

# A REVERSAL IN PROGRESS:

RESTRICTING VOTING RIGHTS  
FOR ELECTORAL GAIN



VOTING RIGHTS INSTITUTE



## FOREWORD

On November 7, 2000, all eyes turned to Florida, where a weeks-long recount and a court fight that would go to the United States Supreme Court were just beginning. None of us can forget the butterfly ballots and the hanging chads; the injustice that some votes were counted, while others, for no good reason, were not; the thousands of African Americans, eligible to vote in Florida, discovering that they had been “mistakenly” removed from the voter rolls; the untold instances of administrative error or intentional misuse of the law that resulted in the denial of the right to vote. My own family experienced one such story. While I was serving as the manager of Vice President Al Gore’s campaign, my sister, a Florida resident, was a target of voter suppression. When she went to vote, poll workers asked her—unnecessarily and illegally—for multiple forms of ID and proof of residency. That winter, after the Supreme Court decided our election, many of us vowed never to see such injustice repeated.

As we enter the 2012 election year, I fear we are dangerously close to going back on that promise. As the Voting Rights Institute of the Democratic National Committee demonstrates in the following report, a systematic, widespread and unjustified denial of the right to vote is underway in the United States. This year alone, 40 states have passed or promoted legislation that will make it harder for eligible Americans to exercise their most basic civil right. The right to vote is one for which countless Americans have struggled, fought, and even died. Nearly 50 years after the passage of the Voting Rights Act—that landmark piece of civil rights legislation—Republicans are turning back the clock.

From Texas to Wisconsin to Mississippi to Maine, Republicans have launched an assault on voting rights. Their primary aim is to ensure their reelection—at the expense of the voting rights of eligible Americans, particularly persons of limited means, minorities, young people, and our seniors. For decades, our laws have sought to expand access to the franchise; today, Republicans seek to reverse this progress. Some of the ways Republicans are trying to make it harder to vote in 2012 include penalties for conducting volunteer voter registration drives, citizenship challenges, and laws that overtly compromise the rights of students and veterans. And they’re planning more attacks on this fundamental right. It seems that no blow is too low and no trick too dirty for Republicans seeking to ensure their own victory in 2012 and beyond.

Democrats have demonstrated time and again our commitment to protecting the right to vote. In 2000, we fought for the fair and equitable counting of votes in Florida. In 2004, we pushed to keep polls open in Ohio, so that no eligible person would be turned away without voting. In 2008, tens of thousands of Democratic volunteers monitored the polls, working hard to protect the right of all eligible citizens to cast a ballot.

And we are even more dedicated to that goal today. I hope you will stand with us. Please start now, by reading the Voting Rights Institute’s report, *A Reversal in Progress: Restricting Voting Rights for Electoral Gain*.

**Donna Brazile**

Vice Chair for Voter Registration and Participation  
November 21, 2011



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# A REVERSAL IN PROGRESS: RESTRICTING VOTING RIGHTS FOR ELECTORAL GAIN

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## EXECUTIVE SUMMARY

In 2008, more Americans cast ballots than ever before, part of a trend that reflected years of electoral reform, significant expansions of access to the ballot box, and increased political participation by voters who were traditionally underrepresented in American elections. In 2011, however, our democratic system is enduring an extraordinary national movement to restrict voting rights. Led by Republican governors, conservative strategists, and state legislators, this effort is unprecedented in its breadth and the depth of its partisan purpose.

While the marches of suffragists, student demonstrators, and religious leaders once drove electoral reform in the United States, this new movement is based in statehouses across the country. In this year's legislative session, lawmakers in at least 40 states have proposed new laws that make voter registration more difficult, cut the availability of early voting, and require voters to present current government-issued photo identification as a prerequisite to casting a ballot. In 17 states, legislators have passed these retrogressive bills.

This movement has been advanced with hollow cries of voter fraud and supported with baseless allegations and misleading anecdotes. But existing laws already deter and punish voter fraud with serious criminal penalties, ensuring the integrity of our voting process.

Threats to the integrity of our democratic system have rarely come from voters; more often, they emanate directly from elected officials. All too often, public officials have shaped the conduct of elections to determine their outcome—even in electoral contests with the highest consequences. In the 2000 presidential election, thousands of eligible Floridians were improperly removed from the voter rolls, were sent away from the ballot box, or never had their votes counted because of unprecedented judicial action.

The new effort to restrict voting calls to mind these regrettable moments from the past and turns the future of our democracy in the wrong direction. Although a wide range of legislation was introduced, the partisan impact of each measure is the same: The new restrictions on voting would disproportionately burden African Americans, Latinos, Asian Americans, young voters, and Americans new to the political process—all groups that substantially favor Democratic candidates. In a cynical attempt to defeat President Obama and Democrats in 2012, Republicans have sacrificed the sanctity of the fundamental right to vote and committed their party to constricting the American electorate.

### RECENT ELECTORAL REFORMS AND A TRAJECTORY OF PROGRESS

Beginning with the Voting Rights Act (VRA) of 1965, the direction of recent American electoral policy has increased political participation and expanded democracy. The VRA banned the worst forms of racial discrimination, and more recent federal legislation streamlined and safeguarded the voter registration process.

The most recent presidential election fully demonstrated the importance of these reforms. In 2008, more citizens voted for the Office of the President than had in any previous election. Nearly 40 million Americans—30 percent of all voters—cast ballots during early voting or through the absentee voting process. Well over 1 million voters registered on Election Day, and Americans from groups traditionally underrepresented at the ballot box participated in record numbers. In part because of the progressive voting reforms of the past 50 years, the 2008 electorate was the largest and most racially and ethnically diverse in the history of the United States.

The great expansion of the presidential electorate in 2008—driven by increases in young voters, Latinos, African Americans, and Asian Americans—signaled that our political reality was moving closer to our democratic ideals. And, to be sure, a more inclusive electorate and high voter turnout also shaped the election's outcome, with young voters and communities of color overwhelmingly supporting President Obama and Democratic candidates.

## **THE MOVEMENT AGAINST VOTING**

In 2011, Republicans have introduced laws in 40 states that would make voting more difficult for all citizens, but especially for voters who supported Barack Obama and Democratic candidates in 2008. By restricting different stages of the voting process, each measure is designed to cut eligible voters from the electorate. This year, the GOP is:

- Restricting voter registration drives
- Repealing Election Day Registration
- Cutting early voting
- Enacting laws that challenge the citizenship of eligible voters
- Mandating that voters produce unexpired government-issued photo identification at the polls

And each bill narrows the American electorate merely for the benefit of Republican candidates.

According to former Bush administration officials and GOP strategists, restrictions on the right to vote are necessary to prevent voter fraud. But every major investigation into voter fraud in the United States has arrived at the same conclusion: There is almost none. The real fraud has been the use of baseless allegations to change election laws in ways that will lead to partisan Republican gains.

Voter impersonation is a myth, but the effects of Republican voting restrictions are all too real. Eleven percent of Americans lack the photo identification that new laws require—and that rate is much higher among people of color, Americans with limited means, young Americans, and seniors. Millions of Americans register through voter registration drives—and minority voters do so at twice the rate of white voters. Early voting allows everyone more opportunities to cast a ballot—and there is clear evidence from Florida and North Carolina that African Americans used early voting at higher rates than other voters in 2008.

Voting restrictions affect real people: Under Tennessee's new photo ID mandate, Dorothy Cooper, a 96-year-old African American woman, was denied state-issued ID because she lacked a marriage certificate despite bringing her birth certificate and voter registration card to the DMV. Under Florida's onerous new restrictions on voter registration drives, teachers at public high schools face state investigation and may face fines of up to \$1,000 for helping their students register to vote.

The Republicans' political motivation shines through not only when we consider who these laws burden but also where they have been proposed and enacted. Many of the strongest efforts to restrict the right to vote have been made in states that were intensely competitive in 2008: Florida, Ohio, North Carolina, Pennsylvania, Wisconsin, and Missouri. And in Pennsylvania and Nebraska, the GOP even advanced conflicting changes to the way their states allocate electoral votes with the overt purpose of defeating President Obama.

In 2011, the Republican Party has invested in a movement that changes how we vote in the United States—a wager that, whatever the political outcome, carries a tremendous cost to our democracy.

## **THE DEMOCRATIC RESPONSE**

Democrats oppose this new movement because it is wrong. In the United States, the right to vote extends to all eligible citizens equally; legislation that burdens some voters more than others has no place in our government or our politics. We support the fundamental right of every eligible American to register to vote, cast a ballot, and have that vote counted—regardless of whether it is cast for a Democrat, Republican, or any other candidate.

For nearly five decades, Democrats have remained at the forefront of efforts to expand access to the franchise. Today, it is opposition from Democrats that has significantly constrained this conservative movement and is beginning to shift momentum back to the American people. This year, every time Republican legislators sent a photo ID law to the desk of a Democratic governor—which happened in five states—the Democrat vetoed the bill. And none of these vetoes was overturned. In Maine and Ohio, Democrats supported petition drives that suspended retrogressive laws in each state—and Maine voters have already gone to the polls and repealed the Republican legislation. Across the country, Democratic legislators have prevented rollbacks on voting rights.

But the real challenge is what happens next. Democrats are committed to defending the right to vote with significant resources, training, and organizing support. We will continue our opposition to these new restrictions, including, where appropriate, litigation on behalf of Americans whose fundamental rights are violated. Democrats will engage in unprecedented voter protection efforts to ensure that eligible citizens can navigate obstacles to the franchise wherever they exist. This begins with ongoing voter education; will continue with thousands of volunteers mobilized across the country; and will culminate on Election Day 2012 with a sustained commitment to make sure that every eligible voter can access any needed documentation, cast a ballot in person or absentee, and have that vote fairly counted.

## INTRODUCTION

### A REVERSAL IN PROGRESS:

#### RESTRICTING VOTING RIGHTS FOR ELECTORAL GAIN

The development of democratic elections in America has a familiar pattern of progress: Great moments commonly derive from struggles, small victories, and sustained effort to change the way we vote. The Nineteenth Amendment, affirming the right of women to vote, resulted from a wider movement for gender equality and countless demonstrations by the suffragists. The Voting Rights Act followed the marches at Selma and the sacrifices of a generation who dedicated their lives to the pursuit of civil rights and social justice.

The 2008 presidential election was another pinnacle: More citizens voted in this presidential election than had in any previous one; 62 percent of eligible voters cast a ballot, which was among the highest turnout rates in the past century;<sup>1</sup> and the electorate was the largest and most demographically diverse in U.S. history.<sup>2</sup>

Similar to earlier periods of progress, this achievement resulted from past efforts to protect and expand the right to vote. The 2008 electorate was made possible through significant state and federal electoral reforms over the past 50 years, including protections against race-based discrimination, expanded voter registration opportunities, and additional ways for eligible citizens to cast ballots before Election Day. As a result of these reforms, groups traditionally underrepresented at the ballot box—African Americans, Latinos, Asian Americans and young voters—participated in record numbers, and more Americans voted through early voting than had ever before.

The expansion of the electorate also had political consequences: In the 2008 presidential election, young and minority voters overwhelmingly cast ballots for Barack Obama. All early voters favored Obama over John McCain by 10 percentage points,<sup>3</sup> and in some traditional swing states like Florida and North Carolina, that margin was even higher.

But the history of voting rights in America has not been an unbroken climb toward progress. Whether by law or practice, elected officials have at times restricted voting eligibility for partisan gain. Too often we forget that there are Americans alive today who were born before women had the right to vote, who have been personally turned away from the polls on Election Day, and who survived other tumultuous periods in the struggle for the right to vote.

In 2011, a new movement to turn us back toward those earlier times is underway; it is a movement that restricts the power of the electorate in pursuit of partisan gains. Its leaders are not student demonstrators, everyday Americans, religious leaders, or civil rights groups; they are Republican politicians, state GOP chairmen, governors, legislators, and well-funded special interest groups on the extreme right of American politics. Their loyalty rests not with any democratic ideal but with the message of Republican Party leadership, expressed most clearly by Senate Minority Leader Mitch McConnell:

*“The single most important thing we want to achieve is for President Obama to be a one-term president.”<sup>4</sup>*

In the past year, the Republican Party has waged an unprecedented assault on the right to vote with the purported rationale of preventing voter fraud, but with the actual purpose—sometimes overtly expressed—of defeating President Obama and other Democratic candidates in 2012. In 40 states, GOP governors and state legislators have proposed and enacted restrictions on voting that make it more difficult to register, reduce the availability of early voting, and place new qualifications on voters, such as obtaining current government-issued photo identification.<sup>5</sup>

This movement's potential for electoral influence is clear. Nonpartisan groups have found that these laws would disproportionately burden groups that overwhelmingly supported President Obama in 2008: African Americans, Latinos, Asian Americans, young voters, and new voters. The Republican legislative action has been especially strong in the states that traditionally decide presidential elections. In two states, the GOP has even attempted to change the rules for allocating electoral votes in directly opposite ways, but with precisely the same intent of benefiting their party's candidate.

Despite the Republican-led effort to restrict voting, the Democratic Party is committed to ensuring that every eligible American can cast a ballot and have that vote counted, thereby fully exercising the fundamental right to vote.<sup>6</sup> For the past 50 years, Democrats have remained at the forefront of efforts to expand access to the franchise. Today, it is Democratic opposition that has significantly constrained the conservative movement to restrict voting and is beginning to shift momentum back in favor of American voters. In the past year, every time Republican legislators sent a photo ID mandate to the desk of a Democratic governor—which happened in five states—the Democrat vetoed each bill.<sup>7</sup> Democrats have already supported a successful organizing effort in Ohio, where petition drives suspended retrogressive voting legislation, and in Maine, where voters have rejected the Republican bill in a referendum.

The Republican Party has waged an unprecedented assault on the right to vote with the purported rationale of preventing voter fraud, but with the actual purpose—sometimes overtly expressed—of defeating President Obama and other Democratic candidates in 2012.

The real challenge is what happens next. Moving into 2012, Democrats will continue to advocate for the fair implementation of all election laws, support policies that allow more eligible citizens to participate in our political system, and engage in unprecedented voter protection efforts. We are committed to ensuring that American elections are decided by the candidates' visions for the future and solutions for our national challenges—and not because of restrictions on the fundamental right to register to vote, cast a ballot, and have it counted.

## A NOTE ON PARTISANSHIP

This year, the debate over voting rights has demonstrated an unmistakable difference between the two major political parties in the United States. Democrats believe the right to vote is fundamental, would like to see more eligible citizens voting, and favor policies that would give every eligible American the opportunity to participate in our elections. On the other hand, Republicans contend that it is “fair, reasonable, and just”<sup>8</sup> to demand that eligible voters possess new qualifications and are—at the very least—content with policies that would sacrifice the rights of some eligible American voters.

There is nothing bipartisan about the movement to restrict voting.

In the 50 years since the Voting Rights Act, Democrats have a strong record on opposing restrictions on the right to vote—and this is readily demonstrable in regard to photo ID mandates. The Democratic

National Committee (DNC) opposed restrictive photo ID laws in our 2008 platform and reaffirmed that opposition in a 2011 resolution. Before that, Democratic state legislatures voted against photo ID measures, almost unanimously. Between 2005 and 2007, 10 bills requiring photo ID at the polls were submitted in state legislatures—each by a Republican sponsor. Combining all the votes taken on these 10 bills, 95.3 percent of the 1,222 Republican legislators supported photo ID. Only 2.1 percent of 796 Democrats supported the restriction.<sup>9</sup>

Currently, the partisan balance remains the same. This year’s unprecedented wave of photo ID measures was only possible because of Republican electoral gains in the 2010 midterm elections, when the GOP added 675 state legislative seats across the country and gained control of both legislative chambers in 26 states.<sup>10</sup> Except for one bill, every strict photo ID requirement introduced in 2011 was submitted by a Republican.<sup>11</sup> In 12 of the 13 legislatures—or 92 percent—that passed photo ID mandates in 2011, Republicans controlled both chambers.<sup>12</sup>

Conservative proponents of new voting restrictions have routinely cited the passage of a voter ID bill earlier this year by one Democratically controlled legislature in Rhode Island.<sup>13</sup> But their reliance on this outlier is misplaced. Notably, the Rhode Island law permits voters who lack acceptable identification at the polls to sign an affidavit and have their ballot counted.<sup>14</sup> But most important, this single example does not make photo ID laws good policy, and it does not absolve these restrictive measures of their discriminatory effect. Like other photo ID mandates, this legislation will impose the heaviest burdens on citizens without photo identification, who we know are disproportionately people of color, low-income Americans, young people, seniors and Americans with disabilities.<sup>15</sup>

There is no real question that this movement to restrict voting rights is rooted in the GOP. Independent observers have overwhelmingly confirmed its origins in the Republican Party and even gone a step further: The editorial boards of the *New York Times*, *Washington Post*, *USA Today*, and *Los Angeles Times* have all written that Republicans are behind the push to restrict voting and that their objective is electoral gain at the expense of voters likely to favor Democratic candidates.<sup>16</sup>

## AMERICA'S VOTING REFORMS: MOVING TOWARD GREATER PARTICIPATION

When the United States Constitution was ratified in 1788, the American electorate was almost entirely restricted to white male property owners. Through a series of amendments, the Constitution has moved ever closer toward protecting the voting rights of all Americans.

AMENDMENT	YEAR	PURPOSE
Fourteenth	1868	Provides birthright citizenship and ensures equal protection for all voters
Fifteenth	1870	The right to vote shall not be denied or abridged on account of “race, color, or previous condition of servitude”
Nineteenth	1920	The right to vote shall not be denied or abridged on account of gender
Twenty-Fourth	1964	Prohibits poll taxes in elections for federal office
Twenty-Sixth	1971	Extends the right to vote to all citizens 18 years of age or older

Each of these amendments made American elections more democratic and represented a significant achievement toward protecting average Americans from powerful interests and entrenched political influence. Although each amendment was necessary for progress, none was sufficient. States committed to restricting the right to vote found ways to thwart constitutional protections through literacy tests and grandfather clauses, or by facilitating the use of violence and economic retaliation. Against these state efforts, federal legislation was required to ensure that the protections articulated in the Constitution were guaranteed at polling places across the United States.

## THE VOTING RIGHTS ACT OF 1965

In 1965, Democratic President Lyndon Johnson signed the Voting Rights Act (VRA),<sup>17</sup> which barred literacy tests, banned overt racial discrimination and required that the Department of Justice (DOJ) review and preapprove any election law changes in states with deep histories of racial discrimination.<sup>18</sup> Widely regarded as among the most successful pieces of civil rights legislation in American history,<sup>19</sup> the VRA immediately expanded the electorate by allowing African Americans to register and vote.

VOTER REGISTRATION RATES: MARCH 1965		
STATE	AFRICAN AMERICANS	WHITE AMERICANS
Alabama	19.3%	69.2%
Georgia	27.4%	62.6%
Louisiana	31.6%	80.5%
Mississippi	6.7%	69.9%
North Carolina	46.8%	96.8%
South Carolina	37.3%	75.7%
Virginia	38.3%	61.1%

Before the VRA was passed, African Americans in the South were registered to vote at far lower rates than white Americans.<sup>20</sup> In just two years after its passage, the combined voter registration rate of African Americans in seven southern states rose to more than 52 percent.<sup>21</sup>

The ongoing protections<sup>22</sup> from this landmark legislation continue to move the country toward a more inclusive democracy. When Congress enacted the VRA, there were only 300 elected African American officials in the United States; now there are more than 9,000, including 43 members of Congress.<sup>23</sup>

Reflecting a growing nation, the protections of the contemporary VRA extend beyond race. During reauthorization hearings for the VRA in the early 1970s, Congress heard extensive testimony regarding the challenges faced by Latino, Asian, and Native American citizens with limited English proficiency. In response, amendments to the VRA in 1975 were designed to ensure that language does not become a barrier to voting and included protections against voting discrimination for citizens belonging to a language minority.<sup>24</sup>

## RECENT FEDERAL REFORMS

Despite the protections of the VRA, the fundamental right to vote remains out of reach for many Americans. In every presidential election, millions of voters are prevented from casting a ballot because of administrative mistakes, misinformation, or long lines that conflict with family and work responsibilities.<sup>25</sup> All too often, these administrative barriers have had a disproportionate impact on

communities of color and Americans with limited economic means. In some cases, the burdens on minority voters were intentional. In 1982, the Republican National Committee (RNC) and New Jersey Republican State Committee conducted a voter caging operation, intent on challenging the eligibility of voters in neighborhoods that were predominantly African American and Latino. After the DNC sued, the parties entered into a consent decree that now prevents the RNC from engaging in any “ballot security” programs without court approval.<sup>26</sup> The consent decree remains in effect, in large part due to similar efforts to target minority voters in Louisiana in 1986, North Carolina in 1990, and Ohio in 2004.<sup>27</sup>

Obstacles to the right to vote have also come from inside state agencies responsible for implementing elections. In the run-up to the 2000 presidential election, the Florida Division of Elections improperly purged 12,000 citizens from the voting rolls; an astounding 41 percent of these wrongly disenfranchised voters were African Americans.<sup>28</sup> Improper voter purges or prohibitively long lines at polling places in only some neighborhoods may seem less invidious than the poll tax or literacy test, but the result is the same: Certain eligible Americans, predominately racial minorities and the poor, are prevented from voting through no fault of their own. Following the presidential elections of 1992 and 2000, Congress passed two pieces of federal legislation that attempted to rectify these inequalities in American voting and improve the administration of elections in the United States.

### THE NATIONAL VOTER REGISTRATION ACT OF 1993

In 1993, President Bill Clinton signed the National Voter Registration Act (NVRA)<sup>29</sup>—also known as the “Motor Voter” law—which was the first federal legislation created to increase access to and improve the administration of voter registration. Traditionally, voter registration methods and deadlines varied widely across the states. Some states offered voter registration at their Departments of Motor Vehicles (DMVs), but other states only allowed voter registration at Board of Elections offices, making it more difficult to register to vote for people who lacked reliable transportation, worked long hours, or had a disability.<sup>30</sup>

Limited state opportunities to register contributed to the income and racial disparities in voter registration rates. During the 1992 presidential election cycle that preceded the NVRA, wealthier Americans were much more likely to be registered to vote than citizens with lower incomes.

INCOME <sup>31</sup>	REGISTRATION RATE
Over \$50,000	84.2%
\$35,000–49,000	80.2%
\$25,000–34,999	75.1%
\$20,000–24,999	68.8%
\$15,000–19,999	63.1%
\$10,000–14,999	55.3%
Under \$10,000	46.4%

The NVRA was designed to remedy these disparities through expanded access to voter registration<sup>32</sup> and was immediately successful in bringing more Americans into the political process. In its first year of implementation, 5.5 million voters registered at motor vehicle agencies, 1.3 million registered in public assistance agencies, and 4.2 million registered by mail.<sup>33</sup> Although the implementation of the NVRA has been imperfect—some states have failed to register patrons at public assistance agencies<sup>34</sup>—the legislation was another transformative step in expanding participation to a broader American electorate.

## THE HELP AMERICA VOTE ACT OF 2002

Despite the success of the VRA and the NVRA, the 2000 presidential election thoroughly exposed ongoing and significant problems in election administration—problems that consistently and disproportionately affected racial minorities and low-income citizens. In addition to the voter purges, 14.4 percent of ballots cast by African Americans in Florida were rejected, nearly 10 times the 1.6 percent of non-black Florida voters who did not have their presidential votes counted.<sup>35</sup> Voters in low-income, high-minority districts were more than three times more likely to have their presidential votes rejected compared to voters in affluent, low-minority districts.<sup>36</sup>

Taken together, the VRA, NVRA and HAVA made it easier for more Americans to register to vote, stay on the voter rolls, cast a ballot and ultimately have their votes counted.

Responding to the irregularities in Florida and elsewhere, Democrats demanded reform,<sup>37</sup> and Congress enacted the Help America Vote Act (HAVA) of 2002.<sup>38</sup> Among other provisions, HAVA set minimum standards for voting systems used in federal elections and required each state to adopt uniform and nondiscriminatory standards for election administration.<sup>39</sup> Additionally, the Act created “provisional voting,” which is intended to ensure that no voter is improperly turned away from the ballot box.<sup>40</sup>

Taken together, the VRA, NVRA, and HAVA made it easier for more Americans to register to vote, stay on the voter rolls, cast a ballot, and ultimately have their votes counted.

## STATE VOTING REFORMS

Since the 1970s, many state governments have positively reformed election administration and significantly expanded access to the ballot box. The reforms have focused on simple improvements that have benefited millions of Americans by allowing voters to register at the same time as casting a ballot and expanding opportunities to vote in advance of the traditional “Election Day.”

### ELECTION DAY REGISTRATION

Election Day and Same Day Registration (EDR and SDR) allow eligible citizens to register to vote immediately before casting a ballot during early voting or on Election Day. This innovation permits voters to register during the time when enthusiasm about and interest in the candidates are at their highest—all in a single trip to the polling place.<sup>41</sup>

These reforms allow Americans to register for the first time and ensure that voters can reregister if they have recently moved, have been removed improperly or accidentally from the voting rolls, or face any problem with their earlier registration. According to AARP, SDR is “of paramount importance to older voters” and ensures that “those with mobility issues or transportation concerns still have an opportunity to vote.”<sup>42</sup> More than any other election reform, EDR allows poll workers to remedy mistakes efficiently by allowing eligible voters to register and cast a regular ballot.

Maine, Minnesota, and Wisconsin began the practice in the 1970s. Idaho, New Hampshire, and Wyoming enacted the policy in the 1990s,<sup>43</sup> and more recently the District of Columbia, Montana, Iowa, and North Carolina adopted it between 2006 and 2010.<sup>44</sup> The District of Columbia and each of these states, except North Carolina, allows voters to register on Election Day; North Carolina employs “one-stop” voting, in which voters can register and cast a ballot at the same time during early voting.<sup>45</sup> Similar to North Carolina, Ohio has provided for “golden week,” where voters can register and vote early at the same time at their municipal clerk’s office during a five-day period.<sup>46</sup>

EDR has greatly contributed to the progress of making elections more inclusive. States that use EDR

have historically achieved voter turnout 10 to 12 percentage points higher than states without it.<sup>47</sup> Although trends in voter turnout are often difficult to measure, even conservative estimates confirm that the opportunity to register on Election Day dramatically increases voter participation.<sup>48</sup>

## EARLY VOTING

Early voting allows voters to cast ballots before Election Day, creating additional time for more Americans to vote. For many voters, especially the elderly and Americans with disabilities, transportation to the polls remains a challenge. Many voters work multiple jobs or have family responsibilities that make it impossible for them to reach polling places during narrow hours on a single Tuesday. To account for these personal but commonly encountered constraints, states expanded the availability of the traditional polling place to include in-person voting before Election Day and absentee voting by mail.

More than 30 years ago, California first allowed its voters to cast absentee ballots without an excuse, a reform that spread quickly throughout the United States.<sup>49</sup> Many states now create opportunities for voters to cast no-excuse absentee ballots by mail and in person at municipal clerk offices in advance of Election Day. Texas was the first state to implement a significant early voting system in the late 1980s and early 1990s, which included temporary voting centers created solely to allow voters to cast ballots early.<sup>50</sup> The trend of expanding early voting opportunities continued in the past 20 years.<sup>51</sup>

## VOTE-BY-MAIL

In addition to EDR and early voting reforms, two states now conduct their elections completely by mail. Oregon and Washington mail ballots to all registered voters, who can then return the ballots either through the U.S. postal service or designated drop centers.<sup>52</sup> Both states have experienced increased turnout since implementing all-mail voting.<sup>53</sup> Although the method is different, the intent of this reform has been the same: to ensure that more Americans have opportunities to vote and participate in our elections.

With the innovations of EDR/SDR, early voting, and vote-by-mail, state governments across the country have successfully improved the voting process and expanded the franchise, bringing more Americans into the political process. The effect of these reforms became fully apparent in the 2008 presidential election.

## UNPRECEDENTED VOTER PARTICIPATION: THE HISTORIC 2008 ELECTORATE

From the Reconstruction-era constitutional amendments to the Nineteenth Amendment and the Voting Rights Act, the trajectory of American electoral policy has moved toward increased political participation. Along with the federal reforms of the NVRA and HAVA, state-level innovations paved the way for the historic 2008 presidential election. The unprecedented electorate—both in size and composition—reflected the success of these earlier reforms that had made registration and voting opportunities increasingly more accessible.

## EXPANDED ACCESS FOR ALL VOTERS

Because of the voting reforms of the past 50 years, the 2008 electorate was the largest and most demographically diverse in the history of the United States.<sup>54</sup> That year, more citizens voted in the presidential election than had in any previous election in U.S. history. Sixty-two percent of eligible

voters cast a ballot, which was among the highest turnout rates in the past century.<sup>55</sup> An unprecedented number of votes were cast before Election Day because of new early voting and absentee options. And expanded registration opportunities resulted in record participation of Americans from groups traditionally underrepresented at the ballot box.

#### MORE AMERICANS REGISTER THROUGH VOTER REGISTRATION DRIVES

In 2008, 9 million citizens reported registering at a voter registration drive, while an additional 9 million reported registering at a school or hospital, locations where drives are common.<sup>56</sup> Voters who registered at drives in 2008 were more likely to come from communities of color. According to Census data, 12 percent of minority voters reported registering through a drive, two times the 6 percent of white voters who registered through a drive.<sup>57</sup>

#### MORE VOTERS REGISTER ON ELECTION DAY

In 2008, more states offered EDR and SDR than ever had before.<sup>58</sup> The effect of these reforms on voter turnout was clear: 1.3 million Americans voted using EDR, and five of the six states with the highest turnout rates in the country offered EDR.<sup>59</sup> Overall, the states with EDR experienced 71 percent voter turnout, nine percentage points higher than the 62 percent average in states without EDR.<sup>60</sup>

#### MORE VOTERS CAST BALLOTS EARLY

An unprecedented number of Americans cast their ballots during early voting in 2008. In 1992, only 7 percent of ballots were cast early.<sup>61</sup> By 2008, 36 states offered some form of early voting, and in 10 states more than half of all votes were cast early.<sup>62</sup> Overall, 40 million votes were cast before Election Day, accounting for nearly 30 percent of all voters participating in the presidential election.<sup>63</sup> Sixty-four percent of all early voters were over 50 years old, and 32 percent were seniors (65 or older).<sup>64</sup> Ten percent of all early voters were new voters casting a ballot for the first time.<sup>65</sup> And in Florida and North Carolina, there is clear evidence that minorities voted early at higher rates than other voters.<sup>66</sup>

### **INCREASED PARTICIPATION AMONG TRADITIONALLY UNDERREPRESENTED GROUPS**

Called the “most racially and ethnically diverse in U.S. history” by the Pew Research Center, the 2008 electorate reflected the actual composition of the citizenry better than any previous election.<sup>67</sup> In 2008, voting reforms enabled groups that are traditionally underrepresented in American politics to register and vote at higher rates than ever before.

**Young Voters** – For decades after the ratification of the Twenty-Sixth Amendment to the Constitution, which lowered the voting age to 18, America’s youth continued to participate in elections at far lower rates than older voters. Among eligible voters age 18–29, only 41 percent voted in the 2000 election and 48 percent voted in 2004.<sup>68</sup> In 2008, political analysts contended that young voters could not be trusted to turn out and predicted that fewer than half would actually show up to vote.<sup>69</sup>

But after all the votes were tallied in 2008, over 52.3 percent of eligible Americans age 18–29 voted, a significant increase from past presidential elections.<sup>70</sup> This growth was driven in large part by African American and Latino youth, who comprised 34 percent of all young voters, the highest percentage on record.<sup>71</sup>

**Latino Voters** – Latino Americans traditionally have been underrepresented in the voting electorate. In 2000, for example, only 57 percent of voting-age Latino citizens were registered to vote; by comparison, nearly 72 percent of voting-age white citizens were registered.<sup>72</sup>

In 2008, Latinos comprised an unparalleled share of the American electorate. Overall, more than 12 million Latino voters cast ballots in 2008, comprising 9 percent of the electorate, an increase over 8 percent in 2004 and 7 percent in 2000.<sup>73</sup> Especially in western presidential battleground states, Latinos made up a substantially greater percentage of the electorate, with increases of nine percentage points in New Mexico and five points in both Colorado and Nevada.<sup>74</sup>

**African Americans Voters** – Long after the last literacy test and grandfather clause, the legacy of discrimination against African American voters continued to depress voter turnout rates. In 2000, 56.8 percent of voting-age African American citizens cast ballots, but this participation rate lagged five percentage points behind the participation of white voting-age citizens.<sup>75</sup>

By 2008, the participation of African American voters had significantly increased. Nearly 65 percent of voting-age African American citizens voted, an increase of eight points over 2000;<sup>76</sup> compared to 2004, African American voters increased from 11 percent to 13 percent of the total electorate, adding 2.6 million more voters in 2008.<sup>77</sup> Higher turnout among African Americans contributed to nine southern states reaching their highest voter turnout in 30 years.<sup>78</sup>

**Asian American Voters** – Asian Americans and Pacific Islanders have often faced barriers to accessing the full voting rights of American citizenship.<sup>79</sup> Even in contemporary elections, Asian Americans have participated at lower rates than white Americans; in 2004, for example, only 44.1 percent of voting-age Asian American citizens voted while 67.2 percent of eligible white voting-age citizens cast ballots.<sup>80</sup>

In 2008, an estimated 338,000 more Asian Americans voted than had cast ballots in 2004,<sup>81</sup> an increase of more than three percentage points in the participation rate of voting-age Asian American citizens.<sup>82</sup> At 3.4 percent of all eligible American voters, Asian Americans comprised their largest historical share of potential voters.<sup>83</sup>

**Low-Income Americans** – Voter registration rates and voter turnout correspond to voters' earnings: The higher an American's salary, the more likely she is to be registered and cast a ballot. Although that disparity was not overcome in 2008, low-income Americans also registered and voted at higher rates than in past presidential elections. In 2008, 62.4 percent of voting-age citizens earning annually less than \$15,000 were registered to vote—more than five percentage points higher than in 2000 and three points higher than in 2004.<sup>84</sup>

Not only were their registration rates higher, but Americans earning lower incomes also voted at higher rates in 2008 than in the previous two elections. Compared to 2000, the participation of voting-age citizens earning annually less than \$15,000 increased by more than eight percentage points from 41.6 percent in 2000 to 50 percent in 2008.<sup>85</sup> Between the past two presidential elections, all voting-age citizens who earn less than \$30,000 cast ballots at rates that increased from 52.9 percent in 2004 to 54 percent in 2008.<sup>86</sup>

The increased participation of these traditionally underrepresented groups is now threatened by the nationwide Republican-sponsored effort to make voting more difficult and defeat Democrats in future elections.

## THE REPUBLICAN MOVEMENT AGAINST THE RIGHT TO VOTE: A PARTISAN OBJECTIVE

Echoing Senator McConnell's instructive call to Republicans that defeating President Obama must be their highest priority, the GOP has turned to the philosophy of conservative icon Paul Weyrich. The founder of the corporate lobbying group the American Legislative Exchange Council (ALEC), Weyrich outlined the conservative electoral doctrine in an infamous speech three decades ago:

*“I don’t want everybody to vote. Elections are not won by a majority of people. They never have been from the beginning of our country, and they are not now. As a matter of fact, our leverage in the elections quite candidly goes up as the voting populace goes down.”<sup>87</sup>*

With model legislation crafted by ALEC, the Republican Party has committed itself to this conservative dogma and the objectives of shrinking the American electorate, reducing voter turnout, and making it harder to register and vote. The GOP has embarked upon a legislative movement that aims to defeat President Obama and Democrats down the ticket by changing the rules that govern elections throughout the United States.

In 40 states, Republicans have introduced laws that would make voting more difficult for all citizens, but especially for those voters likely to support the President and Democratic candidates.<sup>88</sup> In the past year, the GOP proposed and enacted more restrictions on the right to vote than at any time since the passage of the Voting Rights Act in 1965. This Republican effort has been national in scope, but especially concentrated in states that are traditionally competitive in presidential elections. This movement includes legislation that would restrict voter registration, roll back early voting, and require that voters obtain and show government-issued photo ID as a prerequisite to casting a ballot.

Republicans have employed different legislative methods, all intended to do the same job: limit the participation of certain voters in the electorate—voters who are perfectly eligible and qualified under federal and state law. Again and again, this movement disproportionately burdens exactly those voters who disproportionately supported President Obama in 2008: young Americans, African Americans, Latinos, Asian Americans, and low-income Americans.

VOTERS	SUPPORTED PRESIDENT OBAMA <sup>89</sup>
Young Americans (18–29)	66%
African Americans	95%
Latino Americans	67%
Asian Americans	62%
Low-Income Americans <sup>90</sup>	66%

These legislative efforts compromise our most fundamental democratic right in exchange for potential political gain.

## **A PUBLIC FRAUD:**

### **THE FALSE RATIONALE FOR RESTRICTING THE RIGHT TO VOTE**

In 2011, a cadre of conservative activists—made up of former Bush administration officials, Republican lawmakers, and party strategists—has articulated the public rationale for the movement to restrict voting, asserting that restrictions on the right to vote are necessary to prevent rampant voter fraud in the United States. This claim is fundamentally and demonstrably false.

Voter fraud in the United States is incredibly and indisputably rare. Voters who cheat the system are almost nonexistent. Every major investigation into voter fraud has arrived at the same conclusion: There is almost none.

Between 2002 and 2007, the DOJ conducted a nationwide investigation aimed at rooting out allegations of widespread voter fraud across the United States. During that time, federal prosecutors convicted only 86 persons of crimes related to voter fraud, including improper registration and ineligible voting.<sup>91</sup> In that same time period, hundreds of millions of votes were cast.<sup>92</sup>

But even while these investigations clearly demonstrated that statistically there was almost no evidence of illegal voting, Karl Rove—the “architect” of President Bush’s presidential campaigns<sup>93</sup>—told the National Republican Lawyers Association in 2006 that voter fraud was an “enormous and growing problem.”<sup>94</sup> For conservative strategists, the absence of voter fraud has never been material to their allegations that it is pervasive. Conservative proponents of this movement to restrain voting have resorted to misleading anecdotes and dishonest exaggerations.

<b>REPUBLICAN LEADER</b>	Reince Priebus <i>RNC Chairman</i>
<b>ALLEGATION</b>	“[I]n a crucial Colorado Senate race last fall—one decided by a narrow margin—it was discovered that nearly 5,000 noncitizens voted.” <sup>95</sup>
<b>REALITY</b>	<p>The investigator cited here is Republican Secretary of State Scott Gessler. His report never alleged that any non-citizens voted in 2010.<sup>96</sup> Instead, the report finds that 4,947 people who had registered for a driver’s license as a non-citizen had the same name as people who cast ballots in 2010.<sup>97</sup></p> <p>During the period, more than 32,000 Colorado residents became United States citizens.<sup>98</sup> It is not at all surprising that 5,000 of these new citizens would have voted in 2010. Moreover, Gessler never even investigated whether these matching names were actually the same people.</p> <p>The unavoidable conclusion here is that Chairman Priebus took an already misleading report and extended it with falsified conclusions.</p>
<b>REPUBLICAN LEADER</b>	Hans von Spakovsky <i>Former Counsel to the Assistant Attorney General for Civil Rights, Bush DOJ</i>
<b>ALLEGATION</b>	“A 2010 election in Missouri that ended in a one-vote margin of victory included 50 votes cast illegally by citizens of Somalia.” <sup>99</sup>
<b>REALITY</b>	<p>Although an attorney himself, von Spakovsky fails to mention that this allegation was already litigated, and the Missouri Court of Appeals reached the opposite conclusion.</p> <p>The Missouri court concluded, “The evidence does not establish that the conduct was fraudulent, that any person who was not registered to vote voted, or that any registered voter was prevented from casting their ballot as they intended.”<sup>100</sup> The court denied a request for a new election from the losing candidate in this Democratic primary.</p> <p>The Missouri Court issued its opinion on October 13, 2010—more than a year before von Spakovsky published yet another incantation of his allegation.<sup>101</sup></p>
<b>REPUBLICAN LEADER</b>	Kris Kobach <i>Republican Secretary of State in Kansas</i>
<b>ALLEGATION</b>	“In Kansas, 221 incidents of voter fraud were reported between 1997 and 2010. The crimes included absentee-ballot fraud, impersonation of another voter, and a host of other violations.” <sup>102</sup>
<b>REALITY</b>	Kobach was not able to defend this allegation when questioned live on the air. When pressed in a radio interview, Kobach could not identify one conviction—or even a single arrest—stemming from these 221 alleged incidents of voter fraud in Kansas. <sup>103</sup>

Although an individual could try to manipulate voting rules, current law already protects against any such manipulation. Voter fraud is a serious crime, with federal penalties of up to five years in prison and a \$10,000 fine.<sup>104</sup> State law also criminalizes, deters, and punishes election malfeasance; for example, fraudsters in Wisconsin face more than three years in jail and another \$10,000 fine, while Texas imposes a maximum prison sentence of 10 years.<sup>105</sup> Non-citizens—often the purported villains in Republican myths about voter fraud—face not only these criminal penalties but also deportation if they attempt to vote illegally. The idea that individuals would risk prison and removal from the United States for the benefit of a single illegal vote defies all logic, which is exactly why non-citizen voting is both exceptionally rare and most often unintentional.<sup>106</sup>

Moreover, the Republican-backed prescriptions would do virtually nothing to curtail the problems they claim they are trying to prevent. Although sold as the solution to all manner of election irregularities, the only type of fraud that photo ID requirements could possibly prevent is voter impersonation. But voter impersonation is so rare that there are far more reports of U.F.O. sightings than allegations of one person voting at the polls in the name of another.<sup>107</sup> In litigation over its photo ID law before the U.S. Supreme Court, the State of Indiana was unable to cite a single instance of voter impersonation at any point in its history. As analyzed by Loyola Law School Professor Justin Levitt, court records from that litigation reveal only nine allegations of in-person voter impersonation nationally between 2000 and 2007—a period when more than 400 million votes were cast in general elections across the country.<sup>108</sup> This occurrence rate of 0.000002 percent is lower than the rate of Americans being killed by strikes of lightning.<sup>109</sup>

By their own admission, Republicans have based their case for restricting voting on the existence of fraud. This movement against voting is necessary, they have repeatedly said, because voter fraud “cancels out” legitimate votes.<sup>110</sup> But as the evidence indicates, the irony of this assertion is astounding. As even the authors of the voter fraud myth have begun to admit,<sup>111</sup> the evidence fundamentally reveals that Americans have not committed and are not committing voter fraud. The real deceit is the use of baseless allegations to change election laws for partisan gain. The real wrongdoers in this process are the partisan Republican leaders of the biggest movement to restrict the right to vote in nearly 50 years.

## **REPUBLICANS RESTRICT VOTER REGISTRATION TO NARROW THE ELECTORATE**

In 2011, the Republican movement against voting targeted voter registration, the first step in the voting process. The 2008 electorate resembled the population of the United States better than ever before because millions of new voters were able to navigate the registration process and ultimately cast a ballot. But Republican Party strategists and right-wing activists saw the effects of expanded opportunities to register—69 percent of all first-time voters cast their ballots for President Obama.<sup>112</sup>

Enacting barriers to registration is an old trick in American politics,<sup>113</sup> but one that has long been replaced with policies that encourage more voter registration. In the past year, however, Republicans have reversed the direction of reform and constructed new obstacles to voter registration. The GOP has restricted voter registration drives, proposed and enacted citizenship challenge laws, and repealed Election Day Registration—all of which disproportionately and unnecessarily burdens voters and artificially narrows the electorate in favor of Republicans.

## **RESTRICTING VOTER REGISTRATION DRIVES OUT OF BUSINESS**

In 2011, Republicans set out to restrict voter registration drives and, in one extreme example, to regulate it nearly completely out of existence. Often organized by neighborhood associations, church groups, political parties, or nonpartisan groups like the League of Women Voters, voter registration drives are

an integral part of the political process. Because voters from communities of color are more likely to register through drives,<sup>114</sup> these restrictions diminish the voice and political participation of these citizens.

The GOP enacted restrictions on voter registration drives in Florida and Texas, and proposed similar measures in Illinois, Michigan, Missouri, and Mississippi.<sup>115</sup> The new legislation in Florida was by far the GOP's most extensive effort. In 2010, Republican Governor Rick Scott rode a wave of Tea Party support to victory in the state's gubernatorial race, joining Republican majorities in the Florida House and Senate. A pinnacle of their collaboration in this year's legislative session was HB1355, a 158-page omnibus elections overhaul that—in addition to early voting cuts—enacted draconian restrictions on all nongovernmental entities that conduct voter registration.

Under HB1355, any group or individual that conducts voter registration must now (1) register their organization with the Florida Division of Elections prior to conducting registration activities and regularly file onerous reports on all their activities; (2) track and account for voter registration forms using a specially generated number for each document; (3) submit completed voter registration forms to the state within 48 hours (a significant decrease from the previous deadline of 10 days); (4) subject themselves to fines between \$50 and \$1,000 for registration forms returned to the state after 48 hours; and (5) submit to new enforcement authority from the Florida attorney general.

These restrictions encumber even large and experienced organizations; immediately after HB1355 was passed, the League of Women Voters of Florida suspended its voter registration activities. But these restrictions fall heaviest on small organizations that conduct neighborhood voter registration, lack the capacity to abide by the state's reporting requirements and tight deadlines, and could be virtually bankrupted under this penalty structure. Already, there are reports of public school teachers who may face huge fines under the new law—all for the supposed offense of helping students register to vote without following each minute requirement of the new law.<sup>116</sup>

Fewer voter registration drives mean fewer voters. But cutting back on voter registration drives does not have the effect of limiting the political participation of all citizens equally. Data from the U.S. Census Bureau demonstrates that African American and Hispanic voters are more than twice as likely to register through voter registration drives as are white voters in Florida.<sup>117</sup>

PERCENTAGE WHO REGISTERED THROUGH VOTER REGISTRATION DRIVES <sup>118</sup>			
ELECTION CYCLE	WHITE VOTERS	HISPANIC VOTERS	AFRICAN AMERICAN VOTERS
2004	6.6%	18.9%	17.4%
2008	6.3%	12.1%	12.7%

Under the GOP's restrictions on voter registration drives, eligible citizens from communities of color are less likely to become registered voters. Under HB1355, these eligible citizens will have a more difficult time voting in the 2012 presidential election.

### CHALLENGING THE CITIZENSHIP OF ELIGIBLE AMERICAN VOTERS

The Republican voting restrictions also include legislation that would challenge the citizenship of anyone who registers to vote. In order to register to vote in the United States, every person must already swear, at penalty of law, that he or she is an American citizen.<sup>119</sup> In addition to this affirmation—and the fact that registrants provide their driver's license or Social Security number—these new laws require Americans to possess and show documentation of their citizenship, such as a birth certificate, passport,

or naturalization papers as a prerequisite to registering to vote. In 2011, Republicans have enacted these measures in Alabama, Kansas, and Tennessee and proposed such legislation in Colorado, Connecticut, Maine, Massachusetts, Missouri, Nevada, New Hampshire, Oregon, and South Carolina.<sup>120</sup>

Citizenship challenges will not prevent fraud, but they will create a new obstacle for many Americans.<sup>121</sup> In 2006, the nonpartisan Brennan Center found that 7 percent of U.S. citizens do not have documentary proof of their citizenship status (such as a birth certificate or U.S. passport).<sup>122</sup> Citizenship challenge laws disproportionately burden women voters, who change their legal names more frequently than men. Thirty-three percent of women do not have access to any proof of citizenship document with their current legal name, and, even for voting-age women who have birth certificates, less than half have a birth certificate with their current name.<sup>123</sup>

For Willie Blair, a 61-year-old sharecropper, his birth certificate showed a different name than the one he had used all his life, leaving him in the midst of a bureaucratic maze.

Many seniors lack access to the limited documents this legislation demands; especially in the South, where the use of midwives was common, many elderly Americans were born at home and never received formal birth certificates.<sup>124</sup> For Thelma Hodge, who was born at home in South Carolina in 1942, it took five years of effort to receive an official birth certificate from the state.<sup>125</sup> And for some seniors, the information on their birth certificates is different from their current legal name or other identity documents. For Willie Blair, a 61-year-old sharecropper, his birth certificate showed a different name than the one he had used all his life, leaving him in the midst of a bureaucratic maze.<sup>126</sup>

The obstacle imposed by this Republican-sponsored legislation is also felt more by Americans with limited means; citizens earning less than \$25,000 per year are more than twice as likely to lack citizenship documents as those earning more.<sup>127</sup> In another affront to low-income Americans, individuals who do not have access to citizenship proof must pay to obtain it. In Tennessee, for example, a voter seeking to obtain a “long-form” certified copy of her birth certificate would need to pay \$15.<sup>128</sup> A U.S. passport can cost up to \$225,<sup>129</sup> and for a naturalized citizen, the cost of replacement citizenship documents is \$220.<sup>130</sup> Acquiring these documents can take time, by which point the election may have come and gone.<sup>131</sup>

Moreover, the impact of citizenship challenge laws falls disproportionately on voters from communities of color. In 2009, Georgia sought preclearance from the DOJ under Section 5 of the VRA for a proposed “citizenship verification” system. Under the Georgia law, the state had planned to match newly registered voters with its driver database and the Social Security Administration. “Non-matched” applicants would be required to take further steps to establish their voting eligibility, including appearing before local election officials on three days’ notice. According to an analysis conducted by the DOJ, Georgia failed to produce reliable information that non-matched applicants were more likely to be non-citizens. Instead, the DOJ found that applicants who were Latino or Asian American were more than twice as likely as white applicants to be flagged for additional scrutiny. The DOJ objected to Georgia’s proposed citizenship challenge law because the burdens it created “are real, are substantial, and are retrogressive for minority voters.”<sup>132</sup>

As the Georgia example demonstrates, Republican citizenship challenge laws are unnecessary, unfair, and yet another attempt to realign the electorate to favor conservative candidates in 2012.

## REPEALING ELECTION DAY REGISTRATION / SAME DAY REGISTRATION

In an explicit attempt to end one of the most successful voting reforms of recent years, GOP state

leaders also set their sights on Election Day Registration. When President Obama was elected, more than 1.3 million Americans registered to vote using EDR;<sup>133</sup> more states offered the opportunity than ever before; and the voting reform was an important factor in creating the historically large and diverse electorate. Forms of EDR/SDR were offered in the 2008 swing states of Iowa, Maine, Minnesota, New Hampshire, North Carolina, Ohio, and Wisconsin.

<b>REGISTRATION DURING EARLY VOTING</b>	North Carolina	More than 250,000 voters registered and cast ballots at the same time during early voting. Although comprising only 21 percent of total voters in the state, African Americans accounted for 36 percent of the voters that used Same Day Registration. <sup>134</sup>
<b>REGISTRATION ON ELECTION DAY</b>	Maine	In 2008, nearly 60,000 Mainers registered on Election Day. Among those voters, 26 percent registered as Democrats while 19 percent registered as Republicans. <sup>135</sup>

Recognizing the popularity of EDR among Democrats and likely Democratic voters, Republicans in 2011 repealed EDR in Maine, repealed the opportunity to register during early voting in Ohio, proposed an EDR repeal in New Hampshire, and passed an EDR repeal in Montana, where Democratic Governor Brian Schweitzer vetoed the legislation at a public ceremony with a branding iron.<sup>136</sup> The GOP effort to repeal EDR is yet another measure aimed at restricting access to voting and suppressing voter turnout.

## RESISTING REPEAL IN MAINE

For 38 years, voters in Maine have been able to register to vote on Election Day, a major reason for the state's history of high voter turnout. And in 2008, nearly 60,000 Mainers registered on Election Day.<sup>137</sup> Yet after winning the 2010 gubernatorial election with just 38 percent of the vote, the new Tea Party-backed governor, Paul LePage, led a push to repeal EDR in the 2011 legislative session.<sup>138</sup>

Republicans clamoring for the repeal of EDR have often focused their animosity on college students, even though the Constitution requires that they be afforded the same access through the same election laws as all other eligible citizens.<sup>139</sup> In July, State GOP Chairman Mike Webster accused 206 college students of voting illegally and called for an investigation into their voting histories. Secretary of State Charles Summers obliged his Republican colleague and launched a wide-ranging investigation into any voter fraud in the state. Despite the baseless allegations from Chairman Webster, all the investigated students were cleared from any wrongdoing.<sup>140</sup> Their total lack of culpability notwithstanding, Secretary Summers sent the students an intimidating letter with the suppressive effect of "inviting" them to cancel their registrations.<sup>141</sup>

In Ohio, Republicans passed an omnibus elections bill that, among other restrictions, eliminated "golden week," in which voters could register and cast ballots early at the same time. But like voters in Maine, citizens in Ohio collected more than 318,000 signatures to suspend the repressive law and place it on the ballot for voters to approve or reject in November 2012.

Just as Mainers did not buy these attacks on student voters, they did not simply accept the Republican repeal of EDR. Instead, a statewide coalition led a citizens' veto effort and collected more than 68,000 signatures in order to put the Republican repeal on the ballot.<sup>142</sup> On November 8, 2011, Maine voters officially rejected the repeal at the ballot box and reinstated a voting reform that increases turnout and expands the voting electorate.<sup>143</sup>

## REPUBLICANS ROLL BACK EARLY VOTING TO SUPPRESS PARTICIPATION

In 2008, the wide availability of early voting was a key factor in increasing participation nationwide, especially among groups that are traditionally underrepresented at the ballot box. A closer look at early voting in the 2008 swing states of Florida, North Carolina, and Ohio demonstrates the electoral importance of this reform and indicates why Republicans have aggressively targeted this voting opportunity.

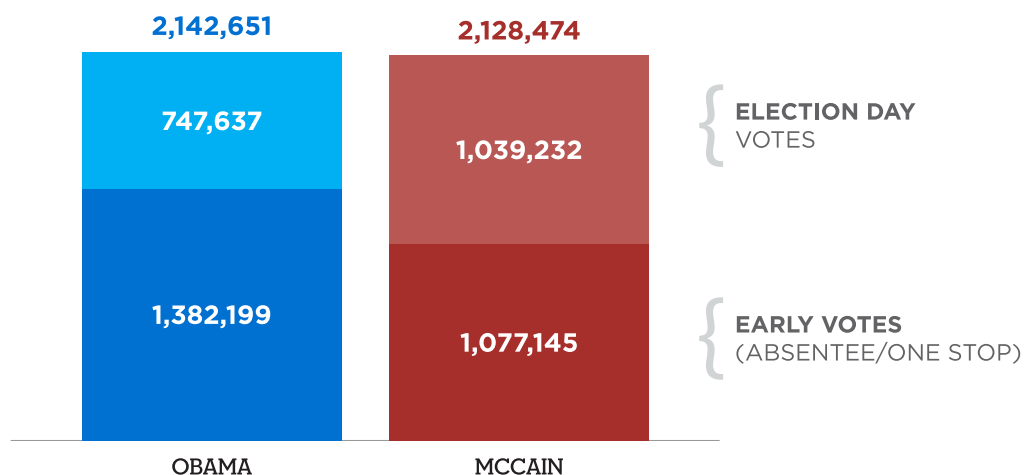
### THE EARLY VOTING EXPERIENCE OF 2008 PRESIDENTIAL BATTLEGROUND STATES

**Florida** - In 2008, Florida provided in-person early voting beginning on the 15th day and ending on the second day before the election, in addition to offering voters the opportunity to cast an absentee ballot without an excuse. More than 4.3 million voters cast ballots during early voting, which was widely credited with reducing long lines and easing the administrative burden on Election Day.<sup>144</sup> Early voting was so popular that Republican Governor Charlie Crist issued an executive order extending voting center hours from eight to 12 hours daily in the last days before the election.<sup>145</sup> This voting reform allowed millions of Floridians—many of whom may not have been able to vote on Election Day—to be counted among the historic 2008 electorate.

Early voting was popular among Democratic voters in Florida. Registered Democrats comprised 52 percent of early voters while Republicans accounted for just 30 percent.<sup>146</sup> Demonstrating the reform's success in expanding access to the franchise, African Americans disproportionately used early voting. An astounding 54 percent of the state's 1.1 million African American voters cast their ballots at early voting sites. By comparison, only 27 percent of white voters used early voting sites in 2008. Although African Americans comprised 13 percent of Florida's 2008 electorate, they accounted for 22 percent of all early voters.<sup>147</sup> Reflecting these demographics, exit polls suggested that early voters favored President Obama by 13 points.<sup>148</sup>

**North Carolina** - In 2007, North Carolina created "one-stop" voting, consisting of a 16-day early voting period in which voters could register to vote and cast a ballot at the same time. This new policy was a major reason that 800,000 more citizens voted in North Carolina in 2008 than in 2004—an increase of more than 10 percent, which was the highest rate of growth in voter turnout for any state in the nation.<sup>149</sup>

The demographic composition of North Carolina early voters was similar to that of Florida. In the first stages of early voting, African Americans accounted for 33 percent of ballots cast even though they make up 21 percent of voters.<sup>150</sup> Because North Carolina released more information about its early voting results, it is even clearer that early voters favored President Obama, giving him a 300,000 vote advantage that the Republican candidate could not overcome.<sup>151</sup>



**Ohio** – In 2008, Ohio offered a five-week early voting period in which voters could cast absentee ballots in person at municipal clerk offices or by mail.<sup>152</sup> More than 1.4 million voters took advantage of this opportunity and cast ballots before Election Day in 2008.<sup>153</sup> In a state that experienced significant problems with election administration and long lines in urban centers like Cleveland, Columbus, and Cincinnati in 2004,<sup>154</sup> early voting in 2008 decreased the burden on local authorities and saved countless voters from—once again—experiencing prohibitively long wait times on Election Day.

As in North Carolina, the majority of Election Day voters in Ohio also cast ballots for John McCain.<sup>155</sup> But early voters ultimately decided the state, and their overwhelming support for Barack Obama determined his final margin of 263,000 votes in Ohio.<sup>156</sup>

The influence of early voting on the 2008 presidential election is clear: The expanded opportunities to vote allowed more Americans to enter the political process. Although the reform has expanded the American electorate, Republicans have sought to diminish opportunities to vote early. Under Republican proposals advanced in 2011, voters would have fewer opportunities to cast ballots across the country—and especially in states that are traditionally competitive in presidential elections.

### THE REPUBLICAN BACKLASH AGAINST EARLY VOTING IN 2011

In the 2011 legislative session, state legislators across the country sought to cut early voting periods and reduce the opportunities for Americans to cast ballots before Election Day. Early voting periods were reduced in Florida, Georgia, Maine, Ohio, Tennessee, West Virginia, and Wisconsin.<sup>157</sup> Republicans proposed similar legislation in North Carolina, Nevada, and New Mexico, but were unable to push these cuts through strong Democratic opposition.<sup>158</sup>

Republicans have failed to provide any viable administrative or policy rationale in support of their proposals to cut early voting. Where explanations have been offered, the rationales strayed significantly from any demonstrable facts, as in North Carolina and Florida.

STATE	RHETORIC	REALITY
NORTH CAROLINA	The GOP argued that early voting should be cut in order to save taxpayer dollars. Republican Senator Jim Davis, the sponsor of the bill that would cut the first week of early voting, said, “We were just trying to minimize the time early voting polls were open ... so the expense is not so great for local election boards.” <sup>159</sup>	According to Gary Bartlett, the executive director of the state’s elections board, the “perceived savings would be more than offset by cost increases.” <sup>160</sup> The real cost of elections are not wholly determined by days or hours that polling places are available; they are mostly connected to voter turnout. Bartlett said that the counties would have to deal with greater Election Day turnout, and potentially open new precincts or buy new voting equipment. By cutting early voting, county boards no longer have the flexibility to allocate equipment and staff most efficiently.
FLORIDA	The lead sponsor of the omnibus bill that would cut early voting in Florida, Republican Senator Miguel Diaz de la Portilla, said that the bill was intended to “close loopholes that allow for voter fraud to take place.” <sup>161</sup>	Because there is no logical reason why casting a ballot in person during early voting is likely to create any fraud, two Republican state senators asked the bill’s sponsors to provide any relevant examples of voter fraud in Florida’s history. The sponsors could not provide any, and both state senators voted against the reduction in early voting. <sup>162</sup>

The real consequences of cutting early voting cannot be hidden: These reductions mean fewer opportunities for all voters to cast a ballot, and especially for those voters that are likely to support Democratic candidates. The Republican bills do not simply reduce early voting based on some unbiased proportion or formula; they specifically cut the opportunity in ways that would harm Democratic voters the most.

### **A Precise Cut: The Partisan Reduction of Sunday Early Voting**

In the traditional swing states of Florida, North Carolina, and Ohio, Republican legislation targeted early voting on Sundays. Florida banned early voting on the Sunday immediately before Election Day, and legislation in North Carolina and Ohio prohibited Sunday voting outright.<sup>163</sup> Yet the composition of voters on Sundays demonstrates the discriminatory effect of banning early voting on Sunday.

Religious communities, especially urban churches, routinely encourage their congregations to vote early following their weekly Sunday services.<sup>164</sup> The numbers from Florida in 2008 indisputably demonstrate that cutting early voting burdens likely Democratic voters—a deplorable use of public policy for purely partisan gain.

- African Americans represented **13%** of all Florida voters, and **22%** of early voters, but **31%** of the total voters on the final Sunday of early voting.
- Latino citizens represented **11%** of Florida voters, and **11%** of early voters, but **22%** of the total voters on the final Sunday.
- First-time voters in Florida represented **12%** of all voters, but **22%** of the final Sunday voters.<sup>165</sup>

Together, these groups comprised approximately 36 percent of all voters, but 75 percent of final Sunday voters. The groups that disproportionately used Sunday early voting—African Americans, Latinos, and first-time voters—heavily supported President Obama in 2008. Although early voting ensures more Americans can participate in our democracy, Republicans have attacked it, apparently elevating the potential for partisan victories over the public good.

### **REPUBLICANS REQUIRE PHOTO IDENTIFICATION TO RESTRICT VOTERS**

Photo ID mandates have been the most pervasive new limitation on the right to vote. In 2011, Republicans have proposed strict photo ID laws in more than 30 states.<sup>166</sup> This unprecedented wave of legislation would require that Americans possess and show unexpired government-issued photo identification as a prerequisite to voting on Election Day.

To be clear, voter identification is already common in the United States; federal law requires that new voters who registered by mail provide identification before voting, and states already verify voters' identities with signature and identification number matching, affidavits, and various other documentation requirements.<sup>167</sup> Strict photo ID requirements are relatively new. No state required photo ID before 2006, and only two states had strict photo ID regimes in place for the 2010 midterm elections.<sup>168</sup> Legislatures in 2011 have enacted strict photo ID policies in Alabama, Kansas, South Carolina, Tennessee, Texas, and Wisconsin.<sup>169</sup> Republican legislatures passed similar bills in Minnesota, Missouri, Montana, New Hampshire, and North Carolina, but Democratic governors vetoed each one. Many of these bills resemble model legislation prepared and circulated by ALEC to Republican legislators across the United States.<sup>170</sup>

Because young voters, African Americans, Latinos, and Asian Americans disproportionately lack photo ID, these new restrictions unfairly burden these likely Democratic voters. This new obstacle preventing citizens from exercising their fundamental right to vote will not improve the integrity of our elections, but may only improve the chances that Republicans could come out on top.

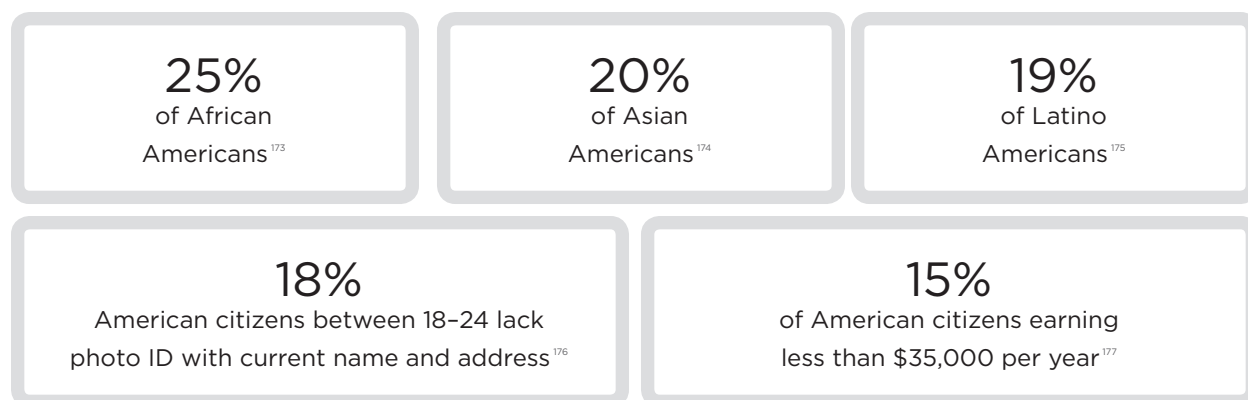
## A PARTISAN TACTIC

Despite Republican allegations to the contrary, there are millions of Americans who lack the unexpired government identification these photo ID bills require. Eleven percent of voting age citizens—approximately 23 million people<sup>171</sup>—do not have acceptable photo ID and, as a result, could be turned away from the polls on Election Day. Voters without appropriate photo ID are disproportionately low-income Americans, from communities of color, young voters, the elderly, or Americans with disabilities.<sup>172</sup>

There is significant evidence that photo ID laws enact the heaviest burden on exactly the same voters who reliably supported President Obama. Again, the impact of the Republican movement against voting reveals its fundamentally partisan objectives:

## EFFECT OF GOP PHOTO ID MANDATES

### VOTING-AGE AMERICANS WHO LACK VALID, GOVERNMENT-ISSUED PHOTO IDENTIFICATION



Republicans routinely claim that it is appropriate to require photo ID for voting because such ID is necessary to board a plane or cash a check. This contention is simply false; neither boarding a plane nor cashing a check actually requires photo ID.<sup>178</sup> Moreover, the comparison is completely inapt. Although voting is a right enshrined in and protected by the Constitution, there is no fundamental right to board a plane (or rent a car or cash a check). These GOP-sponsored bills do not simply permit voters to show ID, they require voters to possess and show narrow, specific forms of unexpired government-issued photo ID.

In many states, there are conspicuous absences on the list of acceptable forms of identification, suggesting that these bills are not about how we vote but who can vote. Almost all of the photo ID bills make it difficult for students to vote. In Texas, you can vote with a gun license but not a student ID. South Carolina and Tennessee expressly prohibit the use of student IDs. Wisconsin's legislation allows the use of student IDs, but only if they meet strict qualifications. And no university in Wisconsin currently provides IDs that meet the legislation's arbitrary standards.

Veterans also suffer under the Republican laws. Many states allow the use of current "military IDs," but as the Texas Division of Elections explained, this term does not include identification issued by the United States Department of Veterans Affairs (VA).<sup>179</sup> Other states, like Wisconsin, accept identification issued by a "uniformed service," which also excludes the VA.<sup>180</sup> Unless they possess another form of photo

identification, Americans in the armed forces can vote while wearing the uniform but not after trading their active duty military ID for veteran's photo identification.

## AN IMPLEMENTATION NIGHTMARE

Photo ID legislation is a hypocritical government overreach and a bureaucratic nightmare that fails to conform with the “small government” rhetoric commonly espoused by the bills’ conservative backers. According to Supreme Court precedent, states must provide photo identification free of charge in order to meet minimum constitutional standards.<sup>181</sup> But the process of providing that identification is a boondoggle at best.

In order to obtain government-issued identification, voters often need government-issued identification. This catch-22 affects voters who currently lack both government-issued photo identification and citizenship documentation and who, once again, are more likely to be low-income Americans or minority voters. Many voters will first need to obtain a certified copy of their birth certificate and then obtain their free identification for voting. Those voters will also need to pay for their birth certificate themselves; out of the newly enacted laws, only Kansas provides for a birth certificate free of charge. Along with the time needed to obtain two government-issued documents, the costs of the so-called “free identification” quickly mount.

Implementation of new photo ID regimes is underway in Wisconsin and Tennessee, where each photo ID requirement goes into effect in early 2012. By all accounts, both processes have been disasters. In Wisconsin, there have been reports of elderly voters waiting hours at the DMV for their identification.<sup>182</sup> Making the process even more difficult and potentially expensive, state authorities directed employees at the DMV not to inform prospective voters that they could request the identification for free.<sup>183</sup>

### Particular Problems for Seniors

The problems of implementation are particularly acute for seniors. Eighteen percent of citizens over the age of 65 do not have current government-issued photo identification.<sup>184</sup> This amounts to more than 6 million American seniors who could be prevented from voting under new photo ID mandates.<sup>185</sup> In Pennsylvania alone, a state with a demographically older population where the GOP has advanced photo ID legislation, 340,000 seniors could be disenfranchised—more than the total population of Pittsburgh.<sup>186</sup>

This catch-22 affects voters who currently lack both government-issued photo identification and citizenship documentation and who, once again, are more likely to be low-income Americans or minority voters.

Further, as the above stories of Willie Blair and Thelma Hodge make clear, many seniors lack access to the limited documents this legislation requires. And their stories are, tragically, not unique.

In Tennessee, the experience of Dorothy Cooper captured why photo ID requirements are an outrageous affront to democracy. Cooper is a 96-year-old resident of Chattanooga, Tennessee. She was born before the Nineteenth Amendment was ratified, and she grew up during the height of Jim Crow. She has voted consistently for 70 years and never experienced any problems—until Tennessee Republicans enacted a photo ID mandate this year. She already had a Social Security card and a photo ID issued by her local police department, but neither was acceptable identification for voting under the strict Republican law. In early October, Cooper went to her local Tennessee Driver Service Center to obtain a new photo ID well in advance of the next election. She brought numerous residency and identity documents, including her lease, voter registration card, and birth certificate. But Tennessee refused to issue Cooper a photo ID simply because she did not have a *marriage certificate*.<sup>187</sup> Only after her story went public and after a

second trip to the DMV did Cooper finally obtain the required ID.<sup>188</sup>

Photo ID mandates threaten to turn back the clock to an all-too-familiar era when U.S. citizens were denied the right to vote based on arbitrary and unnecessary qualifications. No American should have to wait hours in order to vote, and no one should be turned away from the polling place because she lacks an arbitrarily specified form of identification. Photo ID legislation is one more example that the Republican movement against voting fundamentally conflicts with our nation's democratic ideals and commitment to expanding the franchise. We owe all American voters—and especially our seniors—much more than that.

#### AN EXPENSIVE GOVERNMENT MANDATE

Before the 2010 elections, Republicans pledged to “stop out-of-control spending and reduce the size of government.”<sup>189</sup> The GOP's photo ID legislation is exactly the opposite of what they promised. It is an expensive government mandate.

Regulating the fundamental right to vote costs millions. In order for photo ID mandates to survive constitutional scrutiny, states must provide photo IDs free of charge, educate the public about the new requirements, undertake extensive outreach to voters who may lack identification, and implement changes through state bureaucracy—all of which is expensive and must be paid for with taxpayer dollars.<sup>190</sup>

In the first four years of implementation, Indiana's photo ID regime cost the state more than \$10 million just to provide state IDs.<sup>191</sup> In the fiscal estimate prepared by the Wisconsin Legislative Bureau, the state estimated that its photo ID bill would cost the state more than \$5 million in the first year and have a recurring expense of \$2 million annually.<sup>192</sup> According to the Institute for Southern Studies, North Carolina's photo ID bill would cost that state between \$18 and \$25 million in just its first three years on the books.<sup>193</sup>

At a time when states continue to cut budgets for education and public safety, spending scarce public dollars for partisan gain is unconscionable.

#### REPUBLICANS REVEAL REAL MOTIVES: THE ELECTORAL COLLEGE EXAMPLE

Throughout the past year, Republicans have concocted cloudy explanations about why the new restrictions on voting are necessary—and why some of these efforts are concentrated in states that are traditionally competitive in presidential elections. Recently, however, the motivations behind the GOP voting changes have become remarkably clear. Republican leaders in Pennsylvania and Nebraska have attempted to change how their states award electoral votes in directly opposite ways—but with the same untoward goal: artificially skew the 2012 electorate to prevent the reelection of President Obama.

Political observers often refer to Pennsylvania as one of the “big three.” Along with Florida and Ohio, it is a highly populated state that is traditionally competitive for presidential candidates from both parties. In 2008, President Obama won the popular vote in Pennsylvania by more than 500,000 votes. Because Pennsylvania—like 47 other states—awards all its electoral votes to the winner of the statewide popular vote, President Obama won all 21 electoral votes.

Nebraska is one of the two states that award their electoral votes differently. Like Maine, Nebraska awards its electoral votes based on the district method. Two votes are awarded to the winner of the statewide popular vote, and the remaining electoral votes are distributed to the winner of each respective congressional district. During presidential elections, Nebraska is normally a safe win for Republicans, and in 2008, Senator McCain won the popular vote in the state by more than 100,000. But

because President Obama received more votes within the 2nd Congressional District, Senator McCain was only awarded four of Nebraska's five electoral votes.

The Republican leadership in both Pennsylvania and Nebraska advanced changes to the way that their respective states award electoral votes. Although the changes were proposed by the same political party, they sought to enact directly opposite reforms:

- With the support of GOP Governor Tom Corbett, the Republican majority leader in the state senate, Senator Dominic Pileggi, pushed a bill to adopt the district method in Pennsylvania.<sup>194</sup> If this system had been in place in 2008, President Obama would have won only 11 out of the state's 21 electoral votes.<sup>195</sup> Under the Republican plan, the President's 500,000 vote advantage would have translated into a net gain of just one electoral vote.
- In Nebraska, State Senator Beau McCoy sponsored legislation to adopt the winner-take-all system of awarding electoral votes.<sup>196</sup> The leadership committee of the Nebraska Republican Party declared that the "party will not support in any manner, financial or otherwise, any state senator who opposes" this proposed change.<sup>197</sup> If this measure was in effect in 2008, Senator McCain would have won all five of Nebraska's electoral votes.

Although the conflicting plans, by their terms, convey the political intent of the changes, Republicans have left no need for speculation. In support of his plan in Nebraska, Senator McCoy said, "We would not want to see Obama re-elected (in 2012) by one electoral vote in Omaha."<sup>198</sup> In Pennsylvania, Senator Pileggi's chief of staff, Erik Arneson, defended the plan, saying, "From a strictly partisan point of view, we are going to benefit."<sup>199</sup>

As Arneson said, when the Republican Party proposes a change in the way elections are conducted, there can be no doubt that the GOP will benefit politically, and fairness in our American democracy will suffer the consequences.

## THE DEMOCRATIC RESPONSE

Democrats oppose this new movement because it is wrong. In the United States, the right to vote extends to all eligible citizens equally; legislation that burdens some voters more than others has no place in our government, nor our politics. We support the fundamental right of every eligible American to register to vote, cast a ballot, and have that vote counted—regardless of whether it is cast for a Democrat, Republican, or any other candidate.

For the past 50 years, Democrats have remained at the forefront of efforts to expand access to the franchise. Today, it is Democratic opposition that has significantly constrained the conservative movement to restrict voting and is beginning to shift momentum back in favor of American voters. Moving forward into 2012, Democrats will continue to advocate for the fair implementation of all election laws, support policies that allow more eligible citizens to participate in our political system and engage in unprecedented voter protection efforts.

## DEMOCRATS EXPOSE THE NEW RESTRICTIONS ON VOTING RIGHTS

In 2011, Republican legislators routinely exploited procedural rules to fast track or camouflage new restrictions on the right to vote. In Texas, Governor Rick Perry used his executive authority to declare that his state's photo ID mandate was "emergency legislation," allowing the Republican-controlled legislature to accelerate its consideration of the measure.<sup>200</sup> In Florida, Republicans on the State Affairs Committee surprised the opposition by adding more than 100 pages to HB1355 in committee, in which they buried restrictions on voter registration drives and cuts to early voting.<sup>201</sup> In Wisconsin, Republicans

attempted to push through their photo ID requirement while the state's attention was focused on another high-profile legislative debate over collective bargaining rights.<sup>202</sup>

In the face of these politically motivated maneuvers, Democrats have worked to raise public awareness of the new laws and rightfully expose them as restrictions on the right to vote. Beginning early in 2011, Democrats opposed these bills in state legislative chambers, on the floor of the U.S. House of Representatives and in the Senate Judiciary Committee, and in national publications with opinion editorials from DNC party leadership.

In response to each new proposal to restrict the right to vote, Democrats vocally opposed the effort to restrict voting and narrow the electorate.

## SUPPORTING VOTER REGISTRATION DRIVES

This year, as Republicans sought to restrict registration drives in Florida, Democrats have warned against the consequences of these changes. Nearly six months ago, DNC Chair Debbie Wasserman Schultz wrote that the likely result of the new law will be that “fewer minority Americans will have the chance to register and vote.”<sup>203</sup> Florida Senator Bill Nelson, noting the impact that Florida's new law would have for volunteers, explained that “shortening the time frame and threatening volunteers with a fine for mistakes is wrong. ... [I]n a democracy we should be making it easier for people to vote, not harder, and not restricting anyone's right to vote.”<sup>204</sup> And Congressman John Lewis of Georgia, having lived through the struggle for voting rights in the 1960s, opined:

*Before the passage of the Voting Rights Act in 1965, not so long ago, it was almost impossible for some citizens to register and vote. Many were harassed, jailed, beaten, and some were even killed for trying to participate in a democratic process. In the 1960s, people stood in what I like to call immovable lines trying to register to vote. People waited day and day only to be turned away and to be told that voters were not being registered on that day. The same thing is happening today. States are passing laws to restrict voter registration and are doing away with same day voter registration. There is no reason that we cannot make it easier and convenient for people to register to vote.*<sup>205</sup>

Unfortunately, consequences of the Republican restrictions are already unfolding in Florida; the League of Women Voters has suspended its registration activities, and public school teachers face huge fines for helping their students register. But Democrats continue working to protect and expand the franchise; Senator Dick Durbin (IL), who will chair an upcoming Judiciary Subcommittee Committee field hearing in Florida to examine the impact of the new law, wrote that the legislation “will almost certainly disenfranchise a wide swath of young, minority, senior, disabled, rural and low-income voters.”<sup>206</sup>

Democrats not only oppose restrictions on voter registration drives but also support policies that would greatly improve voter registration in the United States. We support states automatically registering eligible voters using reliable information from other government systems. Despite entering the digital age, the United States continues to rely almost entirely on paper registration applications. These applications must be processed by hand at great costs to taxpayers—all for an inefficient system in which millions of eligible voters are accidentally dropped from the rolls.<sup>207</sup> Small changes can modernize and vastly improve voter registration. As a result of the 2002 Help America Vote Act, states already have voter registration databases in digital form that can be connected to other federal and state databases.<sup>208</sup> This is an overdue reform that has garnered significant bipartisan support. In 2009, the general counsels to Obama for America and McCain 2008 wrote that “[b]ringing our voter registration system into the 21st century must be the priority for improving the election process.”<sup>209</sup>

## PROTECTING ELECTION DAY REGISTRATION

When Republicans attempted to repeal EDR in Maine and the “golden week” of SDR in Ohio, Democrats argued against these retrogressive changes. Chair Wasserman Schultz pointed out that EDR in Maine is “a widely popular practice that, in 2008 alone, allowed 60,000 Mainers to register to vote.”<sup>210</sup> After Mainers had successfully overturned the Republican repeal with a citizen’s veto, Congresswoman Chellie Pingree (ME-1) explained why voters reinstated EDR:

*[Republicans] had no good argument for taking away your right to register on voting day. We’ve been doing this for almost 40 years here in the state of Maine, we’ve had two instances of fraud. It encourages people to vote. It makes it easier for working people and people who can’t get to the polls.*<sup>211</sup>

Democrats continue to advocate for increased access to the ballot box. As Congressman Keith Ellison (MN-5) said when introducing a proposal to expand EDR, “No American citizen should be turned back from polls because they did not register weeks or months in advance.”<sup>212</sup>

Many states have now demonstrated that the availability of Election Day and Same Day Registration increases voter turnout, solves errors in the voter registration rolls, and is a secure way of making our elections more democratic. It is time for all states to adopt voter registration on Election Day or SDR during early voting. If implemented nationally, EDR would significantly increase overall voter participation.<sup>213</sup> Moreover, it would solve the primary administrative problem at polling places: eligible voters who arrive to cast a ballot, only to be told they are not on the registration rolls. Even if some state legislatures are unwilling to adopt registration on Election Day, every state should adopt SDR during early voting. Since many states already provide voter registration in the weeks immediately before Election Day, there is no reason to require voters to make separate trips to register and cast a ballot.

## ADVANCING EARLY VOTING

As Republicans sought to cut early votes across the country in 2011, Democratic leaders firmly opposed these reductions. Senators Sherrod Brown (OH) and Bill Nelson (FL) noted that the Republican cuts in Ohio, Florida, and elsewhere targeted the availability of early voting in the days immediately before Election Day. Senator Brown said, “This new law in Ohio shortens significantly the voting window. It eliminates, as it does in Florida, and you can see this pattern, early voting on the Saturday, Sunday, and Monday prior to the election, the three busiest days of early voting.”<sup>214</sup> Senator Nelson added:

*Another interesting thing has happened [in Florida], the early voting used to go up through the Sunday before the Tuesday election. That has been changed. It will now only go to the Saturday before the Tuesday election. Does it cause anyone suspicion that there are a certain number of voters on Sunday after church that go to vote?*<sup>215</sup>

And Congressman Lewis argued that these reductions in early voting were especially troubling because the opportunity was “disproportionately used by African American voters in 2008.”<sup>216</sup> In response to the Republican cuts, Democrats continue to support expansions of voting opportunities: In October, the Democratic leader in the Florida Senate, Senator Nan Rich, submitted legislation to restore the state’s full early voting period.<sup>217</sup>

Whether using early voting centers, in-person absentee, or other appropriate ways to expand voting options before Election Day, every state should allow voters to cast ballots on the Saturday, Sunday, and Monday before Election Day. In this period, which combines weekend and weekday availability, voter enthusiasm is highest and Americans are most interested in the candidates, the issues, and the electoral contest ahead.<sup>218</sup> Our elections should value that enthusiasm and allow more eligible Americans to participate in the democratic process.

## PREVENTING UNFAIR CITIZENSHIP CHALLENGES

In 2011, Republicans enacted citizenship challenge measures in Kansas and Tennessee and advanced them in 10 other states. Across the country, Democrats stood up against these unnecessary and unfair laws. In early April, Donna Brazile, DNC vice chair for voter registration and participation, wrote that “Republicans support onerous ‘proof-of-citizenship’ bills that erect barriers to keep Hispanic voters at home on Election Day.”<sup>219</sup> Congressman Charles Gonzalez of Texas examined these requirements alongside a wider look at our social dialogue and found that “animosity towards immigrants, actual or suspected, appears to be seeing an unfortunate rise. ... Another way this has manifested is at the polls. People who have trouble with English or just speak with an accent are hassled at the polls even in jurisdictions where proof of citizenship is not required.”<sup>220</sup>

Democrats will continue their commitment to ensuring that all eligible American citizens are treated equally when registering and casting a ballot.

## OPPOSING PHOTO ID MANDATES

As Republicans sought to enact photo ID mandates in more than 30 states, Democratic leaders strongly opposed these new restrictions on the right to vote. Congressman Lewis noted that requirements that “citizens obtain and display unexpired government-issued photo identification before entering the voting booth” has been advanced “despite the fact that as many as 25 percent of African Americans lack acceptable identification.”<sup>221</sup> Chair Wasserman Schultz put the political motivations of photo ID requirements in full view:

*Photo ID laws would disenfranchise voters and do nothing to improve the integrity of our electoral process. The national effort to restrict the right to vote has nothing to do with common sense; it is a callous political calculation designed to advantage Republicans in 2012. Rather than artificially slanting the electorate, it is time for Republicans to join the efforts of the president and the Democratic Party to create jobs, invest in our future, and address the challenges our nation faces. Maybe then the GOP wouldn't have to work so hard to stop Americans from voting.*<sup>222</sup>

And as House Democratic Whip Steny Hoyer of Maryland explained, “We intend to heighten America’s focus on these efforts at undermining the basic American right to vote and to have their vote counted.”<sup>223</sup>

## UNANIMOUS OPPOSITION: DEMOCRATIC GOVERNORS PROTECT THE RIGHT TO VOTE

In 2011, no photo ID mandate became law in a state with a Democratic governor. In five states where Republican legislators sent a photo ID mandate to the desk of a Democratic governor, the governor vetoed each bill.<sup>224</sup> Despite the best efforts of GOP legislators, none of those vetoes were overturned. These vetoes were made in addition to the many states across the country where the opposition of Democratic state legislators prevented rollbacks on voting rights.

On issuing their vetoes, the Democratic governors said:

**GOVERNOR  
MARK DAYTON**  
Minnesota

The photo ID legislation “is an unfunded mandate on local units of government at all levels—counties, cities, townships, and school boards. There is a \$23 million cost, documented with a local impact note from the Department of Management and Budget, that has been totally ignored. At a time when local governments are facing dramatic cuts, adding another mandate without financial assistance is irresponsible.”<sup>225</sup>

<p><b>GOVERNOR JAY NIXON</b> Missouri</p>	<p>“This new mandate would disproportionately impact senior citizens and persons with disabilities, among others, who are qualified to vote and have been lawfully voting since becoming eligible to do so, but are less likely to have a driver’s license or government-issued ID. Disenfranchising certain classes of persons is not acceptable.”<sup>226</sup></p>
<p><b>GOVERNOR BRIAN SCHWEITZER</b> Montana</p>	<p>“This requirement would create an unacceptable and unnecessary burden on many elderly voters, low-income voters, disabled voters, and students. Many of these citizens do not have drivers’ licenses and live on low or fixed incomes. ...</p> <p>“The proponents of HB152 cited ‘voter fraud’ as the impetus for this legislation but could not produce a single example of any such fraud. Thus HB152, like other election bills that I have vetoed this session, seeks to interfere with fundamental rights of Montana citizens by imposing new and unnecessary regulations.”<sup>227</sup></p>
<p><b>GOVERNOR JOHN LYNCH</b> New Hampshire</p>	<p>“The right to vote is a fundamental right that is guaranteed to all citizens of this state under the United States and New Hampshire Constitutions. An eligible voter who goes to the polls to vote on Election Day should be able to have his or her vote count on Election Day. SB129 creates a real risk that New Hampshire voters will be denied their right to vote.</p> <p>“Voter turnout in New Hampshire is among the highest in the nation, election after election. There is no voter fraud problem in New Hampshire. We already have strong elections laws that are effective in regulating our elections.”<sup>228</sup></p>
<p><b>GOVERNOR BEV PERDUE</b> North Carolina</p>	<p>“We must always be vigilant in protecting the integrity of our elections. But requiring every voter to present a government-issued photo ID is not the way to do it. This bill, as written, will unnecessarily and unfairly disenfranchise many eligible and legitimate voters. The legislature should pass a less extreme bill that allows for other forms of identification, such as those permitted under federal law.</p> <p>“There was a time in North Carolina history when the right to vote was enjoyed only by some citizens rather than by all. That time is past, and we should not revisit it.”<sup>229</sup></p>

## DEMOCRATIC ORGANIZING IN 2011 AND 2012

In response to unprecedented efforts to restrict voting, the real challenge is what happens next. Democrats are committed to defending the right to vote with significant resources and organizing support. In 2011, Democrats have already supported successful organizing efforts in Maine, Ohio, and New Hampshire—and continue to work against voting restrictions in Florida and across the United States. In 2012, we will engage in unprecedented voter education and voter protection efforts to ensure that eligible citizens can navigate obstacles to the franchise wherever they exist.

### DIRECT ADVOCACY

In addition to the leadership of Democratic public officials, thousands of Americans have volunteered their time, stood up for the right to vote, and worked to oppose new Republican restrictions. In the past year, grassroots organizing, with Democratic support, has already made significant progress against the Republican voter suppression agenda.

**Ohio** – In Ohio, Democrats supported an effort to suspend HB194, an omnibus elections bill that significantly cut early voting—including the elimination of “golden week,” when eligible citizens can register and vote at one time. With support from Obama for America (OFA), the Ohio Democratic Party and other grassroots partners initially gathered 330,000 signatures to place HB194 on the ballot for a

referendum in November 2012—and have supplemented those signatures with at least 160,000 more.<sup>230</sup> The result of this successful grassroots organizing effort: HB194 has been suspended, and, pending final signature verification, voters will have an opportunity to reject the law in its entirety in the 2012 general election.<sup>231</sup>

**Maine** – In Maine, voters have already accomplished a people's veto and reinstated Election Day Registration after Republicans passed legislation to repeal the longstanding successful practice. In response to the GOP effort, Democrats assisted Mainers in gathering more than 70,000 signatures to place the repeal of EDR on the ballot.<sup>232</sup> On Election Day, November 8, 2011, voters overwhelmingly rejected the Republican legislation and restored the 38-year-old practice of EDR in Maine.<sup>233</sup>

**New Hampshire** – As a central part of their legislative agenda in 2011, New Hampshire Republicans proposed HB176, a bill that would have prohibited military personnel from registering at the bases where they are stationed and students from registering at the university addresses where they reside.<sup>234</sup> Supporting the legislation, Republican House Speaker Bill O'Brien argued that the state needed to prevent students from voting: "[T]he kids [are] coming out of the schools and basically doing what I did when I was a kid, which is voting as a liberal. They don't have life experience, and they just vote their feelings, and they're taking away the town's ability to govern themselves; it's not fair."<sup>235</sup>

This rhetoric was so plainly outrageous that Republican and Democratic student organizations came together to oppose the bill.<sup>236</sup> The College Democrats of America President Alejandra Salinas condemned the legislation as "just the most recent effort by Republicans to disenfranchise students by not letting them vote where they go to college."<sup>237</sup> With strong opposition from college students, HB176 was overwhelmingly defeated in the New Hampshire House.<sup>238</sup>

**Florida** – Florida's HB1355, which restricted voter registration drives and cut early voting, has garnered widespread attention across the country as an egregious restriction on voting rights. One news report noted that the changes to early voting, and in particular the elimination of early voting on the Sunday before Election Day, "appear to be aimed directly at discouraging Florida's black voters."<sup>239</sup> Five Florida counties are covered jurisdictions under Section 5 of the VRA, which requires changes to the state's election laws to be preapproved by the DOJ. State and national Democrats have made our position on this issue clear. The Democratic Senatorial Campaign Committee (DSCC), the Florida Democratic Party, and the Florida Democratic House Caucus submitted letters and documents to DOJ urging that this retrogressive legislation not be precleared. As the DSCC argued in its comment letter, HB1355 would "result in fewer registered minority voters, fewer ballots cast by minority voters, and fewer ballots counted for minority voters."<sup>240</sup>

**Nationally** – The Democratic National Committee's Voting Rights Institute (VRI) also contributed to the national dialogue surrounding this legislative trend. The VRI studied the impact of photo ID laws from a perspective that Republicans conveniently failed to raise: the significant costs of photo ID mandates. The VRI analyzed the actual costs of photo ID requirements in Indiana and Georgia—the two states that had implemented photo ID before 2011—and extrapolated from cost estimates in 17 states that had produced fiscal estimates for their photo ID legislation. We concluded that if each of the 35 states that proposed a photo ID mandate actually passed it, they would collectively incur costs of approximately \$552 million in the first four fiscal years.<sup>241</sup>

## VOTER EDUCATION

In addition to Democratic opposition to voting restrictions, we are dedicating significant resources to voter education across the United States. With work already in progress, Democrats have focused on the

states that are first experiencing the implementation of these restrictive laws. In Wisconsin, for example, the state's new photo ID mandate will take effect in the February 2012 primary elections.<sup>242</sup> Republicans there and elsewhere have routinely stated that anyone without acceptable photo identification can simply obtain an ID from the state. But as documented herein, the process is rarely that simple.<sup>243</sup> In response, OFA is preparing materials to ensure that voters (1) can find their DMV, (2) bring the necessary documentation, and (3) know how the process works once they arrive at the DMV.

Under the Wisconsin photo ID mandate in particular, complicated rules apply to the use of student identification. According to the new requirements, students can use their school ID cards to vote, but only if those cards contain specific information—information that no university currently includes on student IDs. OFA is preparing guides for students to use both now and when universities bring their school-issued IDs into compliance with the new law. The guides will help students know that they can register to vote at their school addresses, obtain the documentation demanded by the new restraints and bring the appropriate proof of residency and enrollment to the polls on Election Day.

Voter education will be a key aspect to protecting the right to vote—especially because the administration of Republican Governor Scott Walker refuses to assist voters in navigating the contours of the new law. Earlier this year, Wisconsin Department of Transportation head Steve Krieser circulated an internal memo instructing employees not to inform voters that the voter photo identification can be obtained free of charge; instead, the voter must affirmatively demand the free ID.<sup>244</sup> Despite this cynical implementation of a retrogressive law, Democrats are working to ensure that eligible voters understand the new rules and are able to cast a ballot.

## UNPRECEDENTED VOTER PROTECTION EFFORTS

Throughout the next year, Democrats will demonstrate a sustained commitment to ensuring that every eligible American can fully exercise their fundamental right to vote. We will continue our opposition to these new restrictions, including, where appropriate, litigation on behalf of Americans whose fundamental rights are violated. But we will also mobilize thousands of volunteers to assist voters across the nation on Election Day 2012.

We are committed to ensuring that the 2012 election is decided on the candidates' visions for the future and solutions for our national challenges—and not because of restrictions on the fundamental right to register to vote, cast a ballot, and have it counted.


## WHAT YOU CAN DO

SIGN UP FOR MORE INFORMATION ON HOW YOU CAN HELP PROTECT VOTING RIGHTS:  
[www.democrats.org/about/voting\\_rights\\_institute](http://www.democrats.org/about/voting_rights_institute)

REGISTER TO VOTE: [www.gottaregister.com](http://www.gottaregister.com)

HAVE ANY QUESTIONS? CONTACT THE VOTING RIGHTS INSTITUTE:

 via email at [votingrightsinstitute@dnc.org](mailto:votingrightsinstitute@dnc.org)

 by phone at 202-863-8000

 on Twitter at [@voterprotection](https://twitter.com/voterprotection)

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Following the lead of Republican Secretary of State Scott Gessler,<sup>1</sup> GOP legislators used the 2011 legislative session to propose a strict photo identification mandate and a new requirement that individuals provide documentary proof of citizenship when registering to vote. Both restrictions stalled in the Colorado Senate, but the photo ID legislation passed the Republican-controlled House.<sup>2</sup>



## PHOTO ID MANDATE

Although voters in Colorado are already required to provide proof of identification when voting, HB1003 would significantly restrict the acceptable forms of identification.<sup>3</sup> Under this legislation, which mandates that voters possess and provide current, government-issued photo identification, Colorado residents could no longer use the following forms to prove their identity:

- A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the voter's name and address;
- A certified copy of a birth certificate issued in the United States;
- Certified documentation of naturalization;
- A valid Medicare or Medicaid card (unless the voter is the resident of a state institution).

HB1003 also makes it more difficult for college students to vote; the legislation unjustifiably and arbitrarily allows only the use of student identification from state universities—students at private schools could not vote with their school IDs.<sup>4</sup>

## PROOF OF CITIZENSHIP REQUIREMENT

In the United States, every individual who seeks to register to vote must swear that he or she is an American citizen. Non-citizens who apply to register to vote face steep federal criminal penalties, including a sentence of up to five years in prison<sup>5</sup> and severe immigration consequences such as deportation and denial of re-entry.

Additionally, there is **no** evidence to suggest that significant numbers of non-citizens have registered to influence American elections. From October 2002 to September 2005, the federal government prosecuted just **20 people** in four states who were ineligible to register or vote under state law because they were not U.S. citizens.<sup>6</sup>

Despite these deterrents and safeguards, Republicans still advanced SB18, which would require all individuals to provide documentary proof of citizenship as a prerequisite to registering to vote.<sup>7</sup> Under SB18, all applicants must present one of the following:

- A United States passport or photocopy;
- A birth certificate or photocopy;
- United States naturalization document or photocopy;
- The number on the applicant's certificate of naturalization, verified by the county clerk and recorder; or
- Documents or methods of proof of citizenship established by federal immigration law.

Professors from the University of New Mexico, Northern Arizona University, and the University of Washington found that photo ID laws disproportionately affect Latino voters<sup>8</sup>—whose growing population comprised 9% of the Colorado electorate in 2008<sup>9</sup>—as well as other racial minorities. After surveying voters, they found that the following Americans did not possess photo identification under Indiana's law, which was the first strict photo ID mandate in the nation:

- 20% of Asian Americans
- 19% of Latinos
- 19% of African Americans
- 12% of white Americans

The Brennan Center found that **7% of United States Citizens** do not have easy access to citizenship documents.<sup>10</sup>

Additionally, even if prospective voters have citizenship documents, their names might have changed. The Brennan Center found that only **66%** of voting-age women who have proof of citizenship had a document with their current legal name.<sup>11</sup>

Some groups lack citizenship documents at even higher rates: **12%** of voting-age American citizens earning less than \$25,000 per year do not have a readily available U.S. passport, naturalization document, or birth certificate.<sup>12</sup> These citizens may not be able to afford a passport, which can cost as much as **\$225**,<sup>13</sup> or a certified copy of a birth certificate, which costs at least **\$17** in Colorado.<sup>14</sup>



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In the 2011 legislative session, Republicans in the Florida legislature passed HB1355, a 158-page omnibus elections bill that modified 80 separate sections of the state's election code. Republican Governor Rick Scott signed the bill into law on May 19, 2011.<sup>1</sup>

## REDUCTIONS TO EARLY VOTING

HB1355 significantly reduced early voting opportunities, restricting a process that allows citizens more access to the voting booth and greater opportunity to participate in our electoral process. The new law:

- Shortens early voting from 14 to eight days;
- Eliminates early voting on the Sunday before the election;
- Permits supervisors of elections to offer as little as 48 hours of early voting (as opposed to 96 hours under previous law).

## RESTRICTIONS ON VOTER REGISTRATION DRIVES

HB1355 enacts restrictions on groups that conduct voter registration drives, such as the Boy Scouts, churches or the League of Women Voters, which has already suspended its registration activities in the state in response to the harsh requirements of the new law. All voter registration organizations must now:

- Submit to **onerous registration** and reporting requirements, including mandating that all volunteers complete documentation requirements before assisting registration drives;
- Return completed registration applications on **tight deadlines**. All completed voter registration forms must be turned over to the state within **48 hours** (rather than the previous **10 days**);
- Subject themselves to steep penalties; all organizations will be fined **\$50** for any forms returned later than 48 hours, and could face fines up to **\$1,000**.

The new law gives the Florida attorney general unprecedented authority to enjoin organizations from conducting any voter registration activities.

## RESTRICTIONS ON VOTERS WHO MOVE

Previous Florida law permitted a registered voter who moved **anywhere in the state** to update his or her address at the polls and cast a regular ballot. HB1355 restricts this system so that it applies only to voters who move within the **same county**; registered voters who move outside of their county must now cast a provisional ballot, which are counted at a much lower rate than regular ballots. In 2008, Florida counted only 48% of all provisional ballots cast.<sup>2</sup>

More than half (**54%**) of Florida's African American voters cast ballots through Early Voting in 2008. Even though African Americans only account for **13.1%** of the State's electorate, they comprised **22%** of all early voters. On the (now prohibited) Sunday immediately before Election Day, African Americans comprised an astounding **32%** of all voters.<sup>3</sup> Additionally, Latino voters comprised 11% of all voters but represented **22%** of voters on the final Sunday.<sup>4</sup>

As documented by the nonpartisan Brennan Center, data from the U.S. Census Bureau demonstrates that African American and Hispanic voters are more than twice as likely to register through third-party drives as are white voters in Florida.<sup>5</sup>

### Percentage Who Registered Through Voter Registration Drives

ELECTION CYCLE	WHITE VOTERS	HISPANIC VOTERS	AFRICAN AMERICAN VOTERS
2004	6.6%	18.9%	17.4%
2008	6.3%	12.1%	12.7%

Restrictions on voters who move do not affect the entire electorate equally. In a 2008 survey, the Pew Research Center found that over a five-year period, **48%** of Hispanics and **43%** of African Americans moved, compared to just **27%** of whites. Additionally, **65%** of respondents age 18-29 moved, compared to just 20% of respondents age 50-64 and **15%** of respondents age 65 and older.<sup>6</sup>



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Under the leadership of Governor Paul LePage, who was elected in 2010 with only 38% of the vote,<sup>1</sup> Republicans sought to rewrite Maine's election laws and permanently alter the state's electorate. Although Republicans in the Maine state legislature were unable to force through their proposed photo ID and proof of citizenship requirements, the GOP succeeded in passing its repeal of Election Day Registration (EDR).



Mainers did not, however, simply accept this restriction on the opportunity to register and cast a ballot on Election Day. Instead, a coalition of the state's voters led a citizens' veto effort and collected more than 68,000 signatures in support of reinstating EDR.<sup>2</sup> On November 8, 2011, Maine voters resoundingly rejected the repeal of EDR at the ballot box.<sup>3</sup>

## REPEAL OF ELECTION DAY REGISTRATION

Governor LePage signed LD1376 into law on June 21, 2011, prohibiting voters in Maine from registering on Election Day.<sup>4</sup>

This legislation also shortened the early voting period in Maine, which is conducted through in-person absentee voting.

Voters were previously able to vote in person until the day before the election.

## PHOTO ID MANDATE

In addition to their repeal of EDR, Maine Republicans advanced a strict photo identification requirement. Under LD199,<sup>5</sup> voters in Maine would have to provide current, government-issued photo identification as a prerequisite for voting.

## PROOF OF CITIZENSHIP REQUIREMENT

Republicans also sought to enact a requirement that Mainers provide "proof of citizenship" when registering to vote. The GOP bill, LD797, would have moved the last day for in-person registration back to **seven days** before the election and would have required that voters prove their citizenship, though the legislation never defined the actual process by which a voter could have done so.<sup>6</sup>

For 38 years, voters in Maine were able to register to vote on Election Day.<sup>7</sup> In 2008, nearly 60,000 Mainers registered on Election Day.<sup>8</sup>

EDR is a major reason why Maine has had one of the highest rates of voter participation in the United States. In 2008, 71% of Maine's eligible voters turned out, as opposed to the 62% national average for states that do not have EDR.<sup>9</sup>

In July, GOP State Chairman Mike Webster called for an investigation into 206 college students that he accused of voting illegally. Secretary of State Charles Summers obliged and launched a wide-ranging investigation into all forms of voter fraud in the state for the past several years. All 206 of the students were cleared of any wrongdoing from the baseless allegations.<sup>10</sup> Yet Summers wrote an intimidating letter inviting them to cancel their registrations, which might ultimately work to suppress the vote.

State Sen. Stan Gerzovsky, while speaking on the Maine House floor, succinctly expressed the high burden the proposed photo ID requirement would place on the elderly: *"I'm going to have to take an 88-year-old mother, Mr. President, down to Motor Vehicles sometime before the next election, even though everybody in my community knows her well, and get a photo ID of her, because she stopped driving many years ago. She doesn't have a driver's license any longer; she doesn't have a clue where it is. We talked about it this weekend. And that's going to be a major inconvenience, not only to my mother but to a lot of other mothers and grandmothers."*<sup>11</sup>



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4. L.D. 1376, 125th Sess., (Me. 2011), available at <http://www.mainelegislature.org/LawMakerWeb/dockets.asp?ID=280041037> (last visited Nov. 3, 2011).
5. L.D. 199, 125th Sess., (Me. 2011), available at [http://www.mainelegislature.org/legis/bills/bills\\_125th/billtexts/HPO17602.asp](http://www.mainelegislature.org/legis/bills/bills_125th/billtexts/HPO17602.asp) (last visited Nov. 3, 2011).
6. S.P. 241, 125th Sess., (Me. 2011), available at [http://www.mainelegislature.org/legis/bills/bills\\_125th/billtexts/SPO24101.asp](http://www.mainelegislature.org/legis/bills/bills_125th/billtexts/SPO24101.asp) (last visited Nov. 3, 2011).
7. Kevin Miller, *Senate GOP, Dems clash over same-day voter registration*, MAINE SENATE DEMOCRATS (June 9, 2011), available at <http://www.mainesenate.org/2011/06/senate-gop-dems-clash-over-same-day-voter-registration/> (last visited Nov. 16, 2011).
8. *Id.*
9. Demos, *Voters Win with Same Day Registration* (January 2010), available at [http://www.demos.org/sites/default/files/publications/VotersWinSDR\\_2010\\_Demos.pdf](http://www.demos.org/sites/default/files/publications/VotersWinSDR_2010_Demos.pdf) (last visited Nov. 3, 2011).
10. Eric Russell, *Secretary of State finds no student voter fraud but still pledges to improve system*, THE BANGOR DAILY NEWS (September 22, 2011), available at <http://bangordailynews.com/2011/09/21/politics/secretary-of-state-finds-no-student-voter-fraud-but-maintains-system-is-vulnerable/> (last visited Nov. 3, 2011).
11. A.J. Higgins, *Maine Senate Rejects Bill Requiring ID to Vote*, THE MAINE PUBLIC BROADCASTING NETWORK (June 13, 2011), available at <http://www.mpbn.net/Home/tabid/36/ctl/ViewItem/mid/3478/ItemId/16758/Default.aspx> (last visited Nov. 3, 2011).



Although Minnesota has long provided voters an opportunity to register at the polls on Election Day, Republicans have sought to roll back voting rights in Minnesota for years. In 2001, then-State Senator Michele Bachmann authored a bill to enact proof of citizenship and photo ID requirements, which failed to gain any traction.<sup>1</sup>

Ten years later, the Republican-controlled Minnesota legislature followed suit, passing a government-issued photo ID bill.<sup>2</sup> However, Democratic Governor Mark Dayton stood up for all voters and vetoed the bill on May 23, 2011.<sup>3</sup>

## PHOTO ID MANDATE

The Republican photo ID bill, S0509, required all voters to present valid state or federal government-issued photo ID before voting. Acceptable forms of identification would have included:

- Minnesota driver's license;
- Minnesota photo identification card;
- Minnesota voter photo identification card; or
- Tribal identification only if it contains all data required on a Minnesota ID card

## ELECTION DAY REGISTRATION REPEAL

Shortly after the 2010 election, Republican leaders also publicly proposed repealing Election Day Registration (EDR) in Minnesota.<sup>4</sup> While these plans were roundly condemned and never materialized into a full legislative effort, the idea to repeal EDR was a central tenet of Minnesota Majority, a right-wing advocacy group that specializes in trumped-up charges of voter fraud and climate change denials. In addition to advocating for the repeal of EDR, this group sent its members to spy on Minnesota voters in the 2010 midterms,<sup>5</sup> made exaggerated allegations of widespread voter fraud, and argued for a photo ID mandate.<sup>6</sup>

**Regulating the fundamental right to vote costs millions.** In order for photo ID mandates to survive constitutional scrutiny, states must provide photo IDs free of charge, educate the public about the new requirement, undertake extensive outreach to voters who may lack identification, and implement changes through state bureaucracy—all of which are expensive and must be paid for with taxpayer dollars. All too often, these costs are passed on to municipalities and local boards of elections.

In Governor Dayton's veto statement, he rightly pointed out that the Minnesota photo ID bill "is an **unfunded mandate** on local units of government at all levels—counties, cities, townships, and school boards. There is a **\$23 million cost**, documented with a local impact note from the Department of Management and Budget, that has been totally ignored. At a time when local governments are facing dramatic cuts, adding another mandate without financial assistance is irresponsible."<sup>7</sup>

Most disingenuously, Minnesota Majority and the GOP argued for these so-called reforms because individuals convicted of felonies were allegedly voting in high numbers. Responding to the group's latest accusations, the head of the Minnesota County Attorneys Association, John Kingrey, called the voter fraud allegations "wildly overstated" and said they wasted limited public safety resources.<sup>8</sup> The GOP's allegations of fraud are also inconsistent with a recent study cited in USA Today,<sup>9</sup> which documented that the actual number of people convicted of voter fraud in Minnesota amounted to **0.0009%** of the electorate.<sup>10</sup> That is virtually zero.

Not only is felon voting not an actual widespread problem in Minnesota, but also neither of the supposed remedies could actually address that issue. The only election irregularity that photo ID legislation could possibly prevent is in-person voter impersonation, and there is no evidence that this is a problem in Minnesota—or anywhere else in the country.



1. S.F. 1011, Leg. Sess. 82, (Mn. 2011), available at [https://www.revisor.mn.gov/revisor/pages/search\\_status/status\\_detail.php?b=Senate&f=SF1011&ssn=0&y=2001](https://www.revisor.mn.gov/revisor/pages/search_status/status_detail.php?b=Senate&f=SF1011&ssn=0&y=2001) (last visited Nov. 3, 2011).
2. S.F. 509, Leg. Sess. 87, (Mn. 2011), available at [https://www.revisor.mn.gov/revisor/pages/search\\_status/status\\_detail.php?b=Senate&f=SF0509&ssn=0&y=2011&ls=87](https://www.revisor.mn.gov/revisor/pages/search_status/status_detail.php?b=Senate&f=SF0509&ssn=0&y=2011&ls=87) (last visited Nov. 3, 2011).
3. Letter from Gov. Mark Dayton to Minn. Sen. Pres. Fishbach (May 11, 2011), available at <http://www.postbulletin.typepad.com/files/daytons-voter-id-veto-letter.pdf> (last visited Nov. 3, 2011).
4. Anthony Balady, *Newly Elected Minnesota Legislators Announce Intent to Make Voting More Difficult*, PROJECT VOTE VOTING MATTERS BLOG (December 10, 2010), available at <http://www.projectvote.org/blog/2010/12/newly-elected-minnesota-legislators-announce-intent-to-make-voting-more-difficult/> (last visited Nov. 3, 2011).
5. Tom Scheck, *Minn. Groups plan polling place surveillance*, MPR NEWS (October 7, 2010), available at <http://minnesota.publicradio.org/display/web/2010/10/07/poll-watchers/> (last visited Nov. 3, 2011).
6. Minnesota Majority, *The Case for Investigation and Reform*, available at <http://www.minnesotamajority.org/TheIssues/ElectionIntegrity/tabid/188/Default.aspx> (last visited Nov. 3, 2011).
7. Letter from Gov. Mark Dayton to Minn. Sen. Pres. Fishbach.
8. Tim Pugmire, *Report Photo ID requirement would not prevent voter fraud*, MPR NEWS (November 22, 2010), available at <http://minnesota.publicradio.org/display/web/2010/11/22/voter-fraud-report-photo-id/> (last visited Nov. 3, 2011).
9. Citizens for Election Integrity Minnesota, *CEIMN Report Highlighted in USA Today Editorial* (June 13, 2011), [http://ceimn.org/Voter\\_ID\\_Photo\\_Fraud\\_USA\\_Today\\_Elections\\_Voting](http://ceimn.org/Voter_ID_Photo_Fraud_USA_Today_Elections_Voting) (last visited Nov. 3, 2011).
10. Kathy Bonnifield, Carol Johnson, *Facts About Ineligible Voting and Voter Fraud in Minnesota*, 2 (November 2010), available at [http://ceimn.org/files/Facts%20about%20Ineligible%20Voting%20and%20Voter%20Fraud%20in%20Minnesota\\_with%20appendix.pdf](http://ceimn.org/files/Facts%20about%20Ineligible%20Voting%20and%20Voter%20Fraud%20in%20Minnesota_with%20appendix.pdf) (last visited Nov. 3, 2011).

In 2006, the Supreme Court of Missouri declared that the state's newly enacted photo ID requirement was an unconstitutional poll tax in violation of the Missouri Constitution.<sup>1</sup> Despite that ruling, Missouri Republicans dedicated themselves to enacting a photo ID mandate, and in 2011, the Republican-controlled General Assembly passed both photo ID legislation and a proposed ballot initiative to amend the Missouri Constitution to allow for photo ID.



Fortunately for Missouri voters, Democratic Governor Jay Nixon vetoed SB3, the photo ID bill, on June 17, 2011.<sup>2</sup> However, the proposed constitutional amendment, which was not subject to a veto, will appear on the ballot in 2012, and photo ID and citizenship challenges could still become the law in Missouri.

## PHOTO ID MANDATE

SB3 requires that voters possess and display one of the following forms of government-issued photo identification:<sup>3</sup>

- Non-expired Missouri driver's license;
- Non-expired Missouri non-driver's license;
- Military ID; or
- An identification document issued by the United States or Missouri containing (a) a photograph; (b) the name of the voter, which substantially conforms to the most recent signature in the individual's voter registration records; and (c) either a current expiration date or expiration date after the most recent general election.

## RESTRICTIONS ON VOTER REGISTRATION DRIVES

Republicans in Missouri also sought to tighten restrictions on voter registration drives in 2011. House Republicans proposed HB240, which would have required anyone requesting 50 or more voter registration applications to provide extensive information to the state and sign an affirmation subject to criminal penalties. The legislation did not make it out of the Missouri House.<sup>4</sup>

In his veto statement, Governor Jay Nixon said that "[t]his new mandate would disproportionately impact senior citizens and persons with disabilities, among others, who are qualified to vote and have been lawfully voting since becoming eligible to do so, but are less likely to have a driver's license or government-issued photo ID. **Disenfranchising certain classes of persons is not acceptable.**"<sup>5</sup> Governor Nixon's concerns were well-founded: the Missouri Department of Revenue estimated that 379,291 Missourians would need new state-issued photo IDs in order to vote if the photo ID requirement went into effect.<sup>6</sup>

Under the original Missouri law, the photo ID scheme provided identification cards without cost but did not provide for the expense of underlying documents—such as certified copies of birth certificates—needed to obtain that free identification. In 2006, the Missouri Supreme Court struck down that law as an impermissible poll tax under the Missouri Constitution. The en banc Court wrote, "The trial court also found that the citizens who currently lack the requisite photo ID are generally 'the least equipped to bear the costs.' For Missourians who live beneath the poverty line, the \$15 they must pay in order to obtain their birth certificates and vote is \$15 that they must subtract from their meager ability to feed, shelter, and clothe their families. **The exercise of fundamental rights cannot be conditioned upon financial expense.**"<sup>7</sup>



1. Weinschenk v. State of Missouri, 203 S.W.3d 201, 214 (Mo. 2006).
2. S.B. 3, 96th Gen. Assem., (Mo. 2011), available at [http://www.senate.mo.gov/11info/BTS\\_Web/Bill.aspx?SessionType=R&BillID=4065294](http://www.senate.mo.gov/11info/BTS_Web/Bill.aspx?SessionType=R&BillID=4065294) (last visited Nov. 3, 2011).
3. *Id.*
4. H.B. 240, 96th Gen. Assem., (Mo. 2011), available at <http://www.house.mo.gov/billssummary.aspx?bill=HB240&year=2011&code=R> (last visited Nov. 3, 2011).
5. Letter from Gov. Jay Nixon to the Secretary of State of Missouri, returning S.B. 3 (June 17, 2011), available at <http://governor.mo.gov/newsroom/pdf/2011/sb3veto.pdf> (last visited Nov. 3, 2011).
6. Fiscal Note for S.B. 3, 96th Gen. Assem., (Mo. 2011), available at <http://www.moga.mo.gov/Oversight/OVER11/fishtm/O283-O3N.ORG.htm> (last visited Nov. 3, 2011).
7. Weinschenk v. State of Missouri, 203 S.W.3d, 214.

In the 2011 legislative session, Republicans in the New Hampshire General Court proposed and advanced more restrictions on the right to vote than nearly any other state.



Although the legislature failed to pass a proof of citizenship requirement (HB515), the elimination of Election Day Registration (HB223), and a ban on college students or active members of the military registering to vote at the address of their college or military base (HB176), the General Court did pass SB129, a government-issued photo ID mandate. Fortunately, Democratic Governor John Lynch vetoed the photo ID requirement on June 27, 2011.<sup>1</sup>

## PHOTO ID MANDATE

Under SB129, all voters in New Hampshire would have had to provide valid photo identification that satisfied each of the following requirements:

- The name on the identification “substantially conforms to the name in the individual’s voter registration record”;
- The ID contains a photograph; and
- The ID was issued by the United States or the State of New Hampshire or is a valid state driver’s license.

## RESTRICTIONS ON COLLEGE STUDENTS REGISTERING

HB176 would have prevented students at colleges and universities in New Hampshire from registering to vote at their school address unless they had previously established a permanent residence there.<sup>2</sup> The bill would have also disenfranchised some members of the military: Members of the armed forces stationed in New Hampshire would not have been able to register and vote from their base addresses.

After receiving enormous criticism, HB176 was defeated on a vote in the New Hampshire House.

## ELIMINATE ELECTION DAY REGISTRATION

Republicans in the New Hampshire General Court proposed and advanced HB223, legislation that would end the ability of New Hampshire voters to register on Election Day.<sup>3</sup> This bill was defeated on a vote in the House after receiving opposition from all over the state.

## REQUIRING PROOF OF CITIZENSHIP TO REGISTER

The New Hampshire GOP sought to enact a documentary proof of citizenship requirement, HB515,<sup>4</sup> which would mean that voters no longer had the ability to confirm their citizenship with an affidavit, and instead would require that all citizens present:

- A birth certificate;
- A passport;
- Naturalization papers for naturalized citizens; or
- An official state or federal document stating that the applicant is a United States citizen.

As the proponents of photo ID fail to point out, voter fraud is already prevented by existing identification requirements when registering to vote and deterred by serious criminal penalties, including sentences up to five years in prison. Governor Lynch’s veto statement reflected this reality, saying, “Voter turnout in New Hampshire is among the highest in the nation, election after election. There is no voter fraud problem in New Hampshire. **We already have strong elections laws that are effective in regulating our elections.**”<sup>5</sup>

Republican Speaker of the House William O’Brien did not hesitate to discuss his motivations for preventing college students from voting.<sup>6</sup> Addressing a Tea Party group, he said, “Voting as a liberal. That’s what kids do. ... Students,” he added, “just vote their feelings.”<sup>7</sup>

But HB176 would have affected young voters in New Hampshire so negatively that even the state’s College Republicans opposed the GOP legislation. The *Washington Post* quoted Richard Sunderland III, president of the Dartmouth College Republicans, as saying, “There’s no doubt that this bill would help Republican causes.” But, he added, “This doesn’t help if the Republican Party wants to try to win over people in the 18-to-24 age range.”<sup>8</sup>



1. S.B. 129, 2011 Sess., (NH. 2011), available at <http://www.gencourt.state.nh.us/legislation/2011/SB0129.html> (last visited Nov. 3, 2011).
2. H.B. 176, 2011 Sess., (NH 2011), available at <http://www.gencourt.state.nh.us/legislation/2011/HB0176.html> (last visited Nov. 3, 2011).
3. H.B. 223, 2011 Sess., (NH 2011), available at <http://www.gencourt.state.nh.us/legislation/2011/HB0223.html> (last visited Nov. 3, 2011).
4. H.B. 515, 2011 Sess., (NH 2011), available at <http://www.gencourt.state.nh.us/legislation/2011/HB0515.html> (last visited Nov. 3, 2011).
5. Gov. John Lynch, *Press Release: Governor Lynch's Veto Message Regarding SB 129* (June 27, 2011), available at <http://www.governor.nh.gov/media/news/2011/062711-sb129.htm> (last visited Nov. 3, 2011).
6. Peter Wallsten, *In states, parties clash over voting laws that would affect students, others*, WASHINGTON POST (March 8, 2011), available at [http://www.washingtonpost.com/wp-dyn/content/article/2011/03/06/AR2011030602662.html?tid=nn\\_twitter](http://www.washingtonpost.com/wp-dyn/content/article/2011/03/06/AR2011030602662.html?tid=nn_twitter) (last visited Nov. 3, 2011).
7. *Id.*
8. *Id.*

In the 2011 legislative session, Republicans in North Carolina attempted to overhaul the state's election process, passing a government-issued photo ID mandate and pursuing a reduction in early voting. Democratic Governor Bev Perdue, however, vetoed the photo ID requirement,<sup>1</sup> and Republicans were unable to pass the reduction in early voting.<sup>2</sup>



## PHOTO ID MANDATE

The Republican bill, HB351, would require that all voters produce government-issued photo identification as a prerequisite to casting a ballot. Under HB351, only the following forms of ID would be acceptable:<sup>3</sup>

- North Carolina driver's license, N.C. identification card, or N.C. voter identification card;
- Government employee identification card;
- United States passport;
- Military identification card; or
- Tribal identification card.

## REDUCTION TO EARLY VOTING

Under HB658, the early voting period in North Carolina would have been reduced from **15 days** down to just **nine days**.<sup>4</sup> The bill would start early voting a week later than it currently begins and would restrict the hours that counties can open polling locations both during the week and on Saturdays.

Moreover, the legislation bans early voting anywhere in the state before **10 a.m.**—even on weekdays. This arbitrary start time would have prevented many working voters from getting to the polls before punching the clock in the morning. Under current law in North Carolina, counties set their own voting times, and the overwhelming majority open well before 10 a.m.<sup>5</sup>

Evidence from 2008 swing states shows that African Americans disproportionately used early vote opportunities to cast their ballots. In the first stages of early voting in North Carolina, which HB658 seeks to cut, African Americans accounted for **33%** of ballots cast even though they make up only **21%** of all voters in the state.<sup>9</sup>

North Carolina HB351 is another example of the great financial costs that accompany mandating photo ID and regulating the right to vote. The Institute for Southern Studies estimated that the requirement would cost North Carolina taxpayers between **\$18** and **\$25 million** just in the first three years of implementation.<sup>6</sup>

In North Carolina, the GOP argued that early voting should be cut in order to save taxpayer dollars. Republican Senator Jim Davis, the sponsor of the bill that would cut the first week of early voting, said, "We were just trying to minimize the time early voting polls were open ... so the expense is not so great for local election boards."<sup>7</sup> Although this explanation is at least plausible, it is entirely false. According to Gary Bartlett, the executive director of the state's elections board, the "perceived savings [of cutting early voting] would be more than offset by cost increases."<sup>8</sup>

The real cost of elections are not wholly determined by days or hours that polling places are available; they are most connected to voter turnout. Bartlett said that, were the law passed, the counties would have to deal with greater Election Day turnout, and potentially open new precincts or buy new voting equipment. By cutting early voting, county boards no longer have the flexibility to allocate equipment and staff most efficiently.



1. H.B. 351, 2011-2012 Sess., (NC 2011), available at <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=HB351> (last visited Nov. 3, 2011).
2. H.B. 658, 2011-2012 Sess., (NC 2011), available at <http://www.ncga.state.nc.us/gascripts/billlookup/billlookup.pl?Session=2011&BillID=H658> (last visited Nov. 3, 2011).
3. H.B. 351, 2011-2012 Sess., (NC 2011).
4. H.B. 658, 2011-2012 Sess., (NC 2011).
5. See, e.g., Durham County Government website, *2008 General Election One Stop No Excuse Absentee Voting*, available at [http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=OCBsQFjAA&url=http%3A%2F%2Fwww.co.durham.nc.us%2Fdepartments%2Felec%2F2008\\_Election%2FNovember%2520Election%2F2008\\_ONE\\_STOP\\_SCHEDULE.pdf&ei=r6TKTr\\_7GKLZ0QHtp7TpDw&usg=AFQjCNGoz3p381tndLaZ257uJvRJMASUw](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=OCBsQFjAA&url=http%3A%2F%2Fwww.co.durham.nc.us%2Fdepartments%2Felec%2F2008_Election%2FNovember%2520Election%2F2008_ONE_STOP_SCHEDULE.pdf&ei=r6TKTr_7GKLZ0QHtp7TpDw&usg=AFQjCNGoz3p381tndLaZ257uJvRJMASUw) (last visited Nov. 21, 2011).
6. The Institute of Southern Studies, *Voter ID law 'unaffordable' for North Carolina* (February 2, 2011), available at <http://www.southernstudies.org/2011/02/report-voter-id-law-unaffordable-for-north-carolina.html> (last visited Nov. 3, 2011).
7. Jim Morrill, *GOP proposal would cut a week from early voting*, CHARLOTTE OBSERVER (April 27, 2011), available at <http://www.charlotteobserver.com/2011/04/27/2251564/gop-proposal-would-cut-a-week.html#ixzz1Oh1auyNV> (last visited Nov. 3, 2011).
8. Jim Morrill, *Shorter early voting costlier*, CHARLOTTE OBSERVER (May 19, 2011), available at <http://www.charlotteobserver.com/2011/05/19/2307261/shorter-early-voting-costlier.html> (last visited Nov. 3, 2011).
9. Alex Roth, *Outsize Portion of Blacks Are Casting Early Ballots*, THE WALL STREET JOURNAL (October 22, 2008), available at <http://online.wsj.com/article/SB122463439049156841.html> (last visited Nov. 3, 2011).

In the 2011 legislative session, Republicans in the Ohio legislature advanced a significant number of restrictive voting measures. Although the state already has a strong voter identification requirement, House Republicans advanced HB159, which was among the most stringent photo ID mandates proposed anywhere in the United States.<sup>1</sup> While resistance from a diverse array of opponents—including Republican Secretary of State Jon Husted—has prevented HB159 from moving through the Senate, Republicans were successful in passing a separate omnibus elections bill.



Republican Governor John Kasich signed HB194 into law on July 1, 2011, enacting a 251-page bill that reduces early voting, makes it less likely that provisional ballots will be counted, and changes myriad other election provisions.<sup>2</sup> More than 300,000 Ohio voters signed a petition to put HB194 before the voters in 2012. The secretary of state is currently certifying the signatures, and once the petition is approved, the restrictive law will be suspended to allow voters to approve or reject the legislation in the November 2012 general election.

### PHOTO ID MANDATE

The proposed Republican photo ID requirement, HB159, was stricter and provided fewer safeguards than nearly any other photo ID proposal in the nation. Under this bill, Ohio voters would have had their ballots counted only if they provided:

- An Ohio driver's license or Ohio identification card;
- A Military ID; or
- A U.S. passport.

Students with college IDs or seniors with Medicare cards would simply be out of luck – their votes would not have been counted unless they obtained one of the required forms of identification.

### REDUCTIONS TO EARLY VOTING

The most significant provision in HB194 drastically cuts early voting. In Ohio, early voting is conducted in the form of in-person absentee voting. The Republican legislation reduces the in-person absentee period from **five weeks** down to **two weeks**. Additionally, in-person absentee voting is banned on Sundays and limited to a half day on Saturdays.

The cuts include the previously existing week when in-person absentee voting overlapped with Ohio's voter registration period. This overlap had the effect of allowing voters to register and vote at the same time. Under HB194, there is no longer an opportunity to register and cast a ballot on the same day at any time in Ohio.

Additionally, HB194 cut the period during which a voter could mail an absentee ballot from **five weeks** to **three weeks** before Election Day.

### PREVENTS VOTERS' BALLOTS FROM BEING COUNTED

In addition to its reduction in early voting, HB194 makes countless seemingly small changes to Ohio election laws that add up to one big result: It will be more difficult for many voters to have their ballots counted. Some of the ways HB194 makes it less likely that Ohioans' votes will be counted include:

- Relieves poll workers of the duty under current law to direct voters to the proper precinct at their polling place;
- Prohibits a ballot from being counted based on minor technicalities, including marking a candidate and writing the same candidate's name in the write-in box;
- Eliminates opportunities for voters to ensure their provisional ballot is counted.

Jon Husted, Ohio's Republican secretary of state, opposes HB159 and said "a better way" to conduct voter identification at the polls would be to rely on a utility bill, government-issued check, or bank statement—as permitted under current law in Ohio.<sup>3</sup>

By reducing the opportunity to vote early in Ohio, both in-person and by mail, Republicans have guaranteed longer lines on Election Day.

In 2008 in Franklin County alone, 234,000 people voted in-person on the early voting days or times that HB194 bans. Another nearly 182,000 people mailed ballots during the first two weeks of the absentee period that Republicans have cut.<sup>4</sup>



1. H.B. 159, 129th Gen. Assem., (Oh 2011), available at <http://lsc.state.oh.us/coderev/hou129.nsf/House+Bill+Number/0159?OpenDocument> (last visited Nov. 3, 2011).
2. H.B. 194, 129th Gen. Assem., (Oh 2011), available at [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_194](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_194) (last visited Nov. 3, 2011).
3. Joe Vardon, *Husted opposes voter ID mandate*, THE COLUMBUS DISPATCH (April 8, 2011), available at <http://www.dispatch.com/content/stories/local/2011/04/08/husted-opposes-photo-id-mandate.html> (last visited Nov. 3, 2011).
4. Robert Vitale, *Banned voting options popular*, DISPATCH POLITICS (July 24, 2011), available at <http://www.dispatchpolitics.com/content/stories/2011/07/24/banned-voting-options-popular.html> (last visited Nov. 3, 2011).

In the ongoing 2011 legislative session, Republicans in Pennsylvania continue to advance HB934, a strict photo ID requirement. The GOP in the Pennsylvania House passed the legislation on June 21, and the Senate might consider the mandate later this year.<sup>1</sup> Republican Governor Tom Corbett has recently come out in favor of enacting the harsh photo ID scheme.<sup>2</sup>



Corbett also supported a blatantly partisan attempt to leverage the Republican-gerrymandered congressional districts into more Electoral College votes for Republican candidates.<sup>3</sup>

## PHOTO ID MANDATE

Under HB934, every individual would need to provide photo identification that:<sup>4</sup>

- Shows the name of the voter in a way that conforms with the voting rolls;
- Includes an expiration date that is after the most recent general election; and
- Has been issued by the United States or the Commonwealth of Pennsylvania.

This GOP photo ID legislation would immediately place Pennsylvania's identification requirements among the strictest in the country and would not allow any voter to use student IDs, identification cards from the Department of Veterans Affairs, or tribal identification cards—all secure forms of identification.

## ELECTORAL COLLEGE LEGISLATION

Republican Senate Majority Leader Dominic Pileggi introduced legislation that would change how presidential electors are selected in Pennsylvania. Currently, Pennsylvania, 47 other states, and the District of Columbia award all their electoral votes to the winner of the statewide popular vote.

This new bill in Pennsylvania, SB1282, would divide the Commonwealth's 20 electoral votes as follows:

- Two electoral votes awarded to winner of the statewide popular vote; and
- One electoral vote awarded to the winner of each congressional district, meaning that 18 electoral votes will be distributed between the candidates on a district-by-district basis.<sup>5</sup>

Senator Pileggi's chief of staff, Erik Arneson, defended the proposal, saying, "From a strictly partisan point of view, we are going to benefit."<sup>6</sup>

The Pennsylvania GOP continues to advance photo ID even though the state's Department of Transportation indicated that there are more than **318,000** registered voters in Pennsylvania who currently lack government-issued photo ID and, if HB934 is enacted, could not vote without obtaining a new form of identification.<sup>7</sup> Although the fight over photo ID in Pennsylvania is ongoing, opponents all over the Keystone State are standing up to this proposed mandate.

The County Commissioners Association of Pennsylvania opposes HB934 and offered this powerful rebuttal of the GOP argument that the bill would prevent voter fraud: "We find no evidence—substantiated by a search of case records and anecdotal information from the counties—that it is an issue. And so we believe a requirement to present ID at all elections is a solution to a problem that does not exist."<sup>8</sup>

The executive director of the SeniorLAW Center, Karen Buck, described the disproportionate impact HB934 would have on Pennsylvania's seniors, writing that "[S]eniors are disproportionately represented among the millions of Americans who do not have current government-issued photo IDs. As many as **18%** of American citizens age **65 and older**—more than **six million seniors**—do not have current government-issued photo IDs. This may include more than **340,000 older Pennsylvanians**—more than the total population of Pittsburgh."<sup>9</sup>



1. HB 934, 2011-2012 Sess. (PA 2011), available at <http://www.legis.state.pa.us/cfdocs/billinfo/BillInfo.cfm?year=2011&sind=0&body=H&type=B&bn=934> (last visited Nov. 3, 2011).
2. Tracie Mauriello, *Corbett administration backs voter ID requirement*, PITTSBURGH POST-GAZETTE (August 23, 2011), available at <http://www.post-gazette.com/pg/11235/1169283-100.stm> (last visited Nov. 3, 2011).
3. Keegan Gibson, *Corbett Reiterates Support for Electoral College Plan*, POLITICSPA (September 17, 2011), available at <http://www.politicspa.com/corbett-reiterates-support-for-electoral-college-plan/27893/> (last visited Nov. 17, 2011).
4. HB 934, 2011-2012 Sess. (PA 2011).
5. Nate Silver, *Pennsylvania Electoral College Plan Could Backfire on G.O.P.*, THE NEW YORK TIMES (September 15, 2011), available at <http://fivethirtyeight.blogs.nytimes.com/2011/09/15/pennsylvania-electoral-college-plan-could-backfire-on-g-o-p/> (last visited Nov. 21, 2011). Because of apportionment changes, Pennsylvania will have 20 electoral votes in 2012 – one less than in 2008. Id.
6. Tom Curry, *Pennsylvania ponders Electoral College revamp*, MSNBC (September 16, 2011), available at [http://www.msnbc.msn.com/id/44540963/ns/politics-decision\\_2012/t/pennsylvania-ponders-electoral-college-revamp/](http://www.msnbc.msn.com/id/44540963/ns/politics-decision_2012/t/pennsylvania-ponders-electoral-college-revamp/) (last visited Nov. 17, 2011).
7. *Fiscal Note*, House Committee on Appropriations, available at <http://www.legis.state.pa.us/WU01/LI/BI/FN/2011/O/HB0934P2166.pdf>, (last visited Nov. 3, 2011).
8. Letter from Douglas Hill, Exec. Dir. of PA House State Gov't Cmte. to Members of the PA State Gov't Cmte. (March 18, 2011), available at <http://www.pacounties.org/GovernmentRelations/Documents/VoterIDHStateMemo20100318.pdf> (last visited Nov. 3, 2011).
9. Karen C. Buck, *Requiring photo ID would hinder seniors right to vote*, CENTRE DAILY TIMES (July 22, 2011), available at <http://www.centredaily.com/2011/05/20/2724789/requiring-photo-id-would-hinder.html> (last visited Nov. 3, 2011).



Republicans in Tennessee were some of the most successful in their attempts to restrict access to the electoral process. In the 2011 legislative session, Tennessee’s Republican Governor Bill Haslam signed five restrictive voting bills into law—more than any other state this year.

The new laws instituted a government-issued photo ID requirement, created a citizenship challenge initiative, shortened early voting for presidential elections, eliminated early voting for municipal elections, and repealed the Voter Confidence Act of 2008, which would have required all voting machines to have a paper trail.

## PHOTO ID MANDATE

HB7/SB16 requires all in-person voters to present government-issued photo identification as a prerequisite to casting a ballot.<sup>1</sup>

## REQUIRING PROOF OF CITIZENSHIP TO REGISTER

Tennessee’s citizenship challenge initiative eliminates the use of postcard registration forms. Instead, everyone registering to vote must fill out a new, full registration form, and the applicant must submit evidence of United States citizenship with the application. The registrar will reject the application if no evidence of citizenship is attached.<sup>2</sup>

## REDUCTION TO EARLY VOTING

Under SB923, the early voting period for Tennessee’s presidential elections has been reduced by two days, ending a full seven days before Election Day.<sup>3</sup>

A second bill completely eliminated early voting for election cycles that have only municipal races and for any special primary or special general election for state or federal offices if there is no opposition for any of the races on the ballot.<sup>4</sup>

## BALLOT PAPER TRAIL LEGISLATION

Tennessee Republicans also pushed through a de facto repeal of the Voter Confidence Act of 2008, which required all voting machines to have a voter-verified paper ballot.<sup>5</sup>

Republicans argued that not implementing the Voter Confidence Act of 2008 was necessary because the fiscal requirements created an unfunded mandate,<sup>6</sup> despite the fact that Tennessee received \$37 million dollars from the federal government dedicated to purchasing the updated voting machines.<sup>7</sup> Additionally, this argument ignores the fact that other restrictive voting bills passed in Tennessee will impose millions of dollars in costs on taxpayers. After analyzing the costs of photo ID laws in states where they already exist, the Voting Rights Institute estimated that implementation in Tennessee would cost between \$8 million and \$24 million in just the first four fiscal years.<sup>8</sup>

There are also costs to voters associated with Tennessee’s new laws. As *The Times Free Press* pointed out, “A whopping 53 of 95 Tennessee counties have no driver’s license center, meaning some rural residents will have to travel as far as 60 miles to get a proper ID—a significant burden for the working poor, the elderly, and disabled voters.”<sup>9</sup>



1. H.B. 0007/S.B.0016, 107th General Assembly (TN 2011), available at <http://wapp.capitol.tn.gov/apps/billinfo/default.aspx?billnumber=HB0007>. (last visited Nov. 30, 2011).
2. H.B. 0324/S.B. 0352, 107th General Assembly (TN 2011), available at <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB0324> (last visited Nov. 17, 2011).
3. S.B. 0923/H.B. 0708, 107th General Assembly (TN 2011), available at <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB0923> (last visited on Nov. 17, 2011).
4. S.B. 0922/H.B. 0709, 107th General Assembly (TN 2011), available at <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB0922> (last visited Nov. 17, 2011).
5. H.B. 0386/S.B. 1203, 107th General Assembly (TN 2011), available at <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB0386> (last visited Nov. 17, 2011).
6. Jeff Woods, *Republicans move to maintain electronic voting machines*, THE CITY PAPER (May 15, 2011), available at <http://nashvillecitypaper.com/content/city-news/republicans-move-maintain-electronic-voting-machines> (last visited on Nov. 17, 2011).
7. Tom Humphrey, *Voter Confidence Now a County Option*, KNOXNEWS.COM (May 15, 2011), available at <http://blogs.knoxnews.com/humphrey/2011/05/voter-confidence-now-a-county.html> (last visited Nov. 17, 2011).
8. The DNC Voting Rights Institute, *The Real Cost of Photo-ID: An Unnecessary, Expensive, and Intrusive Voter Restriction in a Time of Fiscal Crisis*, available at [http://assets.democrats.org/pdfs/photoid/Dems-report-real\\_cost\\_of\\_voting\\_ID.pdf](http://assets.democrats.org/pdfs/photoid/Dems-report-real_cost_of_voting_ID.pdf) (last visited Nov. 17, 2011).
9. Chip Forrester, *New voter law will suppress legitimate voting*, TIMES FREE PRESS (October 23, 2011), available at <http://www.timesfreepress.com/news/2011/oct/23/new-voter-law-will-suppress-legitimate-voting/> (last visited Nov. 17, 2011).



Texas Governor and 2012 Republican presidential candidate Rick Perry declared voter ID one of his main legislative priorities in 2011—it was so important, in fact, that he classified it as an emergency issue.<sup>1</sup> Republicans in the legislature were so anxious to follow Governor Perry’s lead that they introduced 14 bills requiring photo ID at the polls. In addition to a government-issued photo ID mandate,<sup>2</sup> Republicans in Texas also passed new restrictions on voter registration drives.<sup>3</sup>

A bill that would have required proof of citizenship when a voter registered was introduced but did not make it through the legislature.

## PHOTO ID MANDATE

Texas’s photo ID bill, SB14, is particularly arbitrary and highlights the partisan nature of these requirements. Acceptable forms of identification include:

- A driver’s license, election identification certificate, or other card issued by the Department of Public Safety;
- A United States military ID (excludes veterans IDs);
- United States citizenship certificate containing a photograph (excludes birth certificates);
- A license to carry a concealed handgun.<sup>4</sup>

This list would make it impossible for a student to vote with her college ID, even if she attends a state university. But she could vote if she had a handgun license.

## RESTRICTIONS ON VOTER REGISTRATION DRIVES

If Texas’s new election laws are precleared by the Department of Justice, in order to facilitate a voter registration drive in Texas, deputy registrars will need to meet new requirements.<sup>5</sup> In addition, the secretary of state is creating training standards for voter registration drive workers, which could include requiring anyone who wanted to help register voters to attend classes and pass a test.<sup>6</sup>

There is ample evidence that Texas’s photo ID mandate will have a discriminatory effect on non-white Texans. The Brennan Center for Justice, the NAACP, and the Lawyers’ Committee for Civil Rights Under the Law submitted a comment to the Department of Justice against preclearance of SB14. They convincingly document the obstacles that minority communities in Texas will face while trying to access the state’s driver’s license offices [DLO], where the newly required election identification certificates [EIC] will be issued.

“First, Texas’s minority voting-age citizens are less likely to live in households with access to a private vehicle, leaving fewer and less convenient transportation options available to black and Latino EIC applicants. ...

“Second, since African Americans and Latinos are more likely than whites to live in poverty, they face a greater financial disincentive in accessing public transportation for purposes of obtaining the requisite photo ID—assuming public transportation is even available in their area.

“Finally, minority voters who are able to secure the necessary transportation to apply for an EIC would, on average, have to travel farther than white voters to reach their nearest DLO. ... Latino voting-age citizens are significantly more likely than other voters to live more than 20 miles away from their nearest DLO location. According to 2010 U.S. Census data, the concentration of Texas’s Latino voting-age citizens in these areas is 85.6% greater than it is in the rest of the state. In contrast, the concentration of voting-age white citizens in these areas is 34.3% less than it is in the rest of Texas. This reveals that the state’s eligible Latino voters will face substantially greater obstacles in obtaining an EIC than eligible white voters. More importantly, it suggests that the state’s proposed EIC program will not likely cure existing racial disparities in photo ID ownership among Texas voters and, in fact, may even exacerbate these disparities.”<sup>7</sup>



1. Terrence Stutz, *Perry declares voter ID, balanced budget amendment priorities for Texas Legislature*, THE DALLAS MORNING NEWS (January 20, 2011), <http://www.dallasnews.com/news/politics/texas-legislature/headlines/20110120-perry-declares-voter-id-balanced-budget-amendment-priorities-for-texas-legislature.ece> (last visited Nov. 17, 2011).
2. S.B. 14, 82nd Legislative Session (TX 2011), available at <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=SB14> (last visited Nov. 17, 2011).
3. H.B. 2194, 82nd Legislative Session (TX 2011), available at <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=HB2194> (last visited Nov. 17, 2011); H.B. 2817, 82nd Legislative Session (TX 2011), available at <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=HB2817> (last visited Nov. 17, 2011); H.B. 1570, 82nd Legislative Session (TX 2011), available at <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=HB1570> (last visited Nov. 17, 2011).
4. S.B. 14, 82nd Legislative Session (TX 2011), available at <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=SB14> (last visited Nov. 17, 2011).
5. H.B. 2194, 82nd Legislative Session (TX 2011).
6. H.B. 1570, 82nd Legislative Session (TX 2011).
7. Lawyers' Committee for Civil Rights Under Law, *Lawyers' Committee and Partners Press Department of Justice to Block New Texas Voter ID Law* (November 16, 2011), available at [http://www.lawyerscommittee.org/newsroom/press\\_releases?id=0181](http://www.lawyerscommittee.org/newsroom/press_releases?id=0181) (last visited Nov. 21, 2011).

In the 2011 legislative session, Republicans in the Wisconsin legislature passed AB7, an elections overhaul that instituted a strict photo ID regime and significantly cut back early voting. Republican Governor Scott Walker signed the bill into law on May 19, 2011.



## PHOTO ID MANDATE

By passing AB7, Wisconsin Republicans enacted one of the strictest photo ID regimes in the nation. Beginning in the 2012 primary, voters in Wisconsin must present one of the specified forms of government-issued photo identification in order to have their ballot counted.

## REDUCTION OF EARLY VOTING

Under previous Wisconsin law, early voting (in the form of in-person absentee voting) began on the 30th day before the election and ended on the Monday immediately before Election Day.

With AB7, the Wisconsin GOP has reduced early voting to begin on the 15th day before the election and end on the Friday before Election Day, cutting the in-person absentee period by more than half.

A report by the University of Wisconsin–Milwaukee Employment and Training Institute<sup>1</sup> found significant disparities regarding the possession of driver's licenses—the most common form of government-issued photo ID—in Wisconsin. Studying the age groups 18–24 and 35 and older, the report found **558,000 residents** likely to face problems voting under various photo ID laws proposed in the state. Additionally, the report found:

- Statewide, **59%** of Hispanic females, **46%** of Hispanic males, **55%** of African American males, and **49%** of African American females, compared to **17%** of white males and **17%** of white females, were without a valid driver's license.
- For young adults ages 18–24, **78%** of African American males and **66%** of African American females in Wisconsin were without a valid driver's license.
- **93%** of college students living in Marquette University, University of Wisconsin–Madison, and University of Wisconsin–Milwaukee residence halls do not have a driver's license for those addresses.
- **82%** of 18-, 19-, and 20-year-olds do not have a driver's license at their ZIP code for college student-intensive neighborhoods in Eau Claire, LaCrosse, Madison, Milwaukee, Oshkosh, Platteville, River Falls, Stevens Point, Stout, and Whitewater.

In his defense of this year's GOP restrictions on the right to vote, RNC Chairman Reince Priebus supported his home state's photo ID law by saying, "States like Wisconsin even ensure that those who cannot afford a state identification card are issued one free of charge."<sup>2</sup> Although Priebus implied that the Wisconsin GOP has provided free IDs altruistically, the requirement was actually mandated by the Supreme Court of the United States in *Crawford v. Marion County*.<sup>3</sup> More important, however, the implementation of photo ID in Wisconsin has shown the many burdens photo ID regimes create for voters. In just the first months of implementation, there have already been multiple reports of elderly citizens waiting for hours in order to obtain these so-called "free IDs."<sup>4</sup>



1. Employment and Training Institute, University of Milwaukee – Wisconsin, *Voter Photo ID Law Court Cases Utilize ETI Research*, available at <http://www4.uwm.edu/eti/2007/VoterID.htm> (last visited Nov. 3, 2011).
2. Reince Preibus, *Anti Voter Fraud Reforms Are Practical Not Partisan*, U.S. NEWS & WORLD REPORT (June 6, 2011), available at <http://www.usnews.com/opinion/articles/2011/06/06/anti-voter-fraud-reforms-are-practical-not-partisan> (last visited Nov. 3, 2011).
3. Crawford v. Marion County Board of Elections, 553 U.S. 181 (2008).
4. Doug Erickson, *Need a free photo ID to vote? Be prepared to wait*, WISCONSIN STATE JOURNAL (July 2, 2011), available at [http://host.madison.com/wsj/news/local/govt-and-politics/article\\_e1412868-a434-11e0-bc0c-001cc4c002e0.html](http://host.madison.com/wsj/news/local/govt-and-politics/article_e1412868-a434-11e0-bc0c-001cc4c002e0.html) (last visited Nov.