose state registrations are located to vote a regular ballot, and all voters will be more likely to have a positive experience voting.

Best Practices in Permanent Portable Registration

The following best practices should be implemented in establishing a permanent portable voter registration system:

Voters who move within a state should be able to vote a regular ballot, not just a provisional ballot.

Provisional ballots increase paperwork and lines and cause delays at the polls compared with regular ballots. By allowing voters who are already properly registered to update their address information easily and vote a regular ballot, lines would move quickly and counting would proceed more easily.

Provisional ballots require time and resources to examine. For example, in 2012 Florida saw huge increases in provisional ballots compared with 2008 when it changed its law to require voters who moved to vote a provisional rather than a regular ballot. These increased numbers resulted in a time-consuming process for counting those ballots.¹⁷

Even more important, provisional ballots are much less likely to be counted than regular ballots. For example, according to the 2010 Election Assistance Commission Report, in sixteen states the rejection rate for provisional ballots was 50% or larger. An additional twelve states still rejected a quarter or more of their provisional ballots. In 2010 alone, over 180,000 provisional ballots were rejected, and a further 118,000 were only partially counted.¹⁸ Only about two-thirds of provisional ballots were counted in full.¹⁹ Most notably, more than 15 percent (or nearly 1 in 6) of the rejected ballots were thrown out because they were cast by voters registered in the state but in the wrong precinct or the wrong jurisdiction. Making registration portable and providing

sufficient information to voters to vote in the right place would bring these voters back into the process.²⁰

States should provide a fail-safe for voters whose registrations cannot be confirmed.

If the voter's registration cannot be located in a state database, a voter who affirms that she is registered in the state and affirms her current residence in the jurisdiction should be allowed to cast a provisional ballot. Voters should not be disenfranchised by inadvertent database management errors or database access issues.

However, the failsafe system should not be overused. Poll workers must be appropriately trained to locate the voter's state registration and not to offer a provisional ballot until they have complied with the state's procedure for locating the registration.

To facilitate portability, poll workers should have easy access to the state voter registration database.

Policies adopting permanent portable registration should ensure that election officials have easy access to current voter registration data so that they may immediately locate a voter's registration. States should network their precincts to the state voter registration database. The value of permanent portable registration is lost if election officials cannot effectively and efficiently implement it.

Election officials should provide voters with information they need to determine their polling place and cast ballots that count.

Voters should be directed to the precinct in which they can cast a regular ballot. A provisional ballot should only be necessary if the voter refuses to go to that precinct.

Portable registration policies must allow voters access (prior to going to the polls) to the information necessary to locate a polling place where they can cast a valid ballot. Address-based precinct lists and look-ups should be readily available online, at libraries and other public places, and the information should be easily obtainable from election officials. Look-ups based only on a voter's current registration address are insufficient.

In some states, voters who are required to cast a provisional ballot must do so in a specific precinct—usually for their current or former residence, but often not both—for it to be counted at all. Particularly in those states, voters need sufficient information to identify where they should go to vote, or they will be disenfranchised. State law should also be clear as to whether or when a voter has the option of voting in either the new or old polling place.

In the event a state's portable registration program does require voters to cast provisional (rather than regular) ballots, poll workers must direct voters to a polling place where they can cast a valid ballot, and provisional ballots cast in the wrong precinct due to poll worker error should be counted notwithstanding other state policy.

Registration Portability in the States in 2013

The following reviews the current status of statewide registration portability, focusing on policies that allow voters who have moved anywhere within the state to update their addresses and vote at the polls. Policies that pertain to voters who move within a precinct or election jurisdiction are outside of the scope of this review because of the importance of statewide portability.²¹

Same Day/Election Day Registration

As noted above, some states implement permanent portable registration through Same Day Registration. In these states, voters can register at their current address when they go to vote at the polls. Voters who register at the polls on Election Day must generally follow that state's proof of residency and/or identification requirements.

States with Election Day Registration include Colorado,²² Connecticut,²³ the District of Columbia,²⁴ Idaho,²⁵ Iowa,²⁶ Maine (at town offices and city halls only),²⁷ Minnesota,²⁸ Montana,²⁹ New Hampshire,³⁰ North Carolina (during early voting only),³¹ Wisconsin,³² and Wyoming.³³

California has also enacted Same Day Registration to be implemented the year following certification that it has a statewide voter registration database in compliance with the Help America Vote Act of 2002.³⁴ Maryland's Same Day Registration law, which will allow Same Day Registration during early voting, becomes effective in 2016.³⁵

Portable Registration Policies

States with permanent portable registration allowing voters who have moved anywhere in the state to cast a regular ballot include Delaware,³⁶ Hawaii,³⁷ Oregon,³⁸ and Texas (limited ballot only).³⁹

Florida recently passed a law that will allow voters to vote a regular ballot if they moved to a new county beginning in 2014, but only if the new county “uses an electronic database as a precinct register at the polling place.”⁴⁰

States with permanent portable registration allowing voters who have moved anywhere in the state to cast only a provisional ballot include the District of Columbia,⁴¹ Florida,⁴² Maryland,⁴³ Ohio,⁴⁴ and Utah.⁴⁵

Other approaches

States limit the risk of disenfranchising voters who have moved in other ways. For example, in a few states, voters may vote in their former precinct if they fail to update their registrations with their new addresses.⁴⁶ These rules are an improvement on completely disenfranchising voters who moved to a new county, but registration should easily follow voters to their new residences. Voting at their current residence is more convenient for voters and gives them a voice in their current communities.

Conclusion

Permanent portable voter registration is a simple change that will significantly improve voters' equal access to the ballot box. It improves turnout among voters who move, reduces the impact of mobility disparities among historically underrepresented populations, and uses existing resources to make voting easier and more accessible. It also simplifies election officials' tasks for voters who move. This common sense reform would expand voters' opportunity to cast ballots that count.

Notes

1. The lone exception is North Dakota, which does not require voter registration.
2. U.S. Census, Geographical Mobility: 2011 to 2012. Table 1. General Mobility, by Race and Hispanic Origin, Region, Sex, Age, Relationship to Householder, Educational Attainment, Marital Status, Nativity, Tenure, and Poverty Status: 2011 to 2012, available at <http://www.census.gov/hhes/migration/files/cps/cps2012/tab01-01.xls>.
3. National Voter Registration Act of 1993, Section 8(e), 42 U.S.C. 1973gg-6(e).
4. 42 U.S.C. § 1973aa-1(e).
5. See Project Vote's *Same Day Registration* policy paper, available at <http://www.projectvote.org/images/publications/Election%20Day%20Registration/POLICY-PAPER-Same-Day-Registration-June-2013.pdf>.
6. US Census Bureau, Geographical Mobility: 2011-2012: Table 1. General Mobility, by Race and Hispanic Origin, Region, Sex, Age, Relationship to Householder, Educational Attainment, Marital Status, Nativity, Tenure, and Poverty Status: 2011 to 2012, <http://www.census.gov/hhes/migration/files/cps/cps2012/tab01-01.xls>.
7. Pew Center on the States, "Inaccurate, Costly, and Inefficient: Evidence that America's Voter Registration System Needs an Upgrade," at 7 (Feb. 2012), available at http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Upgrading_Voter_Registration.pdf (citing Cooperative Congressional Election Study (Cambridge, MA: Common Content, Release 1, 2009).
8. Pew Center on the States, "Inaccurate, Costly, and Inefficient: Evidence that America's Voter Registration System Needs an Upgrade," at 4 (Feb. 2012), available at http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Upgrading_Voter_Registration.pdf.
9. See Adam Skaggs and Jonathan Blitzer, Permanent Voter Registration, at 1 (Brennan Center for Justice June 19, 2009), available at <http://www.brennancenter.org/page/-/Democracy/Permanent%20Registration.pdf>.
10. Data at U.S. Census, Voting and Registration in the Election of November 2012, Table 8. Reported Voting and Registration, by Duration of Residence, and Tenure: November 2012 (All races), available at <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2012/Table08.xls>.
11. U.S. Census, Voting and Registration in the Election of November 2012, Table 10. Reasons for Not Voting, by Selected Characteristics: November 2012, available at <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2012/Table10.xls>.
12. See Skaggs and Blitzer, *supra* note 9 at 1-2.
13. United States Elections Project, 2012 General Election Turnout Rates, VEP Highest Office Turnout Rate, http://elections.gmu.edu/Turnout_2012G.html (last visited June 27, 2013); see *infra* at 4-5. In May 2013, Colorado expanded its existing portability to include Election Day Registration, and repealed its existing portability provision. Colo. Laws Ch. 185 §§ 16, 138 (passed as HB 13-1303) (enacting Colo. Rev. Stat. § 1-2-217.7 and repealing § 1-8.5-107).
14. US Census Bureau (David K. Ihrke and Carol S. Faber), Geographical Mobility: 2005 to 2010 Population Characteristic (issued Dec. 2012), available at <http://www.census.gov/prod/2012pubs/p20-567.pdf>.
15. See Help America Vote Act of 2002 § 303, 42 U.S.C. § 15483.
16. Pew Center on the States, "Inaccurate, Costly, and Inefficient: Evidence that America's Voter Registration System Needs an Upgrade," at 7 (Feb. 2012), available at http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Upgrading_Voter_Registration.pdf (citing Cooperative Congressional Election Study (Washington, DC: The Pew Charitable Trusts Content, 2008).
17. Matt Dixon, "New law sparks increase in provisional ballots in Florida counties," *The Florida Times-Union* (Nov. 18, 2012), <http://jacksonville.com/news/metro/2012-11-18/story/new-law-sparks-increase-use-provisional-ballots-florida-counties>.
18. U.S. Election Assistance Comm'n, "The 2010 Election Administration and Voting Survey: A Summary of Key Findings," at 11 & fig.4 (Dec. 2011), available at http://www.eac.gov/assets/1/Documents/990-281_EAC_EAVS_508_revised.pdf.
19. U.S. Election Assistance Comm'n, "The 2010 Election Administration and Voting Survey: A Summary of Key Findings," at 12 (Dec. 2011), available at http://www.eac.gov/assets/1/Documents/990-281_EAC_EAVS_508_revised.pdf.
20. U.S. Election Assistance Comm'n, "The 2010 Election Administration and Voting Survey: A Summary of Key Findings," at 12 (Dec. 2011), available at http://www.eac.gov/assets/1/Documents/990-281_EAC_EAVS_508_revised.pdf.
21. Similarly, this paper does not review states' special rules for voters who may have moved after the registration deadline.
22. 2013 Colo. Sess. Laws Ch. 185 § 16 (adding Colo. Rev. Stat. § 1-2-217.7).
23. 2012 Conn. Public Act No. 12-56 (effective July 1, 2013).
24. D.C. Code § 1-1001.07(g)(5).
25. Idaho Code Ann. § 34-408A.
26. Iowa Code § 48A.7A.
27. Me. Rev. Stat. Ann. tit. 21-A, § § 121-A, 122, 129.
28. Minn. Stat. Ann. § 201.061.
29. Mont. Code Ann. § 13-2-304.
30. N.H. Rev. Stat. Ann. § 654:7-a.
31. N.C. Gen. Stat. Ann. § 163-82.6A.
32. Wis. Stat. Ann. § 6.55.
33. Wyo. Stat. Ann. § 22-3-104.
34. 2012 Cal. Laws Ch. 497.
35. 2013 Md. Laws Ch. 157.
36. Del. Code Ann. tit. 15, § 2047.
37. Haw. Rev. Stat. Ann. § 11-21.
38. Or. Rev. Stat. Ann. § 247.012 (West 2013); <http://oregonvotes.org/pages/faq/index.html>.
39. Tex. Elec. Code Ann. §§ 112.002(a), 112.004.
40. Fla. Laws Ch. No. 2013-57 § 4 (amending Fla. Stat. § 101.045). Prior to 2011, Florida had full portability with a regular ballot, but it was scaled back to require voters to cast a provisional ballot. Fla. HB 1355, Laws Ch. No. 2011-40.
41. D.C. Code Ann. § 1-1001.07(i)(4)(A)(2012).
42. Fla. Stat. § 101.045 (2012).
43. Md. Admin. Code § 33.16.03.01(A)(4)(c). A voter who has moved may also apply for and vote an absentee ballot. See Md. Admin. Code § 33.11.02.06. Effective in 2016, during early voting voters will be able to register to vote or update existing registrations and then vote a regular ballot. 2013 Md. Laws. Ch. 157 § 2 (signed by the governor May 2, 2013).
44. Ohio Rev. Code Ann. 3503.16(C)(3), 3505.181(A)(9). Voters vote either a provisional or absentee ballot. In addition, Ohio voters can register and vote early on the same day before the registration deadline. See Ohio Sec'y of State, Directive 2012-26, available at <http://www.sos.state.oh.us/SOS/Upload/elections/directives/2012/Dir2012-26.pdf>.
45. Utah Code § 20A-4-107 (as amended by 2013 Utah Sess. Laws Ch. 390 (effective May 14, 2013)).
46. E.g., 25 Pa. Cons. Stat. Ann. § 1902 (voter may vote at former address once, at which time registration is changed); R.I. Gen. Laws Ann. § 17-9.1-16 (voter who moved between 6 months and 30 days before the election may vote limited ballot in former city/town).

About the Author

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Project Vote is a national nonpartisan, non-profit organization that promotes voting in historically underrepresented communities. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, litigation, and advocacy to ensure that our constituencies can register, vote, and cast ballots that count.

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