



Research Memo

August 2011

Election Legislation 2011: Threats and Opportunities Assessment Update

by Erin Ferns Lee

The year before a presidential election is always a busy time for election legislation, as state legislatures debate game-changing conditions that could either improve or hinder access to the ballot. In 2011, however, it has become clear that most of the energy is being spent by partisan forces intent on passing restrictive voting laws designed to significantly reduce turnout in the 2012 election. The story of 2011 so far is of an onslaught of legislation designed to put forward regressive policies while reducing or eliminating convenience voting measures.

These measures have not been met without resistance. Photo ID, and the eradication of progressive election polices, have been publically scrutinized by the media, civil and voting rights activists, and even members of the United States Congress. There has been some success in defeating such bills in states like Minnesota, Missouri, New Hampshire, and Montana. However, proof-of-citizenship and voter registration drive restrictions—both regressive policies that have a negative impact on access to the vote rolls—passed in some states, relatively under the radar.

Harmful election laws that have passed through the legislatures far outnumber progressive measures to make voting more accessible to all eligible citizens. In recent years, measures designed to make voting more convenient for busy voters, as well as measures to increase youth voter participation, were popular in legislatures. During this session, however, few of these reforms have gained traction, as they've been largely eclipsed by photo ID debates and state budget constraints.

Online voter registration is the only potentially progressive election reform to be adopted in multiple states, though Election Day Registration and restoration of voting rights made some progress.

This year, Project Vote monitored election legislation in 50 state legislatures and the U.S. Congress. This memo reviews both the threats and opportunities represented by election reforms that gained significant support in state legislatures in 2011, based on our bill monitoring project, discussions with state-based advocates, recent media coverage, and the partisan makeup of the legislatures and state election directors.

Threats to Voting Rights

Voter ID

Photo ID has dominated election legislation debates for years, but the 2011 legislative session proved to be the most contentious. Since January, Project Vote has monitored 33 states that introduced bills to require all voters to present photo identification before casting a ballot, and actively fought bills in three of those states. A whopping 11 state legislatures adopted related laws, of which seven were enacted; three states are still considering legislation, and at least seven more states will revisit these bills during the 2012 legislative session. The onslaught of photo ID legislation has garnered the attention of the United States Congress, which recently pressed the Department of Justice to scrutinize the slew of new laws.ⁱ

To date, photo ID laws have been enacted in Alabama, Kansas, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin.

South Carolina and Texas are seeking preclearance of their photo ID laws from the Justice Department under Section 5 of the Voting Rights Act. The SC Progressive Network says 180,000 South Carolinians could be affected if that state's law is approved by the Justice Department later this summer.ⁱⁱ

Photo ID bills were vetoed in Minnesota (SB 509), Missouri (SB 3), New Hampshire (SB 129), and North Carolina (HB 351). However, Missouri also passed a measure to put photo ID on the 2012 state ballot (SJR 2). The measure is currently being challenged.ⁱⁱⁱ A 2012 photo ID ballot measure is also being challenged by voting rights groups in Mississippi.^{iv}

Ohio House Republicans attempted to pass photo ID laws through HB 194 and HB 159. Omnibus election bill, HB 194, was ultimately enacted without a photo ID provision, but this did not happen without controversy: a coalition of advocates, including former secretary of state Jennifer Brunner, is organizing a referendum on the new law, which could delay implementation. Photo ID bill HB 159 was adopted by the House, but is no longer being considered in the legislature.

Bills are pending in Massachusetts, New Jersey, and Pennsylvania. Pennsylvania is expected to deliberate over its photo ID bill (HB 934) when the Senate reconvenes in September. In 2012, Alaska, Delaware, Iowa, Maine, Minnesota, Nebraska, and New Hampshire are expected to revisit failed 2011 photo ID bills.

ENACTED

- **Alabama – HB 19/Act No. 2011-673:** This bill requires each voter to present valid photo ID before casting a ballot. Acceptable ID includes a valid Alabama driver's license or state ID, a United States passport, employee ID, Alabama student ID, United States military ID, or tribal ID. The bill directs the secretary of state to issue photo ID to certain registered voters in the state at no cost to the voter.
- **Kansas – HB 2067:** This bill requires all voter registrants to submit proof of citizenship before being registered to vote (effective after January 2013), and requires all voters to present photo ID before casting a ballot (effective January 1, 2012). Voters must present valid, photographic proof of identity, which includes: a state ID or driver's license; a license to carry a concealed weapon; a passport; government employee badge; military ID; Kansas student ID; or public assistance card. Anyone who fails to provide ID must vote a provisional ballot. This bill provides free state ID to registered voters who do not possess valid photo ID and are over the age of 17. Expired ID is accepted from voters over the age of 65. Certain people are exempt from the ID requirement, including those with permanent physical disability, members of the United States military and their spouses and dependents (if they are absent from the county on Election Day), and voters with religious objections to being photographed.
- **Missouri – SJR 2:** This bill proposes a constitutional amendment, as approved by voters, to require a person to verify identity and citizenship before voting. It also provides an "advance voting" period whereby voters can vote early from the third Saturday before the election until the first Tuesday before the election, excluding Sundays. Adopted in May 2011, the amendment will be on the state ballot in 2012.

- **Rhode Island – HB 5680/Public Law No. 2011-199:** This bill requires every voter to provide current, valid, government-issued proof of identification before voting. It allows for certain forms of non-photo, government ID to be used alternately, such as birth certificate, Social Security card, or government-issued medical card. As of January 1, 2012, the state will provide free voter ID cards upon request. If a person cannot provide proof of identity, he or she will be forced to vote a provisional ballot. The local election board would then determine the validity of the ballot by comparing the signature to the voter registration record. The law goes into effect in 2014.
- **South Carolina – HB 3003/Act No. 27:** This bill requires voters who want to cast a ballot in person to present a valid and current photo ID, including a state driver's license or state ID, passport, military ID, or South Carolina voter registration card containing a photograph. Voters who cannot prove identity must vote provisionally, and the ballot will not be counted unless they present valid and current photo ID to the county board of registration and elections before certification of the election by the county board of canvassers. Voters with religious objections to being photographed must complete an affidavit under penalty of perjury and vote a provisional ballot.
- **Tennessee – SB 16/ Chapter No. 323:** This bill requires voters who want to cast a ballot in person to present one form of government-issued photo ID before voting. Student ID is expressly disqualified as an acceptable form of voter ID. Those who cannot sufficiently prove their identity will be forced to vote provisionally, and must provide proof of identity within two business days of the election. Voters who are indigent or have a religious objection to being photographed may cast a ballot, but would be required to complete an affidavit of identity that states their reasons for failing to meet the photo voter ID requirement. The law goes into effect on January 1, 2012.
- **Texas – SB 14/Chapter No. 123:** This bill was enacted on May 27. It requires all voters to present valid, photographic proof of identity before voting, including driver's license, election identification certificate, military ID, citizenship papers, passport, or license to carry a concealed weapon. Until September 1, 2017, election officers must provide voters with written notice of voter ID requirements. Voters without sufficient ID must vote provisionally. Voter applicants with disabilities may request an exemption from the voter ID requirement by submitting written documentation from the Social Security Administration or Department of Veterans Affairs, indicating the applicant's disability. It is effective on January 1, 2012.
- **Wisconsin – A 7/Act No. 2011-23:** This bill makes several changes to state election law regarding photo ID and voter registration. The bill requires all voters to present government-issued photographic proof of identity before casting a ballot in person. Student ID is permitted if it includes signature and expiration date. Voters without proper ID must vote provisionally, and are still required to present photo ID to an election official within three days of the election. Absentee voters must submit a copy of a required form of ID with their ballots. The bill also increases the period before Election Day that a voter must be a resident of a jurisdiction (from 10 to 28 days), and creates residential restrictions on students, who would be required to vote using their parents' home as their official residence. The bill also eliminates the option for an Election Day registrant to have their identity or residence verified by another registered voter.

PENDING

- **New Jersey – AB 4261/SB 2996:** This bill requires voters to present valid, photographic, government-issued proof of ID at the polls "in full view of the challengers," starting in January 2012. Absentee voters must also provide a copy of documentary proof of identification. Voters with religious objections to being photographed are exempt from the requirement and would be allowed to vote by machine after presenting a sworn, notarized affidavit from the voter's "cleric, minister, or other religious leader." The bill provides free ID to anyone who needs it for voting purposes and can prove "indigence and present financial inability to pay the fees." It is pending in the Senate State Government, Wagering, Tourism & Historic Preservation Committee.

Threats to Voting Rights

- **Pennsylvania – HB 934:** This bill requires voters to present valid, government-issued, photographic proof of identity before voting. It directs the Dept. of Transportation to provide free ID to any registered elector who has signed an affidavit stating that he or she is unable to pay for ID due to financial issues.

VETOED

- **Minnesota – SB 509:** This bill requires voters to present photo ID before casting a ballot. Voters without proper ID must cast a provisional ballot and later present proper ID in order for the ballot to be counted. The bill provides a "free" ID provision for certain voters. Governor Mark Dayton vetoed the bill on May 26.
- **Missouri – SB 3:** This bill requires voters to present valid government-issued photo ID before voting. Those who were born before January 1, 1941; have a religious objection to being photographed; or who have an "inability to pay for a document necessary to obtain required identification" can vote a provisional ballot and have it verified by comparing the signature on file. All other voters who do not have proper ID must vote provisionally and later present proper identification. This bill would also establish an early voting center for advance voting in each county in the state on the third Saturday before an election, ending the Tuesday before Election Day, excluding Sundays. Governor Jay Dixon vetoed the legislation on July 17.
- **New Hampshire – HB 129:** This bill requires voters to present a valid photo identification before voting in person. Voters without photo identification must vote by provisional ballot, but they must later present to a city or town clerk valid photo identification, official documentation of driver's license suspension or revocation, a waiver issued by the secretary of state, or an affidavit of religious exemption. This bill also requires that the secretary of state pay the cost for a nondriver's picture identification card upon presentation of a voucher to the division of motor vehicles. Governor John Lynch vetoed the bill on June 27.
- **North Carolina – HB 351:** This bill requires every voter to present photo ID before voting. Valid ID includes a North Carolina driver's license, learner's permit, or provisional license; non-operators ID; government ID; passport; military ID; tribal ID; or state voter ID. The bill requires each county board of elections to provide North Carolina voter ID cards to any registered voter who does not have another valid North Carolina ID. Voters without proper ID may vote a provisional ballot, but must present photo ID later. Governor Beverly Perdue vetoed it on July 23; House Republicans unsuccessfully attempted to override the veto a week later. The bill was sent to a rules committee, where it may be brought up again as a "local" bill to implement by county.^v

Restrictive Voter Registration Bills

Efforts to make it harder to register to vote gained traction in several state legislatures this session. The primarily partisan-driven attacks came in the form of proof-of-citizenship requirements, voter registration drive restrictions, and elimination or restriction of Election Day registration policies.

Proof-of-citizenship at registration has been criticized for its wrongful disenfranchisement of otherwise eligible citizens who are unable to provide documentary proof of citizenship. Until 2011, Arizona and Georgia were the only states to adopt restrictive citizenship policies. Arizona's law was struck down by a three-judge panel in 2010, but is currently undergoing an *en banc* review by the full Ninth Circuit Court. Georgia's law was approved by the Justice Department in April.^{vi} This session, nine states introduced bills to require proof of citizenship to register to vote, and one—Kansas—enacted its law. Two other states, Tennessee and Texas, enacted bills relating to the citizenship requirement, except they would ask for proof of citizenship of registered voters who are flagged as potential noncitizens during list maintenance procedures. New Hampshire can expect to see a reintroduction of its citizenship bill, HB 515, in 2012.

Lawmakers also attempted to hinder or downright prohibit third-party voter registration drives, which millions of Americans rely upon to register to vote.^{vii} Regulations on the implementation of voter registration drives, such as those restricting various performance standard and compensation methods, were considered in six states this session, and Florida enacted one of the most restrictive laws, which would effectively enable a partisan official to shut down a voter registration drive for minor violations.

Project Vote and the ACLU of Florida are challenging this Florida law (HB 1355/Chapter No. 2011-40). Project Vote and other civil rights groups have also asked the Department of Justice to deny preclearance of this law to the five Florida jurisdictions that require federal approval before enacting election laws under the Voting Rights Act of 1965.

Election Day Registration was once available in 10 states, but, in 2011, lawmakers in at least three of these states attempted to repeal the law, which is often credited with contributing to higher voter turnout. Legislatures in Maine and Montana adopted bills to eliminate Election Day registration: Montana Governor Brian Schweitzer vetoed the motion, but Maine governor Paul LePage approved HB 1015/Public Law No. 2011-399 after decades of success in implementing Election Day registration. In July, a coalition of groups, including the League of Women Voters of Maine, joined forces to seek a “people’s veto” of the law by collecting signatures to force a referendum in November.^{viii} Wisconsin lawmakers also approved a law that restricts verification of identity and residency requirements to register to vote on Election Day.

Proof of Citizenship

PASSED

- **Kansas – HB 2067:** This bill requires all residents to submit proof of citizenship before being registered to vote (effective after January 2013), and requires all voters to present photo ID before casting a ballot (effective January 1, 2012). Voters requesting an advance ballot by mail must also include a photocopy of ID. Valid proof of citizenship at registration includes driver's license or state ID (if the card indicates citizenship); birth certificate; passport; naturalization documents; or other government documents. If the registrant does not have the required documents, that person may submit any evidence that “such applicant believes demonstrates the applicant's United States citizenship.”
- **Tennessee – SB 352/Chapter No. 235:** This bill amends voter registration law to require the coordinator of elections to compare the statewide voter registration database with the Department of Safety database, as well as other federal, state, and county records, “to ensure non-United States citizens are not registered in the state.” If the coordinator of elections finds evidence that a registered voter is not a citizen, the county election commission will be notified. The county election commission must then notify the registered voter, who must provide proof of citizenship within 30 days or risk being purged from the voter rolls. Valid proof of citizenship includes birth certificate, United States passport, or naturalization documents. A person who is unable to provide documentation may appeal to the State Election Commission “and submit additional proof of citizenship in person or in writing.”
- **Texas – HB 174:** This bill allows the secretary of state, on a quarterly basis, to notify county registrars to purge voter rolls of the deceased or those who had been disqualified from jury service due to citizenship status. The bill requires jury duty questionnaires to notify non-citizens that they are ineligible to vote if they fail to provide proof of citizenship. It will take effect on September 1, 2011.

PENDING

- **New Hampshire – HB 515:** This bill eliminates the option to confirm citizenship status by affidavit when registering to vote. Voter registrants would be required to present official government documents that indicate identity. This bill also requires the clerk to verify the identity of persons requesting absentee ballots. This bill will be carried over into the 2012 legislative session.

Threats to Voting Rights

Voter Registration Drive Restrictions

ENACTED

- **Florida – HB 1355/Chapter No. 2011-40:** This omnibus election bill requires organizations conducting voter registration drives to register with the Elections Division, providing the names and addresses of the organization's officers and canvassers, as well as a sworn statement from each canvasser to "obey all state laws and rules regarding the registration of voters." The division would maintain a database of all third-party voter registration organizations and the forms assigned to them. The new law reduces the period in which a canvasser must turn in complete applications from 10 days to 48 hours, or the organization faces fines. It was enacted on May 19 and is currently being challenged by civil rights groups.
- **Texas – HB 2194:** This bill creates restrictions on performance standards for voter registration drives. The bill makes it illegal (a Class A misdemeanor) to compensate employees based on the number of voter registration cards collected, or to implement quotas as a condition for employment or payment. The governor signed the bill into law in June.
- **Texas – HB 1570:** This bill requires a deputy registrar to complete a training before helping register voters. It directs the secretary to adopt standards of voter registration training, including development of materials, which may include an examination. The governor approved the bill in June.

PENDING

- **California – SB 205:** This bill prohibits payment on a per-affidavit basis to anyone who helps register a person to vote. It was adopted by the Senate and is currently pending in the House.
- **North Carolina – SB 47:** This bill, among other provisions, classifies as a Class 2 misdemeanor the payment or acceptance of payment per voter registration application collected. It was adopted by the Senate and is pending in the state House.

Election Day Registration Restrictions

ENACTED

- **Maine – HB 1015/Public Law No. 2011-399:** This bill establishes a deadline for voter registration by individuals and voter registration drives. Registration cards submitted by mail or by third-person drives must be received on the 21st day before Election Day. The deadline for registered voters to vote in person is the third business day before Election Day. The bill also creates rules for provisional voting. The governor signed it into law in June.
- **Wisconsin – Act No. 2011-23:** (See also "Photo ID") In addition to requiring photographic proof of identification to vote, this bill eliminates the option for Election Day registrants to have their identity or residence verified by another registered voter. It was signed into law in May.

Early Voting Reduction

Early voting, which is a convenience currently offered in 33 states, has recently become a victim of the voter fraud hysteria, though there is "little plausible connection to battling fraud," as E.J. Dionne Jr. at the *Washington Post* noted in June.^{ix} Early voting helped bring out new and historically underrepresented voters in 2008, but since then lawmakers in at least three states have adopted measures to reduce its effectiveness by shortening early voting periods.

For example, Florida's new law has been criticized for cutting off early voting on the Sunday before an election, a

time when many people rely on their churches for transportation and mobilization to get out the vote.^x Ohio's new omnibus election law is also being challenged for drastically reducing the early voting period. Fair Elections Ohio, a coalition of progressive groups, is currently collecting signatures to get a referendum on the November 2012 ballot asking voters to overturn the early voting restrictions, among others.^{xi}

ENACTED

- **Florida – HB 1355/Chapter No. 2011-40:** This omnibus election bill shortens the early voting period, starting on the 10th day before a state or federal election (instead of the 15th day before an election), and requires early voting to end on the Saturday before the election (instead of Sunday). (See also “Voter Registration Drive Restrictions.”)
- **Georgia – HB 92/Act No. 241:** This bill reduces the early voting period from 45 days before an election to approximately 21 days, commencing on the fourth Monday before each election, and ending the Friday before Election Day. Voting would be permitted during business hours on weekdays, as well as the second Saturday before an election from 9 a.m. to 4 p.m. If there are no federal or state candidates on the ballot, Saturday voting hours would not be required. This bill allows counties and municipalities to extend voting hours, if necessary.
- **Ohio – HB 194:** This bill amends election law relating to early voting, voter registration, and voter list maintenance. It reduces early voting days from 35 days before the election to 21 days by mail and 17 in person. It excludes weekends from the early voting period. The bill included an online voter registration provision that was later repealed by state Republicans. Finally, the bill directs the secretary of state to establish a “uniform method” for addressing instances in which records contained in the statewide voter registration database do not match those maintained by the Bureau of Motor Vehicles. It requires state agencies (Department of Health, Bureau of Motor Vehicles, Department of Job and Family Services, Department of Corrections) to provide any data to the secretary of state that the secretary deems necessary in order to maintain the statewide voter registration database. The secretary must notify each county board of elections of the voters that have been purged from voter lists; the information will not be used to update the name or address of the voter.
- **Tennessee – SB 923/Chapter No. 381:** This bill reduces the early voting period by two days.

Voting Centers

Four states—Arizona, Indiana, Tennessee, and Utah—enacted measures in 2011 to create “voting centers,” which are more about making elections less expensive for government than making them more convenient for voters. In general, voting centers allow election officials to create a countywide polling place that can serve thousands of voters, as opposed to smaller precincts distributed throughout the county. While this may result in cost savings for governments, voting centers have the potential to actually hurt turnout by eliminating the neighborhood precinct. Voters are forced to take the time and trouble to travel further from home, in order to cast a ballot in a place that serves many more voters than a traditional precinct.

ENACTED

- **Arizona – HB 2303/Chapter No. 331:** This bill directs the election board to authorize the use of voting centers in place of or in addition to specifically designated polling places. Voting centers allow any voter in that county to cast a regular ballot on Election Day. This bill amends election law to include electronic voter registration rosters among the four lists that each county recorder is expected to produce at least 10 days before an election.
- **Indiana – SB 32/Public Law No. 1-2011:** This bill would direct an Indiana county to conduct a vote center pilot program.

Threats to Voting Rights

- **Tennessee – SB 771/Chapter 455:** This bill authorizes four Tennessee counties to participate in a pilot project to establish a program that allows the county election commission to combine precincts or polling places within the municipality, or to establish convenient voting centers for municipal elections in 2011 and 2012. For every 25,000 voters, the county election commission should locate at least one voting center. Eligible counties include Rutherford, Knox, Hamblen, and Shelby.
- **Utah – HB 130/Chapter No. 291:** This bill authorizes an election officer to operate an Election Day voting center.

PENDING

- **Rhode Island – HB 5804:** This bill directs the election board to authorize the use of voting centers in place of or in addition to specifically designated polling places. Voting centers allow any voter in that county to cast a regular ballot on Election Day. This bill amends election law to include electronic voter registration rosters among the four lists that each county recorder is expected to produce at least 10 days before an election.

Opportunities in Voting Rights

Progressive Voter Registration Reforms

The 2011 legislative session brought many innovative voter registration proposals to the table, including automatic registration and improvement or expansion of registration systems at state agencies. California enacted an unusual bill (A 1357) to allow people who become citizens within 15 days of an election to register to vote up to, and on, Election Day. However, the main voter registration policies that gained significant traction were online voter registration and Election Day registration. Unfortunately, these bills did not progress without some controversy.

Online voter registration policies were introduced in seven states. While such policies may make voter registration easier for some citizens—especially tech-savvy young people—it should be noted that there are risks that come with registration systems that rely on an individual voter's access to a computer. Further, most online registration programs require a signature from the state's driver's license database, meaning that only applicants with state driver's licenses or IDs would be allowed to register vote.

Although four states adopted online voter registration measures, only three enacted the policies (California, Nevada, and Maryland). Ohio House Bill 194 went through many amendments, including a failed photo ID provision, before passing with an online voter registration rule. Although Republican Secretary of State Jon Husted showed support for such a policy earlier this year, the legislature repealed the online voter registration provision two weeks after the bill's passage.

"We were trying to make Ohio a more forward-thinking state," Husted said in a statement. "[The legislature's] action is a setback for Ohio, but it will not stop my efforts to modernize our election system."^{xii}

Hawaii governor Neil Abercrombie vetoed an online voter registration bill, HB 545, for budgetary reasons in July.

An online voter registration bill may be reintroduced in Nebraska (L 168) in 2012.

Online Registration

ENACTED

- **California – AB 1357/Chapter 192:** This bill would permit county election officials to develop their own online voter registration Web sites on or before January 1, 2012, under rules specified by the secretary of state. Recent amendments prohibit third-party voter registration drives from utilizing the online voter registration features, and require the online affidavit of registration to include a toll-free "fraud hotline" telephone number "that the public may use to report suspected fraudulent activity concerning misuse of voter registration information." Under existing law—and once the state complies with the requirements to maintain a statewide voter registration database under the Help America Vote Act of 2002—an eligible citizen who has a valid state ID may submit a voter registration application electronically, via the secretary of state's Web site. It was sent to Governor Jerry Brown on July 25, 2011.
- **Maryland – HB 740/Chapter 293:** This bill directs funding from the Fair Campaign Financing Fund to be used for implementing an online voter registration system. The online voter registration system would allow a person to register to vote or change name, party affiliation, or address on an existing voter registration record electronically. To process the application, the registrant must provide a Maryland driver's license or state ID number and consent to use an electronic copy of their signature through the Motor Vehicle Administration or Social Security number.
- **Nevada – AB 82/Chapter No. 365:** This bill requires county clerks to establish an online voter registration system (currently only available in Clark County), and prohibits a voter registration agency or county clerk from knowingly employing a person who has been convicted of a felony involving theft or fraud, among other provisions.

Opportunities in Voting Rights

PENDING

- **California – SB 397:** This bill allows the Department of Motor Vehicles and the secretary of state to develop a system to allow the use of electronic signatures to process online voter registration applications. This will be effective once the state is in compliance with HAVA's mandate to create a statewide voter registration database. It was adopted by the Senate and is pending in the House Appropriations committee.
- **New York – AB 8165:** This bill would require the state board of elections to ensure online voter registration and related services are available to the public on the official public Web sites of state and local election officials. This bill was introduced in June and is pending in the Assembly Election Law Committee.

VETOED

- **Hawaii – HB 545:** This bill requires the chief election officer to create, implement, and maintain an online voter registration Web site by January 2014. It allows any eligible voter who has a valid Hawaii driver's license or certificate of identification to submit an affidavit for voter registration electronically. The bill was passed by the legislature but was vetoed by the governor in July.

Election Day Registration

PENDING

- **California – SB 641:** This bill would allow a person to register to vote and cast a provisional ballot during the early voting period or on Election Day. The ballot would only be counted if the voter is determined to be eligible to register to vote, and if the registrant had provided a form of ID deemed acceptable under the Help America Vote Act. It was adopted by the Senate on June 1 and is pending in the Appropriations Committee.
- **New York – SB 1978:** This bill amends the constitution to delete the requirement that voter registration be completed at least 10 days before an election. The bill also provides that laws be made to adequately safeguard against deceptive practices.

Youth Voting

Since young people increased their turnout rates in 2008, legislatures have shown more interest in policies to improve youth voter participation, particularly starting with voter registration. Progressive election reforms introduced during the 2011 legislative session included a wide range of youth-oriented proposals, including preregistration, campus voter registration, civic education, and student poll worker programs. However, few of these bills gained significant traction.

Preregistration was the most popular youth-oriented election policy, with bills being introduced in seven states. Bills are currently pending in Massachusetts (HB 1979) and New Jersey (AB 3616 and SB 2727), but the New Jersey bills have been inactive since February and do not appear viable. A preregistration bill in Vermont has been carried over to the 2012 legislative session.

In Georgia, a bill to implement a student poll worker program has been carried over to the 2012 legislative session. Senate Bill 101 would permit certain public, private, and home-schooled high school students to volunteer to work as poll workers during primary, special, and general elections.

Preregistration

- **Massachusetts – HB 1979:** This bill provides that "a person who is otherwise qualified may pre-register on or after that person's sixteen birthday and may vote in any election occurring on or after that person's eighteenth birthday." It is pending in the Joint Committee on Elections.

Civic Education

- **Kentucky – HB 192/Act 50:** This bill would require every secondary school to provide students in the twelfth grade information on how to register to vote, how to vote in an election using a ballot, and how to vote using an absentee ballot. A school may provide this information through classroom activities, written materials, electronic communication, Internet resources, participation in mock elections, and other methods identified by the principal after consulting with teachers.

Restoration of Voting Rights

Since 2009, lawmakers on both state and federal levels have attempted to reduce barriers to the franchise for the millions of Americans with felony convictions that live in our communities. At least five states—Alaska, Delaware, Georgia, Kentucky, and Nevada—introduced bills to restore the voting rights of citizens who have been released from prison.

Nevada was the only state to adopt a measure to make it easier to restore voting rights, which would have assisted an estimated 43,000 Americans in that state. However, Governor Brian Sandoval vetoed AB 301, perpetuating an existing policy that confuses both election workers and voters on the process of restoring voting rights. "Some people get their rights back when they finish their sentences, while others have to petition their courts of conviction for restoration," wrote Rebecca Gasca of the Nevada ACLU and Nicole Kief of the ACLU's national chapter in a July blog entry. "Those with federal convictions need — wait for it — presidential pardons in order to vote again."^{xiii}

The Democracy Restoration Act was reintroduced in the 112th Congress this summer. The Senate will introduce its version in September. The bill was first introduced in 2009 to automatically restore federal voting rights for four million Americans, ensure that probationers have the opportunity to vote in federal elections, and provide notification of voting rights to released felons. The new House bill, HR 2212 is not expected to progress at this time.^{xiv}

Convenience Voting

Convenience voting measures are designed to make voting easier for voters and less expensive to the government. In 2008, the unprecedented surge in early voting among underrepresented minority and young voters subsequently inspired no-excuse early and absentee voting proposals: today, the number of convenience voting bills for voters has diminished. While some convenience voting measures were introduced this session—including no-excuse early and absentee voting, as well as permanent absentee voting—few have gained significant traction. The only mail-voting bill that has been adopted by at least one chamber deals with confirmation of a mail vote (CA A 293). A federal bill to amend the Help America Vote Act to allow all voters to vote by mail in federal elections was introduced in the House in June. It is pending in the House Administration Committee.

Opportunities in Voting Rights

Early Voting

PENDING

- **Pennsylvania — HB 765:** This bill allows qualified voters to vote at designated polling places in their election districts beginning 10 days before a general, municipal, or primary election.
- **Pennsylvania — HB 1001:** This bill provides for an early voting period to begin 15 days before elections and primaries.
- **Massachusetts — HB 1110, HB 1119, HB 1978:** These bills allow any eligible voter to cast a ballot during an early voting period, beginning the seventh day before Election Day. This bill was heard by the Joint Committee on Election Laws in June and is eligible for Executive Session.

Vote By Mail

PENDING

- **California — AB 293:** This bill requires the local elections official to establish a free access system by which a vote-by-mail voter may find out whether his or her ballot was counted and, if not, the reason why it was not counted. The bill was adopted by the Assembly and is pending in the Senate.

Absentee Voting

ENACTED

- **Hawaii — HB 1613/Act No. 142:** This bill provides the option to request permanent absentee ballot status when registering to vote.

Conclusion

This legislative year, it quickly became apparent that the rush to change election policy in the states before the 2012 presidential election would be rooted in partisan politics rather than improving voter participation. The promising flurry of legislation that addressed voter registration—the basis of democratic access—did gain some headway, although most of these progressive reforms were obstructed by partisan battles to eradicate policies that increase voter participation while implementing more voting barriers.

However, there is hope for ensuring all Americans can cast ballots that count. This session, public outrage over these voter suppression tactics helped defeat suppressive election policies in some states, and has built a dialogue around improving democratic access instead of tailoring the electorate to politicians' whims.

Notes

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- ⁱ Pete Yost, "Senators concerned by photo ID requirement to vote," *Associated Press*, June 29, 2011.
 - ⁱⁱ Tony Santaella, "Group Reaches Out to Those Impacted by Voter ID Law," *Associated Press*, July 8, 2011.
 - ⁱⁱⁱ Sarah Fenske, "Lawsuit Seeks to Remove Voter ID Amendment from 2012 Missouri Ballot," *Riverfront Times*, July 8, 2011.
 - ^{iv} Jason Hancock, "Lawsuit Seeks to Block Missouri Photo ID Ballot Measure," *St. Louis Post-Dispatch*, July 7, 2011.
 - ^v Chris Kromm, "Battles over voter photo ID laws come to a head," *Facing South*, Institute for Southern Studies, August 3, 2011.
 - ^{vi} Bill Rankin, "DOJ approves proof of citizenship requirement for voter registration," *Atlanta Journal Constitution*, April 4, 2011.
 - ^{vii} Doug Hess and Jody Herman, "Representational Bias in the 2008 Electorate," *Project Vote*, November 2009."
 - ^{viii} "Group aims to restore election day registration," *Associated Press*, July 9, 2011.
 - ^{ix} E.J. Dionne Jr., "How States are Rigging the 2012 Election," *Washington Post*, June 19.
 - ^x Frank Cerabino, "Early Voting Change Might Reduce Black Participation," *The Palm Beach Post*, July 6, 2011.
 - ^{xi} Jim Siegel, "New Election Law Spurs Repeal Push," *The Columbus Dispatch*, July 15, 2011.
 - ^{xii} Joe Guillen, "Ohio GOP repeals online voter database over Secretary of State Jon Husted's objections," *The Plain Dealer*, July 13, 2011.
 - ^{xiii} Rebecca Gasca and Nicole Kief, "Democracy Tarnished in the Silver State." *ACLU Blog of Rights*, July 17, 2011.
 - ^{xiv} "The Democracy Restoration Act Fact Sheet," *Brennan Center for Justice*. 2009.

Appendix I:

Election Legislation Threats in the States

Alabama

Photo ID

Status: ENACTED

HB 19/Act 673: Requires state or government issued photo ID to vote in person or by absentee ballot. Dept. of Public Safety must provide free photo ID.

Arizona

Voting Centers

Status: ENACTED

HB 2303/Chapter 331: Authorizes use of vote centers in place of polling places.

California

Voter Registration Drives

Status: ADOPTED BY SENATE

SB 205: Prohibits payment on a per-affidavit basis.

Florida

Omnibus

Status: ENACTED

HB 1555/Chapter 40: Requires third-party drives to register with Elections Division; reduces period in which to return complete cards; and reduces early voting period.

Georgia

Early Voting Restrictions

Status: ENACTED

HB 92/Act 241: Reduces early voting period from 45 days before an election to approximately 21 days.

Indiana

Voting Centers

Status: ENACTED

SB 32/Public Law No. 1-2011: Directs an Indiana county to conduct a vote center pilot program.

Kansas

Photo ID and Proof-of-Citizenship

Status: ENACTED

HB 2067: Requires all voter registrants to submit proof of citizenship before being registered to vote (after January 2013) and requires all voters to present photo ID before casting a ballot.

Maine

EDR Restrictions

Status: ENACTED

HB 1015/Public Law 399: Establishes deadline for voter registration by individuals and voter registration drives.

Minnesota

Photo ID

Status: VETOED

SB 509: Requires voters to present photo ID before casting a ballot. Provides a "free" ID provision for certain voters.

Missouri

Photo ID

Status: ADOPTED; State Ballot 2012

SJR 2: Puts on 2012 ballot a photo ID requirement for in-person voting on Election Day as well as an in-person advance voting provision.

Photo ID

Status: VETOED

SB 3: Requires voters to present valid government-issued photo ID before voting. Exempts certain voters from the requirement. Also establishes an early voting center for advance voting in each county.

New Hampshire

Proof of Citizenship

Status: PENDING-CARRYOVER

HB 515: Eliminates option to confirm citizenship status by affidavit when registering to vote.

Photo ID

Status: VETOED

HB 129: Requires voters to present a valid photo identification before voting in person. Requires the secretary of state to pay the cost for a nondriver's picture identification card upon presentation of a voucher to the division of motor vehicles.

New Jersey

Photo ID

Status: PENDING IN COMMITTEE

SB 2996: Requires voters to present valid, photographic, government-issued proof of ID at the polls "in full view of the challengers," starting January 2012. Absentee voters must also provide a copy of documentary proof of identification.

Appendix I: Election Legislation Threats in the States

North Carolina

Photo ID

Status: VETOED

HB 351: Requires every voter to present photographic proof of identity before casting a ballot.

Voter Registration Drives

Status: ADOPTED by SENATE

SB 47: Prohibits payment per voter registration application collected.

Ohio

Omnibus

Status: ENACTED

HB 194: Reduces the early voting period from 35 days before an election to 21 days by mail and 17 in person. The bill also includes list maintenance provisions.

Pennsylvania

Photo ID

Status: ADOPTED BY HOUSE

HB 934: Requires voters to present valid, government-issued, photographic proof of identity before voting.

Rhode Island

Photo ID

Status: ENACTED

HB 5680/Public Law 199: Requires every voter to provide current, valid, government-issued proof of ID before voting. Allows for certain non-photo ID.

Voting Centers

Status: ADOPTED BY HOUSE

HB 5804: Directs the election board to authorize the use of voting centers in place of or in addition to specifically designated polling places.

South Carolina

Photo ID

Status: ENACTED

HB 3003/Act 27: Requires voters to present valid and current photo ID before voting.

Tennessee

Photo ID

Status: ENACTED

SB 16/Chapter 323: Requires voters to present government-issued photo ID before voting. Student ID is not accepted.

Proof-of-Citizenship

Status: ENACTED

SB 352/Chapter 235: Requires election coordinators to match data with federal databases to purge suspected non-citizens from voter rolls if they fail to provide proof of citizenship.

Voting Centers

Status: ENACTED

SB 771/Chapter 455: Authorizes four counties to participate in a pilot project allowing county election commissions to combine precincts or polling places within the municipality, or to establish convenient voting centers for municipal elections in 2011 and 2012.

Texas

Proof-of-Citizenship

Status: ENACTED

HB 174: Allows secretary of state to notify county registrars to purge rolls of those disqualified from jury duty for non-citizenship.

Voter Registration Drives

Status: ENACTED

HB 2194: Creates performance standard restrictions; criminalizes compensation per registration.

Voter Registration Drives

Status: ENACTED

HB 1570: Requires deputy registrars to complete training before registering voters.

Photo ID

Status: ENACTED

SB 14/Chapter 123: Requires voters to present valid photo ID before voting.

Utah

Voting Centers

Status: ENACTED

HB 130: Authorizes election officers to operate Election Day voting centers.

Wisconsin

Photo ID and EDR Restrictions

Status: ENACTED

A 7/Act 23: Requires voters to present government-issued photo ID before voting.

Appendix II:

Election Legislation Opportunities in the States

California

Vote by Mail

Status: ADOPTED BY ASSEMBLY

AB 293: Requires local elections officials to establish a free access system by which mail-in voters may find out whether their ballots were counted.

Online Voter Registration

Status: ENACTED

AB 1357/Chapter 192: Permits county elections officials to develop their own online voter registration Web sites on or before January 1, 2012.

Online Voter Registration

Status: ADOPTED BY SENATE

SB 397: Allows the DMV and the SOS to develop a system to allow use of electronic signatures to process online voter registration applications once the state is HAVA compliant.

EDR

Status: ADOPTED BY SENATE

SB 641: Allows a person to register to vote and cast a provisional ballot during the early voting period or on Election Day.

Hawaii

Online Voter Registration

Status: VETOED

HB 545: Requires the chief election officer to create and maintain an online voter registration Web site by January 2014.

Absentee Voting

Status: ENACTED

HB 1613/Act 142: Provides registrants with the option to request permanent absentee ballot status.

Kentucky

Civic Education

Status: ENACTED

HB 192/Act 50: Requires every secondary school to provide high school seniors with information on how to register to vote and how to cast a ballot.

Maryland

Online Voter Registration

Status: ENACTED

HB 740/Chapter 293: Directs funding from the Fair Campaign Financing Fund to be used for implementing an online voter registration system.

Massachusetts

Preregistration

Status: PENDING IN COMMITTEE

HB 1979: Allows citizens as young as 16 to preregister to vote.

Early Voting

Status: PENDING IN COMMITTEE

HB 1110, HB 1119, and HB 1978: Allow any eligible voter to cast a ballot during an early voting period, beginning the seventh day before Election Day.

Nevada

Voter Registration

Status: ENACTED

AB 82/Chapter 365: Requires county clerks to establish an online voter registration system; prohibits voter registration drives or county clerks from knowingly employing a person who has been convicted of a felony involving theft or fraud.

New York

Online Voter Registration

Status: PENDING IN COMMITTEE

AB 8165: Requires the state board of elections to ensure online voter registration is available to the public.

EDR

Status: PENDING IN COMMITTEE

SB 1978: Eliminates voter registration deadline.

Pennsylvania

Early Voting

Status: PENDING IN COMMITTEE

HB 765: Allows qualified voters to vote at designated polling places in their election districts beginning 10 days before a general, municipal, or primary election.

Early Voting

Status: PENDING IN COMMITTEE

HB 1001: Provides an early voting period to begin 15 days before elections and primaries.

Appendix III:

Partisan Composition of Legislatures and Governor's Offices

Democratic Legislature and Governor

Arkansas
California
Connecticut
Delaware
Hawaii
Illinois
Maryland
Massachusetts
Minnesota
Vermont
Washington
West Virginia

Divided Legislature, Democratic Governor

Colorado
Kentucky
New York
Oregon

Republican Legislature, Democratic Governor

Missouri
New Hampshire
North Carolina
South Carolina

Republican Legislature and Governor

Alabama
Arizona
Florida
Georgia
Idaho
Indiana
Kansas
Maine
Montana
North Dakota
Ohio
Oklahoma
Pennsylvania
South Dakota
Tennessee
Texas
Utah
Wisconsin
Wyoming

Divided Legislature, Republican Governor

Alaska
Iowa
Louisiana
Michigan
Virginia

Democratic Legislature, Republican Governor

Mississippi
Nevada
New Jersey
New Mexico

Unicameral Legislature and Republican Governor

Nebraska

Democratic Legislature, Independent Governor

Rhode Island

Appendix IV:

State Election Chiefs

Republican Secretaries of State

Alabama: Beth Chapman
Arizona: Ken Bennett
Arkansas: Mark Martin
Colorado: Scott Gessler
Florida: Kurt Browning
Georgia: Brian Kemp
Idaho: Ben Ysursa
Indiana: Charlie White
Iowa: Matt Schulz
Kansas: Kris Kobach
Kentucky: Elaine Walker
Louisiana: Tom Schedler
Michigan: Ruth Johnson
Mississippi: Delbert Hosemann
Nebraska: John Gale
New Jersey: Kim Guadagno
New Mexico: Dianna Duran
North Dakota: Alvin "Al" Jaeger
Ohio: Jon Husted
Oklahoma: Glenn Coffee
South Carolina: Mark Hammond
South Dakota: Jason Gant
Tennessee: Tre Hargett
Texas: Esperanza "Hope" Andrade
Wyoming: Max Maxfield
Washington: Sam Reed

Democratic Secretaries of State

California: Debra Bowen
Connecticut: Denise Merrill
Massachusetts: William Galvin
Minnesota: Mark Ritchie
Montana: Linda McCulloch
Nevada: Ross Miller
Oregon: Kate Brown
Rhode Island: A. Ralph Mollis
Vermont: Jim Condos
West Virginia: Natalie Tennant

Miscellaneous

Alaska: Gail Fenumiai, director, Division of Election
Delaware: Commissioner of Elections, Department
of Elections
Hawaii: Scott Nago, Chief Election Officer, Office of
Elections
Illinois: Bryan Schneider, chairman of the State Board
of Elections, 2009-2011
Maryland: Linda Lamone, state elections
administrator, Maryland State Board of Elections
New York: State Board of Elections
North Carolina: Gary Bartlett, director, State Board
of Elections
Pennsylvania: Carol Aichele, Acting Secretary of the
Commonwealth
Utah: Greg Bell, Lt. Governor
Virginia: Jean Cunningham, chairman, State Board of
Elections
Wisconsin: Nathaniel E. Robinson, elections division
administrator, Government Accountability Board

Project Vote is a national nonpartisan, nonprofit 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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August 2011

