

MONEY

OUT

VOTERS

IN

*A Guide to Democratic Reform*



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For more information about these allies and other resources, please consult the resources list at the end of the toolkit.

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# INTRODUCTION

## *WHY “MONEY OUT, VOTERS IN”?*

Americans today face twin threats to the integrity of our elections. The threats are multifaceted and formidable, involving all branches of government at the local, state and federal level – from legislative bodies, to governorships, to courthouses. The aims are clear:

- Manipulate the campaign finance system to get “the right people” elected.
- Manipulate the balloting process to make it harder for “the wrong people” to vote.

These measures must be confronted. But we also need long-term proactive and pro-democracy strategies of our own.

The “Money Out, Voters In” campaign embodies this long-term vision premised on the concept of political equality, of one person = one vote.

We believe in a democratic system where all Americans have equal access to the voting booth and where all Americans, regardless of wealth, can express their views to one another and their government on a level playing field.

The following model legislation provides the structural framework for enacting this vision. This document does not contain all the answers, nor could it. We must embrace an evolution of ideas, tactics and legislative language to achieve our goals. Yet, as the local, state, and federal initiatives cited herein show, much of that work is already well-underway.

## *“MONEY OUT, VOTERS IN” TALKING POINTS*

- Sound, progressive policy initiatives face consistent uphill battles in the current political environment. Until our ‘democracy problem’ is fixed, all of our fights will be against entrenched and powerful interests and the politicians who are beholden to them.
- In the current system, most candidates must receive approval from an elite set of the “donor class” in order to run a

well-funded, competitive race. In well-regulated election environments, however, candidates derive their campaign funding from their constituents and the public-at-large. Thus, getting the “money out” of elections allows for a more ideologically diverse set of candidates to run on ideas approved by their constituencies, and not exclusively those approved by the “donor class.” Furthermore, getting the “voters in” enables an empowered and expanded electorate to vote on this diverse set of candidates, bringing the democratic ideal of “Money Out, Voters In” full circle.

- States have an important role to play in administering both state and federal elections, and thus there is much good that can be done for our democracy on the state level. States are a leading battleground for the “Money Out, Voters In” fight.
- Although much of the media coverage on election issues has focused on the conspicuous negatives, many states are already leading the way on election reform, providing potential models for adoption not only for other states but also for Congress.
- The Right has strategized and established well-funded networks to push its anti-democratic agenda. From the American Legislative Exchange Council to the State Policy Network and beyond, the Right is well-positioned to counter “Money Out, Voters In” reforms. However, they are missing an essential element to running a successful long-term campaign: the support of the people. “Money Out, Voters In” initiatives are winning initiatives.
- Political equality is a profoundly American value. Our country’s history has been a long and storied road to expanding political access. The implementation of “Money Out, Voters In” initiatives builds upon our collective struggles to enfranchise the disenfranchised, and provides the institutional structure to legislate for a more fair and just America.

# MONEY OUT

Americans of all political and ideological stripes agree: moneyed interests have overwhelmed the political process. Newly empowered to flood the airwaves with independent attack ads at will, corporate interests have more political power now than at any time in recent American history.

This trend has been decades in the making, however the Supreme Court unleashed a new element of corporate power in its landmark 2010 *Citizens United v. FEC* decision.<sup>1</sup> That decision and the subsequent cases that followed it have led to limitless and often undisclosed corporate and special interest spending in our elections, which continues to overwhelm the voices of average Americans. At the same time, the Court has been stripping states of the authority to enact meaningful fair election reforms. The resulting reality is one in which Americans no longer have access to free and fair elections.

We must do everything in our power to recover and improve that access. Our progressive vision for elections is one where:

- Campaign funding is derived from a large, small-donor base of the electorate or from the public-at-large and not from an elite few big spenders and corporate interests.
- Election-related spending is disclosed at reasonable levels in a prompt and accessible manner to the public, shining a light on both direct campaign contributions and outside independent expenditures.
- States and Congress have the constitutional authority to enact the necessary legislation to bring about these reforms.

As long as moneyed interests are allowed to spend at will without limitation, the public and their representatives will be subject to exorbitant and malicious political spending. These interests will continue to frame the debate in ways that suit their agenda, and will continue subverting our democracy.

This problem is not new in America. In the midst of the great depression, President Franklin Delano Roosevelt stated, “We know now that Government by organized money is just as dangerous as Government

by organized mob.”<sup>2</sup> More than eight decades later, in the wake of yet another financial crisis brought upon by reckless deregulation forced upon the American people by moneyed interests, President Roosevelt’s words still hold true.

It is our responsibility to break free of this system, and to get the money out.

## CONSTITUTIONAL AMENDMENT

In January of 2010, the United States Supreme Court upended our political system with its decision in *Citizens United v. FEC*. The decision, in which the Court ruled that Congress and the states were barred from limiting independent corporate spending to influence elections for public office, represents an unprecedented attack on the core democratic values of the Constitution, and all people – progressive, centrist and conservative alike – should be deeply concerned about its implications.

The decision undermined more than a century of laws regulating the influence of corporations in elections. Not only was the decision a radical departure from longstanding precedent, it defied common sense: it argued that corporations and American citizens have the same political speech rights under the Constitution to spend money to influence elections. As Justice Stevens pointed out in his dissent, corporations are not people. They cannot vote; they cannot hold office; and they should not be allowed to pour billions of dollars into our system of government.

Yet the *Citizens United* decision does not stand alone. Since 1976, the Supreme Court has infringed on the right of Congress and the states to enact commonsense election spending regulations multiple times. In decisions leading up to *Citizens United* and in subsequent cases, the Court has removed a host of legislative powers from the people and their representatives. Under the current status quo, Congress and the states are constitutionally prohibited from:

- Issuing any quantitative limit on independent expenditures or on contributions to independent election spending entities;<sup>3</sup>

<sup>2</sup> Franklin Delano Roosevelt, Address Announcing the Second New Deal, <http://docs.fdrlibrary.marist.edu/od2ndst.html>

<sup>3</sup> Speechnow.org FEC, 599 F.3d 686 (2010), available at [http://www.cadc.uscourts.gov/internet/opinions.nsf/4B824DD5C7D-7C4EF85257807005A9A46/\\$file/08-5223-1236837.pdf](http://www.cadc.uscourts.gov/internet/opinions.nsf/4B824DD5C7D-7C4EF85257807005A9A46/$file/08-5223-1236837.pdf). See also <http://www.scotusblog.com/case-files/cases/speechnow-org-v-fcc/> for case history and media analysis.

<sup>1</sup> *Citizens United v. FEC*, 588 U.S. 310 (2010), available at <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>



- Barring for-profit corporations from spending general treasury funds to influence elections;<sup>4</sup>
- Mandating participation in publicly financed elections or any election system that is not reliant on private financing;<sup>5</sup>
- Setting caps on self-funded campaigns;<sup>6</sup>

Providing a publicly-funded candidate with additional funds to compensate for spending by a privately-funded opponent and/or independent spending on that opponent's behalf that exceed the normal level of funding available to the publicly funded candidate.<sup>7</sup> Mitigation efforts can and must be enacted within this legal framework to ameliorate what the Supreme Court has wrought, yet America's campaign finance system is in need of far more than just mitigation; the entire money in politics paradigm must be shifted. That is why the American public and a growing number of public officials are calling for a constitutional amendment to overturn *Citizens United* and related cases to redefine the role of corporate power in the political sphere and place the election process where it belongs – in the hands of the people.

### LOCAL AND STATE INITIATIVES

Since the *Citizens United* decision, municipal and state governments across the country have been calling for such a constitutional amendment. To date, 16 states and nearly 500 cities/towns have passed resolutions, circulated sign-on letters, or placed the amendment strategy directly on the ballot to call on Congress to pass an amendment to send to the states for ratification.

Of these strategies, the most powerful medium is

4 *Citizens United v. FEC*, 588 U.S. 310 (2010), available at <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>. See also <http://www.scotusblog.com/case-files/cases/citizens-united-v-federal-election-commission/> for case history and media analysis.

5 *Buckley v. Valeo*, 424 U.S. 1 (1976) p 57, available at [http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0424\\_0001\\_ZO.html#424\\_US\\_1n65ref](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0424_0001_ZO.html#424_US_1n65ref). See also Republican Nat'l Comm FEC 487 F. Supp. 280, 286 (S.D.N.Y. 1980) available at [http://ny.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19800205\\_0000058.SNY.htm/qx](http://ny.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19800205_0000058.SNY.htm/qx)

6 *Buckley v. Valeo*, 424 U.S. 1 (1976) p 51-54, available at [http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0424\\_0001\\_ZO.html#424\\_US\\_1n65ref](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0424_0001_ZO.html#424_US_1n65ref)

7 *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 564 US (2011) p 2, available at <http://www.supremecourt.gov/opinions/10pdf/10-238.pdf>. See also <http://www.scotusblog.com/case-files/cases/arizona-free-enterprise-clubs-freedom-club-pac-v-bennett/> for case history and media analysis.

the ballot initiative. Citizens have voted in favor of constitutional remedies generally at three-to-one levels of support in states like Colorado and Montana, and in cities like Chicago, San Francisco and Missoula, among others. Although having voters directly weigh in on the issue is almost always preferable, sign-on letters and resolutions are also effective tools of engagement.

As with past amendment battles, these 'voter instruction' methods instruct federal and state representatives to take up the cause of reform – or face the political consequences of not doing so.

### FEDERAL INITIATIVES

Federal officials have started responding to local and state amendment initiatives. Nearly a third of the US Congress is currently in support of the amendment strategy, as is President Obama. Yet the current level of support is far from the constitutionally required two-thirds vote from Congress that it takes to send an amendment to the states for ratification; there clearly is much more organizing to do.

As tracked by [www.United4ThePeople.org](http://www.United4ThePeople.org), a handful of congressional leaders have offered federal amendment proposals, and are all calling on their colleagues to support their efforts.

### CONSTITUTIONAL AMENDMENT TALKING POINTS

- The Supreme Court's decisions in *Citizens United* and related cases threaten the democratic system set up by our Constitution. Constitutional amendments are warranted in only the most extreme circumstances. This is one of them.
- A constitutional amendment that empowers Congress and the states to regulate campaign contributions and expenditures would permit revival, on a viewpoint-neutral basis, of the essential but invalidated prohibitions on corporate political expenditures and unlimited billionaire spending.
- A corporation should have no constitutional right to convert its state-enabled economic resources into political power. As the conservative Justice Byron White so cogently put it: "The state need not permit its own

creation to consume it.” Chief Justice William Rehnquist agreed, arguing that business corporations, which are magnificent agents of capital accumulation and wealth maximization in the economic sphere, “pose special dangers in the political sphere.”<sup>8</sup>

- The people have repeatedly amended the Constitution when the Supreme Court makes common cause with the opponents of popular democracy. As Justice Thurgood Marshall observed in his famous speech on the Bicentennial of the Constitution, “the true miracle was not the birth of the Constitution, but its life, a life nurtured through two centuries of our own making . . .”<sup>9</sup>

### **CONSTITUTIONAL AMENDMENT** **MODEL LEGISLATION**

#### **LOCAL/STATE BALLOT INITIATIVE – AMENDMENT 65, COLORADO**

<http://united4thepeople.org/images/Amend65.pdf>

Two states (Colorado and Montana) and dozens of cities and towns have passed ballot measures in support of the amendment strategy. So far, every time the amendment strategy has been placed on the ballot, voters have passed the measure – generally at a rate of three votes to one.

This ballot initiative, Amendment 65, was placed on the Colorado ballot on November 6, 2012 and passed with 74% of the vote. The initiative instructed “Colorado’s congressional delegation to propose and support, and the members of Colorado’s state legislature to ratify, an amendment to the United States Constitution that allows Congress and the states to limit campaign contributions and spending,” and amended the Colorado Constitution and revised state statutes to symbolically enact campaign spending limits. This legislation was used for a statewide vote, but can be adapted for local referenda initiatives.

#### **LOCAL AMENDMENT RESOLUTION – CITY COUNCIL OF ELIZABETH, NEW JERSEY**

<http://united4thepeople.org/images/NJelizabethreso.pdf>

Nearly 500 local jurisdictions have gone on record in support of an amendment to overturn *Citizens United* and related cases. In town halls, city councils, county councils, and other municipal bodies, public

officials have introduced, debated and passed amendment resolutions to demonstrate their support of constitutional remedies. These resolutions are not just limited to governments however; political parties, student bodies, neighborhood associations and clubs, and other membership groups are passing resolutions to raise awareness on the issue.

This resolution, passed by the city council of Elizabeth, New Jersey in December, 2012, states corporations “should not receive the same constitutional rights as natural persons” and that election spending should be regulated so that “all citizens, regardless of wealth, have an opportunity to have their political views heard.”

#### **STATE AMENDMENT RESOLUTION – HOUSE MEMORIAL 4, NEW MEXICO**

<http://united4thepeople.org/images/WV.pdf>

To date, 16 states have formally declared their support for constitutional remedies, either by passing resolutions, circulating sign-on letters, or placing the issue on the ballot.

This amendment resolution, passed by the New Mexico Legislature in January of 2012, states that the New Mexico Legislature expresses “strong opposition to the United States Supreme Court’s decision in *Citizens United v. Federal Election Commission*” and calls upon Congress “to propose and send to the states for ratification an amendment to the United States Constitution to restore republican democracy to the people of the United States.”

#### **FEDERAL AMENDMENT PROPOSAL – SENATE JOINT RESOLUTION 11**

<http://hdl.loc.gov/loc.uscongress/legislation.113sjres11>

As the movement to amend the Constitution gains momentum, a lively discussion is underway across the nation and in the halls of Congress over what amendment language would be most effective in placing public elections in the hands of the people.

This amendment proposal, SJRES 11, introduced by Senator Bernie Sanders (I-VT), prohibits the Court from striking down legislation that regulates content-neutral campaign spending; legislation that increases campaign disclosure; or legislation that strengthens public financing systems. The amendment proposal also grants the right to make campaign contributions or expenditures to influence the outcome of elections to human beings and only human beings.

8 Jamie Raskin, Take Back the Constitution from the Corporate Court, <http://www.pfaw.org/issues/government-people/edit-me-mo-take-back-constitution-corporate-court>

9 Ibid

## **CAMPAIGN CONTRIBUTION PROHIBITIONS AND LIMITATIONS**

Both the size and the source of campaign contributions are important factors in determining whether or not those contributions have the potential to corrupt the democratic process. For the sake of preventing corruption and for providing a more politically equitable election landscape, campaign contributions must be well-regulated. Unfortunately, all too often they are not.

Although the Supreme Court in *Citizens United* found that corporations have a constitutionally protected right to independently spend money from their corporate treasuries to influence elections, it did so with restrictions. While the Court ruled that prohibitions on corporate independent expenditures were unconstitutional, it did not overturn prohibitions on direct corporate contributions to candidate campaigns. Thus, on the federal level, a corporation is still prohibited from making a contribution, directly or indirectly, to a candidate campaign. However in most states, corporations can make direct contributions to candidates, at times without limit. In the 2011-2012 election cycle, 29 states allowed direct corporate contributions to political campaigns.<sup>10</sup>

In addition, many states have failed to set adequate caps on individual campaign contributions, leading candidates to develop undemocratic and potentially corrupting dependencies on large donors. Deregulated contribution environments also lead to less competitive races due to the systematic fundraising advantages that incumbents inherently hold.<sup>11</sup> In the 2011-2012 election cycle, 12 states allowed individuals to contribute limitless sums directly to campaigns, while 11 more set contribution limits for state legislative races at levels as high as or higher than those set for federal legislative races.<sup>12</sup>

Some states, however, have not only prohibited direct corporate contributions or set reasonable limits on individual contributions to campaigns, they have also regulated the sources of other potentially corrupting contributions, such as those made by lobbyists and state contractors. State reformers should also recognize limits on contributions to PACs and other electioneering entities; limits and source prohibitions

on the financing of political parties; aggregate contribution limits; and bundling disclosure and regulations when enacting campaign finance law.

On the long road to reform, there are small but important victories to be made for instituting reasonable regulations on direct contributions. Activists and states should seek to regulate campaign contributions immediately.

### **CAMPAIGN CONTRIBUTION PROHIBITIONS AND LIMITATIONS: TALKING POINTS**

- Since 1907, the United States Congress has enacted prohibitions on direct corporate giving to candidates in federal campaigns. In calling for such laws, President Roosevelt declared, “a prohibition of this kind would be ... an effective method of stopping the evils aimed at in corrupt practices acts.” Congress responded by passing the Tillman Act, but many of the states failed to enact reforms. Over 100 years later, and the time is still ripe to act on these prohibitions.
- On the long road to reform, there are small but important victories to be made for instituting reasonable regulations on direct contributions. While the country moves forward on disclosure, publicly financed elections, and the amendment strategy, it is important not to overlook these much-needed legislative remedies.

### **CAMPAIGN CONTRIBUTION PROHIBITIONS AND LIMITATIONS: MODEL LEGISLATION**

#### **DIRECT CORPORATE AND SPECIAL INTEREST CONTRIBUTION PROHIBITIONS – ALASKA LAW AND NATIONAL CONFERENCE OF STATE LEGISLATURES CHART**

<http://statutes.laws.com/alaska/title-15/chapter-15-13/sec-15-13-074>  
[http://www.ncsl.org/Portals/1/documents/legismgt/Limits\\_to\\_Candidates\\_2011-2012v2.pdf](http://www.ncsl.org/Portals/1/documents/legismgt/Limits_to_Candidates_2011-2012v2.pdf)

There are currently more states that allow direct corporate contributions to candidate campaigns than there are states that outlaw the practice. As this Alaska law demonstrates, amending state statutes to insert a corporate spending prohibition is simple. As the National Conference of State Legislatures document below it demonstrates, states vary widely on regulating direct contributions.

<sup>10</sup> [http://www.ncsl.org/Portals/1/documents/legismgt/Limits\\_to\\_Candidates\\_2011-2012v2.pdf](http://www.ncsl.org/Portals/1/documents/legismgt/Limits_to_Candidates_2011-2012v2.pdf)

<sup>11</sup> <http://scholarship.law.umt.edu/cgi/viewcontent.cgi?article=1007&context=mlr>

<sup>12</sup> [http://www.ncsl.org/Portals/1/documents/legismgt/Limits\\_to\\_Candidates\\_2011-2012v2.pdf](http://www.ncsl.org/Portals/1/documents/legismgt/Limits_to_Candidates_2011-2012v2.pdf)

**SOURCE CONTRIBUTIONS PROHIBITIONS/  
RESTRICTIONS FOR LOBBYISTS, STATE  
CONTRACTORS, AND CERTAIN STATE  
EMPLOYEES – CONNECTICUT 2005 BILL**

<http://www.cga.ct.gov/2005/ACT/PA/2005PA-00005-R00SB-02103SS3-PA.htm>

<http://www.cga.ct.gov/2005/BA/2005SB-02103-R00SS3-BA.htm>

In the wake of a 2004 corruption scandal, the Connecticut legislature passed a comprehensive campaign finance reform bill in 2005 instituting public financing and regulating campaign contributions for state-wide and general assembly offices.<sup>13</sup> Included in the bill were bans on contributions from state contractors or prospective state contractors (Sec. 32. Section 9-333n); bans on contributions from certain state employees (Sec. 30. Section 9-333n); and bans on contributions from lobbyists (Sec. 29. Section 9-333n). The Courts later struck down the lobbyist contributions provisions, stating lobbyists were not part of the scandal that inspired the legislation; and instead the Court held that a contribution limit, rather than an outright prohibition, was the best way to address lobbyist corruption concerns.<sup>14</sup>

## ***DISCLOSURE***

Disclosure of political spending is a necessary component of a functioning democracy. Disclosure laws provide transparency where it is needed by shining light on campaign donors and outside spenders. The Supreme Court has repeatedly upheld the constitutionality of disclosure requirements. States can and should work to enact these requirements now. Even in the infamous *Citizens United* case, eight of the nine Supreme Court justices voted in favor of upholding disclosure laws. Associate Justice Kennedy noted that “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages . . . [which provides] citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.”<sup>15</sup>

Disclosure is not, however, beneficial in all circumstances. History shows that certain causes need layers of donor and membership anonymity to ensure the free flow of ideas and ensure First Amendment protections to all people – non-electoral issue advocacy, for example, cannot constitutionally

<sup>13</sup> [http://www.demos.org/sites/default/files/publications/Fresh-Start\\_PublicFinancingCT\\_0.pdf](http://www.demos.org/sites/default/files/publications/Fresh-Start_PublicFinancingCT_0.pdf) at p. 4

<sup>14</sup> Brennan Center, “Writing Reform,” <http://www.brennancenter.org/publication/writing-reform-guide-drafting-state-local-campaign-finance-laws-2010-revised-edition>

<sup>15</sup> *Citizens United v. FEC* Page 55, <http://www.law.cornell.edu/supct/html/08-205.ZO.html>

be subject to disclosure requirements, nor should it be. Furthermore, mandating disclosure requirements at inconsequentially low levels burdens cash-strapped governments with the time consuming task of categorizing donations of little to no corruptive consequence. Given these parameters, implementing effective disclosure law is not a simple task, yet that lack of simplicity should not deter us from pursuing effective disclosure in election spending.

Disclosure requirements vary widely throughout the country. Effective disclosure laws are detailed and well-defined; include timely and comprehensive reporting requirements; and provide the public with immediate access to the relevant data.

## ***CAMPAIGN SPENDING V. OUTSIDE SPENDING***

Disclosure of election spending should apply to both “campaigns” and “outside groups.” For the purposes of campaign finance reform, “campaigns” refer to the election committees of a particular candidate. The raising and spending of funds by campaigns are generally subject to more restrictions and have stricter reporting requirements than those of outside groups. “Outside groups” refer to organizations or individuals who engage in election spending independent of campaigns. On the federal level and in most states, outside spending cannot be made at the request of or in coordination with any candidate, a candidate’s campaign, agent, or political party. For profit corporations, as well as super PACs, social welfare organizations (501c4s) and trade associations (501c6s), are all examples of such outside groups.

Under the *Citizens United* ruling, a 5-4 majority of the Supreme Court imprudently found that independent spending made by these outside groups in elections, “including those made by corporations, do not give rise to corruption or the appearance of corruption.”<sup>16</sup> That decision became the underpinning of a future case, *Speech Now v. FEC* that removed limits on contributions to political committees that solely engage in electoral activity independent of candidates or campaigns, giving birth to so-called Super PACs.

<sup>16</sup> *Citizens United v. FEC* Page 42, <http://www.law.cornell.edu/supct/pdf/08-205P.ZO>



## **EXPRESS ADVOCACY AND ELECTIONEERING COMMUNICATIONS**

There are two forms of advertising that generally trigger reporting and disclosure requirements: “express advocacy” and “electioneering communications.”

Express advocacy advertisements identify a candidate and urge the election or the defeat of that candidate, typically, but not exclusively, by using such words as “support,” “vote for,” “vote against,” “defeat” or any of the other “magic words” the Supreme Court has identified as expressly advocating positions for electoral purposes. Under federal law, non-coordinated express advocacy advertisements are categorized as “independent expenditures” and are subject to disclosure requirements.

Electioneering communications are certain broadcast communications that identify a candidate and are published close enough to an election to potentially affect the outcome of that election.<sup>17</sup> Under federal law, electioneering communications are defined as communications that 1) fall within 30 days of a primary and 60 days of a general election, 2) are broadcast on TV, radio, cable or satellite, 3) refer to a clearly identifiable federal candidate, and 4) are distributed to the candidate’s relevant electorate. Such communications trigger certain reporting requirements to the FEC.

Unfortunately, however, due to a lack of federal disclosure legislation and a failure by the FEC to provide adequate guidelines, there exist loopholes in these disclosure regimes that allow corporations – including social welfare organizations and trade associations – to engage in such election-related activity without sufficient disclosure to the public of the sources of their funding, leading

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17 Electioneering communications can take the form of “express advocacy” or “issue advocacy”. Express advocacy advertisements are subject to reporting requirements year round; however when those advertisements run within the electioneering communications window, they are subject to more immediate reporting requirements. Issue advocacy advertisements are also subject to reporting requirements if they identify a federal candidate and satisfy all of the other requirements, even if they are not focused on an election. For example, a television advertisement that asks Senator X to vote yes on an immigration bill would be considered an electioneering communication triggering FEC reporting if Senator X is up for re-election and the ad is broadcast to the relevant electorate for Senator X’s re-election within the relevant time period. This is true even if the ad does not mention the election in any manner.

to an influx of “dark money” in federal elections.<sup>18</sup> Similar loopholes exist in a majority of the states.<sup>19</sup>

## **REPORTING AND DISCLAIMER REQUIREMENTS**

Effective disclosure laws provide the public with prompt access to contribution and expenditure information of campaigns and outside spenders by mandating those entities file campaign finance reports to election agencies in a timely manner. These “reporting requirements” ensure campaigns and outside spenders follow election law, and provide election agencies with election spending information to be made public, when appropriate, to inform the public on election spending trends and sources.

Effective disclosure also provides the public with immediate access to sponsorship information of election advertisements. By mandating that campaigns and outside spenders properly identify themselves and their top contributors, these “disclaimer requirements” provide the public with real-time campaign disclosure information. At times referred to as “stand by your ad” provisions, effective disclaimer requirements may also mandate that candidates and outside spenders “approve their message” in video and audio advertisements.

## **ACCESS AND PRESENTATION**

Robust campaign finance reporting requirements do not automatically equate to effective disclosure law. Unless the public and the media can easily access

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18 The Bipartisan Campaign Reform Act of 2002 provided that groups spending more than \$10,000 per year on electioneering communications disclose which donors contributed \$1,000 a year or more to the group. However in 2007, the Federal Election Commission (FEC) interpreted the law to apply only to those donors who specifically designated that their donations be used for electioneering communications. This opt-in, voluntary disclosure system created a large loophole in disclosure law, and has enabled outside groups and their donors to avoid transparency in election spending. For example, corporations may withhold the identity of donors who have made large contributions ostensibly for general support purposes knowing that the money will be used to fund activities to support or oppose a candidate. In response to the FEC’s misinterpretation of the law, Representative Christopher Van Hollen (D-MD 8) sued the FEC. The DC District Court ruled in favor of Representative Van Hollen, stating that the FEC was not delegated the authority to narrow the law’s intent through rulemaking. However that decision was overturned by the DC Circuit Court of Appeals, which kept the loophole intact. The loophole is now commonly referred to as the “Van Hollen” loophole. Further reading at <http://www.brennancenter.org/legal-work/van-hollen-v-fec> and [http://www.fec.gov/law/litigation/van\\_hollen.shtml](http://www.fec.gov/law/litigation/van_hollen.shtml)

19 See “Building a Frontline Defense to Stop Secret Political Spending” by the Coalition For Accountability in Political Spending [http://www.politicalspending.org/state\\_by\\_state\\_501c4\\_regulations](http://www.politicalspending.org/state_by_state_501c4_regulations)

## DISCLOSURE MODEL LEGISLATION

### DISCLOSE ACT

<http://hdl.loc.gov/loc.uscongress/legislation.113hr148>

the disclosure data that is collected, the information becomes close to useless. Disclosure findings should be presented in complete, easily searchable and downloadable online databases.

States should establish websites that can filter information for specific data searches and that clearly separate independent spending from other campaign spending. Information should be downloadable in Excel format to allow for quick and thorough analysis by the public, research groups and the media.

In addition to categorizing election expenditures, states should utilize online platforms to highlight top contributors to outside spenders. States can either provide on their websites or mandate that outside spenders provide their own websites listing top contributors and/or contributors over a certain dollar threshold.

### DISCLOSURE TALKING POINTS

- Disclosure shines a much-needed light on the source of election spending. Without it, the public is left in the dark about who is funding what election advocacy. With it, not only can voters determine – as best they can – who is funding what advertisements and election expenditures, but the media and opposing candidates can access that information to connect the dots and tell the narrative of the election.
- The source of political advocacy matters. Different actors, whether they are corporations, trade associations, individuals, or other special interests have their own agenda and reasons for spending on elections. It is in the public's interest to know who is supporting what.
- Disclosure provides for a more accountable election environment. Funders of election advocacy are far less willing to fund deceitful attack ads if they cannot do so anonymously.
- *Citizens United* and related cases have granted corporations – including social welfare organizations and trade associations – the constitutional right to independently spend on elections without limit. Federally, and in most states, these organizations have the ability to bypass disclosure requirements, leading to a massive influx of “dark money” in our elections. The need for comprehensive disclosure reform has never been greater.<sup>20</sup>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative Chris Van Hollen (D-MD08), would broaden the definition of “express advocacy” to include advertisements that are the functional equivalent of express advocacy as judged by a reasonable person; expand the electioneering communications window from 30 days before a primary and 60 days before a general election to 120 days before a primary through the date of a general election; require immediate reporting of significant independent expenditures and electioneering communications; strengthen coordination rules; obstruct the use of shell corporations in political spending; and require all corporations and organizations described in section 501(c) of the IRS tax code (except 501(c) (3) corporations), along with labor groups and any political organization under section 527 of the IRS tax code who have spent more than \$10,000 in aggregate in an election cycle to disclose their donors who have contributed more than \$10,000 to the organization for the purposes of political spending.

### DELAWARE ELECTIONS DISCLOSURE ACT – HB 300

<http://legis.delaware.gov/lis/lis146.nsf/vwLegislation/HB+300>

This legislation, signed into law by Governor Jack Markell (D) on August 15, 2012, closes the “social welfare organization” and “trade association” loophole by requiring third party spenders that are engaged in independent expenditures as well as electioneering communications to file disclosure reports; provides disclaimer requirements for all third party advertisements that cost \$500 or more that refer voters to a website that hosts a list of contributors who have given more than \$100 to third party spenders; shortens the filing deadlines for third-party spenders engaged in independent expenditures and electioneering communications from 7 days to 24 hours; requires entities that contribute more than \$1,200 to political action committees or political parties during an election cycle to disclose the name and address of the individual who exercises direction over the entity's activities; and further clarifies disclosure requirements for filing Statements of Organization by political committees.

20 See footnote 17

## CONNECTICUT CAMPAIGN FINANCE BILL – SB 5

<http://www.cga.ct.gov/2013/FC/pdf/2013SB-00005-R000595-FC.pdf>

<http://www.cga.ct.gov/2013/BA/2013SB-00005-R000595-BA.htm>

This bill is an omnibus campaign finance bill addressing a host of disclosure and campaign contribution issues. Of noteworthy significance is its expansion of disclaimer requirements for public elections (P. 25-33, Sec. 9). The bill requires outside spenders on candidate races and ballot initiatives to list their top five contributors and link to a website containing their “unrestricted donor” list for written communications, including billboards, mailers, and web advertisements; would require outside spenders to “stand by their ad” by approving messages and listing their top five donors on a website containing their “unrestricted donor” list for online videos and television commercials – both cable and satellite broadcasts – and for radio and internet audio advertisements; and would require outside spenders to identify their top five contributors and link to a website containing an “unrestricted donor” list for “robo calls” and non-automated telephone calls.

### BRENNAN CENTER, “TRANSPARENT ELECTIONS AFTER *CITIZENS UNITED*,” POLICY SUGGESTIONS

<http://www.brennancenter.org/sites/default/files/legacy/Disclosure%20in%20the%20States.pdf>

This report by the Brennan Center for Justice at NYU School of Law offers an extended discussion of various disclosure requirements, calibrated to current, local conditions, for independent expenditures, electioneering communications, nonprofit spending, and disclaimers. These include setting a state definition of independent expenditures that is similar to the federal definition, “which applies to advertisements that (1) expressly advocate the election or defeat of a candidate and (2) are produced without coordination with a candidate,” and contains a clear definition of “coordination.” States are also advised to require disclosure of those who fund independent expenditures over a certain dollar threshold, higher in high-cost states and lower in low-cost states. They are further advised to use the federal definition of “electioneering communications” and expand upon it to include some forms of non-broadcast communications such as billboards, pamphlets, mass direct mail, and paid print advertising.

## ***SHAREHOLDER ACCOUNTABILITY***

Since *Citizens United*, corporate managers have been able to independently spend unlimited amounts of corporate money – essentially, other people’s money

– to affect elections. America’s corporate laws must be updated to reflect this new reality. Our nation’s corporate laws were not written for a *Citizens United* world where corporate officers are free to spend limitless funds from corporate treasuries on political expenditures. Current law does not give shareholders the right to know of and approve such political spending. As a result, whether it is through their 401k accounts, their IRAs, or other types of investment, millions of Americans are having their property used to engage in partisan politics without their knowledge.

Shareholder accountability measures provide that state and federal corporate law adapt to a post-*Citizens United* world by requiring publicly traded companies to disclose and obtain pre-approval of their political expenditures by their shareholders. These measures promote transparency and provide checks and balances on corporate managers, who may otherwise spend corporate treasury funds in the interest of personal political preferences and not in the interest of the companies they manage. These measures benefit current shareholders, future investors and the public-at-large.

### **SHAREHOLDER ACCOUNTABILITY** **TALKING POINTS**

- So long as corporations are allowed to spend freely in our elections, they should be subject to the highest forms of transparency and public scrutiny. Corporate political spending is a bad enough idea to begin with; at the least we can make sure that corporate spending is not done in secret and without shareholder approval.
- Even if every state and federal election were subject to effective disclosure requirements, it would be a monumental task to aggregate all of the political expenditures of a particular corporation. Amending corporate laws through shareholder accountability measures helps the public paint the picture of a corporation’s political activity in ways that are not possible by amending campaign finance laws.
- Effective shareholder accountability measures mandate that corporations pre-approve their political spending budgets with their shareholders, since it is the shareholders, not the corporate managers, who are the true owners of the company. These pre-approval initiatives are in line with other corporate reforms like “Say-on-Pay” votes for executive compensation that empower shareholders to properly assess company management.

**SHAREHOLDER ACCOUNTABILITY**  
**MODEL LEGISLATION**

**SHAREHOLDER PROTECTION ACT**

<http://hdl.loc.gov/loc.uscongress/legislation.113hr1734>

<http://hdl.loc.gov/loc.uscongress/legislation.113s824>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative Michael Capuano (D-MA07) and US Senator Robert Menendez (D-NJ), empowers shareholders of publicly held companies by requiring corporate political expenditures to be specifically authorized in an annual budget approved in a separate vote by shareholders. Moreover, any single political expenditure over \$50,000 requires a specific vote of the Board of Directors and the posting of each Director's vote on the corporate website within 48 hours. The Securities and Exchange Commission is tasked with making corporate expenditure reports available to the public through its website.

**BRENNAN CENTER, "CORPORATE  
CAMPAIGN SPENDING, GIVING  
SHAREHOLDERS A VOICE"**

[http://www.brennancenter.org/sites/default/files/legacy/publications/  
shareholdersvoice2\\_5\\_10.pdf](http://www.brennancenter.org/sites/default/files/legacy/publications/shareholdersvoice2_5_10.pdf)

Through this report, the Brennan Center for Justice at NYU School of Law provides a detailed roadmap for states wishing to address shareholder accountability that emphasizes disclosure to shareholders of corporate political expenditures and also votes by board members and shareholders to authorize (or not authorize) future expenditures.

***PUBLIC FINANCING***

Running an effective campaign has become exceedingly expensive. To remain competitive, candidates and public officials must devote an increasing amount of time to fundraising, time that could be spent conveying their policy ideas to the public or working on behalf of their constituents. Furthermore, under most election systems, candidates and public officials rely on an elite set of wealthy donors to fund their campaigns. This reliance can shift the priorities of candidates and public officials to cater to the interests of their campaign funders, and not the interests of their constituents at large.

Public financing shifts this dynamic. The term "public financing" refers to the use of government funds to subsidize the political campaigns of candidates who have qualified to receive such funds. Effective public financing is implemented with the intention of expanding the donor-base and removing public officials from the

burdens of excessive fundraising. Public financing regimes vary substantially, with certain mechanisms "amplifying" the contributions of small donors, others providing block grants to participating candidates, and others extending tax rebates or vouchers to voters for supporting candidates of their choosing. These mechanisms are not mutually exclusive, and can be paired together when appropriate.

From city council races to state and federal elections, public financing can be implemented at all levels of government. The variety of public financing mechanisms offers public officials the opportunity to create models that are suited to fit the democratic needs of their districts and constituencies. If pursued, public finance systems should be drafted with particular consideration given to recipient qualifications, disbursement amounts and allocation schemes, and accountability provisions.

**RECIPIENT QUALIFICATION**

To preserve limited public resources, public financing funds should be distributed to those candidates who have proven their political viability. Without such a threshold test, public funds could quickly be exhausted on candidates who never had measureable public support to begin with.

Qualification provisions should be enacted in the spirit of public finance: by ensuring candidates are reaching out to small donors and their constituencies at large. Many models require that candidates receive a set amount of contributions from a set amount of small donors. Once a candidate passes the established threshold, that candidate is rewarded with the stipulated public funds.

**PUBLIC GRANT FINANCING**

Public grant financing rewards participating candidates with set amounts of campaign money for primary races, and subsequent sums for general elections. In most circumstances, by opting into public financing programs, candidates consent to limiting their ability to solicit private donations.

Public grant financing removes unnecessary and adverse solicitation from the election process. Once candidates have passed the qualification threshold, they are free to campaign as they like, utilizing the public funds to communicate their policy aims to the public, without having to worry about private fundraisers and fundraising goals. If the grant is sufficient in size, public grant financing provides candidates the



opportunity to voice, and the public the opportunity to hear, opinions and policy initiatives that are free of special interest influence.

Effective public grant financing provides participating candidates with sufficient funds to run a competitive campaign, at levels that increase annually to adjust for inflation and that are updated at set intervals to properly reflect changes in election spending trends.

### **SMALL DONOR FUNDRAISING**

Small donor fundraising seeks to “amplify” the role of small donors in elections by matching small donations with public funds at a multiple ratio (5:1, 7:1, 10:1, etc.). The intention of incentivizing small donations is twofold: one, the practice increases the power and importance of small donors to candidates; two, that increase leads to a more vibrant and participatory democracy. Studies show that small donors, once they’ve donated, are more inclined to engage in the political process by volunteering for campaigns and passing out campaign literature than had they not given to a campaign.<sup>21</sup>

Candidates who opt into small donor fundraising programs generally agree to accept only “qualified donations” of limited amounts. In order for small donor fundraising to be effective, public funds should be disbursed only at “small donation” amounts to ensure the system does not subsidize and exacerbate the status quo. “Qualified donations” should be defined to fit these parameters, also taking into account preference for in-district and in-state donations.

### **TAX REBATES AND VOUCHERS**

Tax rebates and vouchers for campaign donations incentivize democratic participation and level the political playing field by offering those without resources means to contribute to political campaigns. In contrast to traditional public financing models, tax rebates and vouchers place funds in the hands of voters, not candidates. Tax rebates can be written into federal or state tax codes to provide small-donor deductibles for donations. Voucher programs can be enacted without adjusting tax policy, and introduced by any governing body that has the financial resources to provide such vouchers.

## **PUBLIC FINANCING** **TALKING POINTS**

- Public financing places our elections in the hands of the people, not the “donor class” that currently drives campaign finance in America. Until this transition occurs, public officials will respond to the needs of an elite few, and not the majority of Americans.
- Our current system rewards entrenched interests, and we are all paying the price for it. America is falling behind other developed nations in providing education, healthcare, infrastructure, technological investment, economic opportunity and high standards of living to its citizens when compared with other developed countries. These trends have been decades in the making and cannot be attributed to a particular administration or political party. The undue influence of entrenched interests must be removed from the political process. Effective public financing achieves this goal.
- Opponents of public financing suggest that it is too expensive to implement, but the opposite is actually true. Entrenched interests are currently gaming the system in their favor, demanding unfair subsidies, dodging taxes, and stymying growth and its subsequent tax revenue by impeding innovation. Public financing is a small investment in changing that system to serve the needs of the people and to enact budgetary growth and fiscal responsibility.
- Public financing is the strongest legislative route to political equality. Progressives are working to enact free and fair elections by granting Congress and the states the constitutional right to enact meaningful reform; but that right must be utilized. Not only must outside spending be productively regulated, the funding structure of the campaign finance system itself must be redefined. The only way to do this effectively is by enacting effective public financing in our elections.

<sup>21</sup> Brennan Center, “Empowering Small Donors in Federal Elections,” reference to below

**PUBLIC FINANCING**  
**MODEL LEGISLATION**

**FAIR ELECTIONS NOW ACT**

<http://hdl.loc.gov/loc.uscongress/legislation.113hr269>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative John Yarmuth (D-KY03), utilizes both public grants and matching fund mechanisms. The bill would support candidates for the US House of Representatives who raise a certain number of contributions<sup>22</sup> of up to \$100 each, at least \$50,000 total. These candidates would receive a grant totaling 80% of the average funds raised in winning House races over the previous two cycles, with 40% distributed in the Primary and 60% distributed in the General Election. They would also be eligible for matching funds at a five-to-one rate for in-state contributions up to \$100, until the matched total exceeds 300% of their original grant. If this proposal were in effect day, a candidate fully utilizing the program could receive as much as \$4.5 million in public support.

**GRASSROOTS DEMOCRACY ACT**

<http://hdl.loc.gov/loc.uscongress/legislation.113hr268>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative John Sarbanes (MD-03), would support candidates for the US House of Representatives who raise money from at least 2,000 contributors spending between \$5 and \$100 each, at least 50% of which must be from within the relevant congressional district, and together must total at least \$50,000. Tier Two candidates, who are bound by the \$5 to \$100 giving range, would receive matching funds at a ten-to-one rate, on the full amount, until the matched total exceeds 100% of the average spent in the 10 most expensive winning House races from the previous election cycle. Tier One candidates, who are bound by the federal limit for individual contributions,<sup>23</sup> would receive matching funds at a five-to-one rate, on the first \$100, until the matched total exceeds 50% of the average spent in the 10 most expensive winning House races from the previous election cycle.<sup>24</sup>

This federal proposal would also support candidates for the US Senate who raise money from at least 2,000 contributors plus a quantity of contributions equal to the number of congressional districts in the state multiplied by 500, spending between \$5 and \$100 each, at least 50% of which must be from within the relevant state, and together must total at least

22 Equal to or greater than the lesser of 0.25% of the voting age population or 1,500.

23 Currently \$2,600, [http://www.fec.gov/pages/brochures/fecfe-ca.shtml#Contribution\\_Limits](http://www.fec.gov/pages/brochures/fecfe-ca.shtml#Contribution_Limits).

24 This proposal would phase out Tier One beginning with the fourth election cycle after its enactment.

\$200,000 plus an amount equal to \$25,000 multiplied by the number of congressional districts within the state. Tier Two candidates, who are bound by the \$5 to \$100 giving range, would receive matching funds at a ten-to-one rate, on the full amount, until the matched total exceeds 100% of the average spent in all winning Senate races from the previous election cycle. Tier One candidates, who are bound by the federal limit for individual contributions,<sup>25</sup> would receive matching funds at a five-to-one rate, on the first \$100, until the matched total exceeds 50% of the average spent in all winning Senate races from the previous election cycle.<sup>26</sup>

The proposal also provides for refundable tax credits for small donor contributions,<sup>27</sup> a Grassroots Democracy Coupon Pilot Program that would, in participating states, provide prospective contributors with vouchers to support qualified candidates,<sup>28</sup> and a Supplemental Grassroots Democracy People's Fund that would provide publicly-funded candidates with additional funds in races where campaign spending levels are abnormally high.<sup>29</sup>

**BRENNAN CENTER AND DEMOCRACY  
21: EMPOWERING SMALL DONORS IN  
FEDERAL ELECTIONS**

[http://www.brennancenter.org/sites/default/files/legacy/publications/Small\\_donor\\_report\\_FINAL.pdf](http://www.brennancenter.org/sites/default/files/legacy/publications/Small_donor_report_FINAL.pdf)

This report, coauthored by the Brennan Center for Justice at NYU School of Law and Democracy 21, outlines the history of public financing in the United States and details an approach for small donor matching in federal elections. Policy prescriptions include a 5-to-1 match on in-state contributions up to \$250. Donors could give larger contributions, but only the first \$250 would be matched. A \$100 donation would yield an additional \$500 in matching funds; a \$250 donation would yield an additional \$1,250 in matching funds. The report recommends reducing contribution limits for participating candidates of the program; providing a small donor-based qualifying threshold; allowing coordinated party expenditure in support of candidates, but only from funds raised by contributions limited to \$1,250 per donor per year; effective disclosure and enforcement mechanisms; and

25 Currently \$2,600, [http://www.fec.gov/pages/brochures/fecfe-ca.shtml#Contribution\\_Limits](http://www.fec.gov/pages/brochures/fecfe-ca.shtml#Contribution_Limits).

26 This proposal would phase out Tier One beginning with the fourth election cycle after its enactment.

27 <http://www.gpo.gov/fdsys/pkg/BILLS-113hr268ih/pdf/BILLS-113hr268ih.pdf> at p. 3

28 <http://www.gpo.gov/fdsys/pkg/BILLS-113hr268ih/pdf/BILLS-113hr268ih.pdf> at p. 7

29 <http://www.gpo.gov/fdsys/pkg/BILLS-113hr268ih/pdf/BILLS-113hr268ih.pdf> at p. 39

adequate and reliable funding streams to keep the program in effect.

### CONNECTICUT CITIZENS' ELECTION PROGRAM

[http://www.cga.ct.gov/current/pub/chap\\_157.htm](http://www.cga.ct.gov/current/pub/chap_157.htm)

<http://www.ct.gov/seec/cwp/view.asp?A=3548&Q=489606>

Following the 2004 resignation of Governor John Rowland (R), the state sought to address its corruption problems by passing campaign finance reform.<sup>30</sup> Signed by Governor Jodi Rell (R) in 2005<sup>31</sup> and made effective in 2006,<sup>32</sup> the Comprehensive Campaign Reform Act includes a public financing program known as the Citizens' Election Program. In order to qualify, gubernatorial candidates must raise at least \$225,000 in-state and \$250,000 total; candidates for other statewide office, at least \$67,000 in-state and \$75,000 total; state senate candidates, at least \$15,000 from at least 300 individuals whose resident municipalities are included in whole or in part in the relevant district; and state representative candidates, at least \$5,000 from at least 150 individuals whose resident municipalities are included in whole or in part in the relevant district – all donations falling in the \$5 through \$100 range. Once qualified, gubernatorial candidates are provided with lump sum grants of \$1.25 million in the Primary and \$6 million in the General Election; candidates for other statewide office, \$375,000 and \$750,000; state senate candidates, \$35,000-\$75,000 and \$85,000; and candidates for state representative, \$10,000-\$25,000 and \$25,000.<sup>33</sup>

### MAINE CLEAN ELECTION ACT

<http://www.mainelegislature.org/legis/statutes/21-A/title21-Ach14sec0.html>

<http://www.maine.gov/ethics/mcea/index.htm>

Following a 1996 ballot measure, Maine established voluntary full public financing for gubernatorial and state legislative candidates. Prior to certification, in order to start their campaigns, they may accept seed money from individuals at up to \$100 each up to a maximum \$500 for House candidates, \$1,500 for Senate candidates and \$200,000 for gubernatorial candidates. In order to obtain certification, House and Senate candidates must obtain a minimum number of valid, qualifying contributions from registered voters in their district (60 and 175, respectively for the House and

30 [http://www.demos.org/sites/default/files/publications/Fresh-Start\\_PublicFinancingCT\\_0.pdf](http://www.demos.org/sites/default/files/publications/Fresh-Start_PublicFinancingCT_0.pdf) at p. 4

31 [http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill\\_num=2103&which\\_year=2005&SUBMIT1.x=-643&SUBMIT1.y=0&SUBMIT1=Normal](http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=2103&which_year=2005&SUBMIT1.x=-643&SUBMIT1.y=0&SUBMIT1=Normal)

32 [http://www.cga.ct.gov/current/pub/chap\\_157.htm](http://www.cga.ct.gov/current/pub/chap_157.htm)

33 The grant amounts reflected herein for all candidate classes will be adjusted under certain circumstances for major, minor, and petitioning party status as well as for changes in the consumer price index. See [http://www.cga.ct.gov/current/pub/chap\\_157.htm#sec\\_9-705](http://www.cga.ct.gov/current/pub/chap_157.htm#sec_9-705).

Senate); the minimum for gubernatorial candidates is 3,250 registered voters. Once the threshold is met, private contributions stop and MCEA funds must be used for almost all expenditures. Uncontested gubernatorial candidates receive \$200,000 for the Primary, contested \$400,000, and all receive \$600,000 for the General Election. In 2012, the initial distributions for contested/uncontested House candidates were \$1,429/\$486 for the Primary and \$3,937/\$1,299 for the General Election; for Senate candidates, \$7,359/\$1,831 for the Primary and \$18,124/\$5,981 for the General Election. A separate matching funds provision<sup>34</sup> was eliminated<sup>35</sup> following the Supreme Court's ruling in *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett* (2011).<sup>36</sup> According to the Portland Press Herald, MCEA, currently subject to budget review, was used by 62 percent of legislative candidates in 2012, down from 77 percent in 2010, the last cycle preceding the Arizona ruling.<sup>37</sup>

### ARIZONA CITIZENS CLEAN ELECTIONS ACT

[http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=16 at Chapter 6, Article 2](http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=16%20at%20Chapter%206,%20Article%202)

<http://www.azcleelections.gov/home.aspx>

<http://www.cleelections101.com>

Following a 1998 ballot measure, Arizona established voluntary full public financing for statewide and state legislative candidates who meet a threshold requirement to raise a certain number of \$5 contributions from voters. Candidates for legislature must take in at least 200 such contributions; for mine inspector, 500; for treasurer, superintendent of public instruction, or corporation commission, 1,500; for secretary of state or attorney general, 2,500; and for governor, 4,000. Each office has spending limits for the Primary and General Election,<sup>38</sup> and funds are distributed according to those limits, and in the case of the Primary, party affiliation or lack thereof and opposed versus unopposed status.<sup>39</sup> A separate matching funds provision was struck down by the Supreme Court in *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett* (2011).<sup>40</sup>

34 <http://www.maine.gov/ethics/mcea/matchfunds.htm>

35 [http://www.mainelegislature.org/legis/bills/display\\_ps.asp?id=1774&PID=1456&snum=125](http://www.mainelegislature.org/legis/bills/display_ps.asp?id=1774&PID=1456&snum=125)

36 <http://www.scotusblog.com/case-files/cases/arizona-free-enterprise-clubs-freedom-club-pac-v-bennett/>

37 <http://www.pressherald.com/news/Budget-bill-worries-Maine-Clean-Election-advocates-.html>

38 [http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/16/00961.htm&Title=16&DocType=ARS at G and H](http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/16/00961.htm&Title=16&DocType=ARS%20at%20G%20and%20H)

39 <http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/16/00951.htm&Title=16&DocType=ARS>

40 <http://www.scotusblog.com/case-files/cases/arizona-free-enterprise-clubs-freedom-club-pac-v-bennett/>

## NEW YORK CITY CAMPAIGN FINANCE BOARD

<http://www.nyccfb.info/press/info/faq.aspx>

Created in 1988, the New York City Campaign Finance Board, an independent, nonpartisan city agency, is charged with administering the Campaign Finance Program,<sup>41</sup> under which participating candidates must meet a two-part threshold and adhere to strict spending and contribution limits<sup>42</sup> as well as disclosure requirements. Every dollar a city resident gives, up to \$175, is matched with \$6 in public funds for a maximum of \$1,050 per contributor. The Campaign Finance Handbook provides additional information.<sup>43</sup>

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41 According to <http://www.nyccfb.info/about/>, it also publishes the Voter Guide ([http://www.nyccfb.info/public/index.aspx?sm=public\\_00](http://www.nyccfb.info/public/index.aspx?sm=public_00)) and oversees the Debate Program ([http://www.nyccfb.info/public/debates/about.aspx?sm=public\\_06](http://www.nyccfb.info/public/debates/about.aspx?sm=public_06)).

42 <http://www.nyccfb.info/candidates/candidates/limits/2013.htm>

43 Geared toward candidates themselves, the latest edition was published in 2013 and is available at [http://www.nyccfb.info/candidates/candidates/handbooks/2013\\_Handbook.pdf?sm=candidates\\_h2](http://www.nyccfb.info/candidates/candidates/handbooks/2013_Handbook.pdf?sm=candidates_h2). See especially Chapter 6 at p. 83. Further candidate tools are available at [http://www.nyccfb.info/candidates/candidates/toolbox.aspx?sm=candidates\\_tools](http://www.nyccfb.info/candidates/candidates/toolbox.aspx?sm=candidates_tools).



## VOTERS IN

For much of this nation's history, our trajectory has been one of opening the franchise to more and more voters. The Fifteenth Amendment to the US Constitution, passed in 1869 and ratified in 1870, protected the right to vote based on race, color, or previous condition of servitude, purportedly giving African Americans the right to vote. The Nineteenth Amendment, passed in 1919 and ratified in 1920, added a right to vote protection based on sex. The Twenty-Sixth Amendment, passed and ratified in 1971, lowered the voting age to eighteen.

In practice, the Fifteenth Amendment was not sufficient to ensure a meaningful right to vote for African Americans. In the Jim Crow years that followed, literacy tests, grandfather clauses (individuals could only vote if their grandfathers had been able to), poll taxes, and other laws were passed specifically to keep African Americans from the ballot box. It took the Twenty-Fourth Amendment, passed in 1962 and ratified in 1964, to outlaw the poll tax and other taxes as conditions of voting. It also took the Voting Rights Act of 1965<sup>44</sup> to broadly overcome resistance to the Fifteenth Amendment.<sup>45</sup>

The journey from the Fifteenth to the Twenty-Fourth Amendment and the VRA came at great cost, with untold blood spilled and countless lives lost. On March 7, 1965, what became known as Bloody Sunday, voting rights marchers were beaten in their attempt to cross the Edmund Pettus Bridge in Selma, Alabama. Fifty-eight of six hundred marchers were treated at a local hospital for their injuries, including then twenty-five-year-old John Lewis, chairman of the Student Nonviolent Coordinating Committee (SNCC).<sup>46</sup> First elected in 1986, today Lewis still serves in the US Congress representing Georgia's Fifth Congressional District.<sup>47</sup> He remains a leading champion of voter empowerment measures, taking proactive steps to increase civic participation among Americans from all walks of life, and defending rights when they come under attack.<sup>48</sup>

44 [http://www.justice.gov/crt/about/vot/intro/intro\\_b.php](http://www.justice.gov/crt/about/vot/intro/intro_b.php)

45 For constitutional history, this paragraph and the preceding paragraph reference [http://www.archives.gov/exhibits/charters/constitution\\_amendments\\_11-27.html](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html). For timeline support, they also reference <http://www.sos.wv.gov/elections/civics/Documents/Why%20is%20Voting%20important.pdf>.

46 <http://www.archives.gov/exhibits/eyewitness/html.php?section=2>

47 <http://johnlewis.house.gov/john-lewis/biography>

48 Representative Lewis is the lead House sponsor of the Voter Empowerment Act, described herein at [Voters In](#)

Representative Lewis and his contemporaries, including Reverend Dr. Martin Luther King, Jr., witnessed first-hand what Dr. King so famously stated, that “the arc of the moral universe is long but it bends toward justice.” Now, however, as The Atlantic's Andrew Cohen noted in 2012, that arc is bending “backward again, to take away from people their effective right to vote.”<sup>49</sup> Not even the VRA for which they fought so hard is immune. On June 25, 2013, the United States Supreme Court ruled against a key component of the VRA in *Shelby County v. Holder*.<sup>50</sup> In that 5-4 decision, the Supreme Court effectively gutted Section 5, which requires certain covered states and counties to submit any changes in voting and election laws to the Department of Justice or a federal court for approval before they can go into effect, by saying that the Section 4 coverage formula was unconstitutional.<sup>51</sup> In other words, while the Court did not strike down Section 5 itself, it said that Congress's decision as to where Section 5 applies is unconstitutional. So, for now, no place is protected by the preclearance provisions of Section 5. Congress is tasked with determining (again) the appropriate coverage areas.

Moreover, unfazed by the complete lack of proof that widespread voter fraud exists, ultra-conservative politicians, media personalities, activists, and think tanks have over the last few years amped up their attacks on voting rights in the name of so-called “voter integrity,” “ballot security,” and “fighting voter fraud.” The resulting policies, by intent,<sup>52</sup> <sup>53</sup> present a massive threat to voting rights. Photo ID laws disproportionately affect poor and minority voters. Ex-offender bans have made the US the only democracy that permanently denies voting rights to formerly incarcerated persons. Times and locations for registration and voting have been restricted. Flawed purge programs have knocked eligible voters off the rolls. Vulnerable voting communities have even been targeted by limiting early voting options. Such efforts to disenfranchise voters call for proactive measures to ensure that every eligible American has the right to cast a vote that counts.

49 <http://www.theatlantic.com/technology/archive/2012/09/new-voting-laws-bending-the-arc-of-history-away-from-justice/261889/>

50 *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), available at [http://www.supremecourt.gov/opinions/12pdf/12-96\\_6k47.pdf](http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf). See also <http://www.scotusblog.com/case-files/cases/shelby-county-v-holder/> for case history and media analysis.

51 Ibid.

52 <http://blog.pfaw.org/content/restrictions-early-voting-and-voter-registration-used-partisan-gain>

53 <http://blog.pfaw.org/content/Lawsuits-politics-color-voter-ID-in-Pennsylvania>

The Voter Empowerment Act, sponsored in the 113<sup>th</sup> US Congress by Representative Lewis<sup>54</sup> and Senator Kirsten Gillibrand (D-NY),<sup>55 56 57</sup> takes a comprehensive approach, seeking voter registration modernization; access to voting for individuals with disabilities; democracy restoration; accuracy, integrity, and security of elections; uniform and nondiscriminatory standards for counting provisional ballots; expanded early voting and voting by mail; protections for absent uniformed services voters and overseas voters; poll worker recruitment and training; enhancement of “Help America Vote Act” enforcement; and other election administration improvements. This proposal also counters voter suppression by prohibiting voter caging and deceptive practices and by ensuring federal election integrity (prohibiting campaign activities of chief state election administration officials).

Representative Lewis and Senator Gillibrand, along with those who have introduced individual components of the Voter Empowerment Act and the “Voters In” agenda nationally and on the state and local levels, are living examples of what President Lyndon Baines Johnson explained so well:<sup>58</sup>

It’s outrageous that all people do not have the dignity to which they are entitled. But we can’t legislate human dignity -- we can legislat[e] to give a man a vote and a voice in his own government. Then with his vote and his voice he is equipped with a very potent weapon to guarantee his own dignity.

Indeed, we must redouble our efforts to establish sound election laws that empower voters with the “potent weapon” that “guarantees [their] own dignity.” That includes a strong defense for and restoration of the VRA,<sup>59</sup> where Representative Lewis is engaged with allies on both sides of the aisle – including Representative Jim Sensenbrenner (R-WI05)<sup>60</sup> – to

54 <http://hdl.loc.gov/loc.uscongress/legislation.113hr12>

55 <http://hdl.loc.gov/loc.uscongress/legislation.113s123>

56 The Voter Empowerment Act predecessor was known as the Count Every Vote Act. It was last introduced in the 110<sup>th</sup> Congress as H.R. 1381, <http://hdl.loc.gov/loc.uscongress/legislation.110hr1381>, by the late US Representative Stephanie Tubbs Jones (D-OH11), and as S. 804, <http://hdl.loc.gov/loc.uscongress/legislation.110s804>, by former US Senator Hillary Rodham Clinton (D-NY).

57 Senate Majority Leader Harry Reid (D-NV) is the sponsor of a 113<sup>th</sup> Congress resolution that expresses the Sense of the Senate in support of these and other “Money Out, Voters In” principles. See S. 9 at <http://hdl.loc.gov/loc.uscongress/legislation.113s9>.

58 <http://www.theatlantic.com/technology/archive/2012/09/new-voting-laws-bending-the-arc-of-history-away-from-justice/261889/>

59 <http://site.pfaw.org/site/PageServer?pagename=VRA&autologin=true>

60 <http://sensenbrenner.house.gov/news/documentsingle.aspx?DocumentID=342743>

correct the egregious attack launched by the Court.

## VOTER REGISTRATION MODERNIZATION

The bending of Dr. King’s arc away from justice has suppressed our ability to update our voting system for the 21st century. Not only are fundamental rights being withheld, but outdated modes of voting have been frozen in time. Voter registration is no exception.

- State governments and the federal government serve important functions like the issuance of driver’s licenses; distribution of Social Security benefits; provision of public services; registration for classes at public institutions; and naturalization of new citizens.<sup>61</sup> Since 1993, the National Voter Registration Act<sup>62</sup> has made voter registration available alongside many of these functions, but in most cases the process is not automated and requires the use of a separate voter registration form.<sup>63</sup>
- Voter registration should move when voters move, but it does not; it expires when voters’ residences change, and they have to start the process all over again, reregistering in order to get back on the rolls.
- Voter registration remains a largely paper-based system. Voter information might be stored in a computer, but voters likely had to fill out a paper form in order to get it there, and likely do not have the capability to easily update it when it changes.
- Something as simple as a clerical error on the rolls can keep any voter from casting a ballot that counts.

The Brennan Center for Justice at NYU School of Law offers a five-point plan of action: “automated registration” enabling voters, who have given their consent, to update their voter registration information when interacting with any state or federal government agency; “portable registration” that considers voters “permanent” even when they have moved and updates

61 <http://www.brennancenter.org/sites/default/files/publications/Case%20Voter%20Registration%20Modernization.pdf>

62 [http://www.justice.gov/crt/about/vot/nvra/nvra\\_faq.php](http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php)

63 Where this remains the case, we need to be doing a consistently better job across all states. Progressive States Network offers a model for strengthening NVRA compliance, <http://www.progressivestates.org/sync/pdfs/MultiStateAgendaSiteDocuments/NationalVoter-RegistrationAct-ModelLegislation.pdf>. For more information: <http://www.progressivestates.org/sync/pdfs/MultiStateAgendaSiteDocuments/NationalVoterRegistrationActCompliance.pdf>.

their addresses through the automation process; “online voter registration and correction system” that provides another option for those voters who wish to register or update their information online; “fail-safe registration and correction to the voter rolls” ensuring that the inevitable mistakes in voter records can be corrected at the polls and do not keep otherwise eligible citizens from voting; and “federal investment in voter registration” toward national registration standards.<sup>64</sup>

Known as voter registration modernization,<sup>65</sup> this plan not only saves money by eliminating or significantly reducing an expensive, largely paper-based bureaucracy, but it also increases:

- Participation, by making the system easier to access;
- Accuracy, by giving voters more power to maintain their own records;
- Reliability, by increasing the touch points that both voters and election administrators have with voter information; and
- Efficiency, by upgrading technology and enabling data sharing.

It actually decreases fraud, because a simpler, streamlined system presents far fewer opportunities for exploitation.

**VOTER REGISTRATION MODERNIZATION  
TALKING POINTS**

- Registering to vote should be easy. Automating registration would, with voter consent, share voter-relevant information among government agencies, even those that do not today have direct voting responsibilities. Voter registration will thus undoubtedly reach more eligible citizens.
- Moving already requires voters to do a number of things involving the government. They have to change their postal address. They have to get a new driver’s license. They should not have to separately register to vote. Their voter registration should be portable.
- 81% of the voting age population uses the Internet. Every major demographic group has a user rate of 67% or more, with the exception

64 <http://www.brennancenter.org/publication/case-voter-registration-modernization>  
 65 [http://www.brennancenter.org/content/pages/voter\\_registration\\_modernization](http://www.brennancenter.org/content/pages/voter_registration_modernization)

of those 65 and older (54%) and those with no high school diploma (51%).<sup>66</sup> Of Internet users, 78% check the news; 67% visit a local, state or federal government website; and 61% look online for news or information about politics.<sup>67</sup> Given that we are both wired and civic-minded (or at least civic-curious), we should be able to register to vote and change our registration information online.

- Maybe a voter transposed two numbers in their address. Maybe an election administrator made a typo when processing their form. Fail-safes are needed to ensure that such inevitable mistakes in the voter registration process do not come at a disenfranchising cost. Same-day registration<sup>68</sup> is one possible step in the right direction, but a fail-safe could be as simple as making available a correction option when voters check in at the polls.
- The federal government has a significant role to play in voter registration. Through the Help America Vote Act, the federal government has already supported state-level development of computerized voter registration databases. It should now support automated, portable, online, and fail-safe voter registration. Civic participation is well worth the investment.

**VOTER REGISTRATION MODERNIZATION  
MODEL LEGISLATION**

**COLORADO PRE-REGISTRATION BILL**  
[http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/C9538D3A79A9B9C487257AEE00573D96?open&file=1135\\_enr.pdf](http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/C9538D3A79A9B9C487257AEE00573D96?open&file=1135_enr.pdf)

Thanks to Colorado Governor John Hickenlooper’s signing of HB13-1135, the state will allow otherwise qualified citizens to preregister to vote on or after their sixteenth birthday, with such registration automatically effective upon their eighteenth birthday.

**COLORADO VOTER ACCESS &  
MODERNIZED ELECTIONS ACT**  
[http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/0F-25BA96A1C5D81E87257AEE005819A6?Open&file=HB1303\\_sen.pdf](http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/0F-25BA96A1C5D81E87257AEE005819A6?Open&file=HB1303_sen.pdf)

Following Colorado Governor John Hickenlooper’s signing of HB13-1303, the state will be taking several steps toward increased civic participation. Every reg-

66 [http://pewinternet.org/Trend-Data-\(Adults\)/Whos-Online.aspx](http://pewinternet.org/Trend-Data-(Adults)/Whos-Online.aspx)  
 67 [http://pewinternet.org/Trend-Data-\(Adults\)/Online-Activities-Total.aspx](http://pewinternet.org/Trend-Data-(Adults)/Online-Activities-Total.aspx)  
 68 Herein at [Same-Day registration](#)

istered voter will be mailed a ballot that can be cast by mail or dropped off in-person, or they may choose to vote in-person. Voters will have access to same-day registration during early voting and on Election Day. Counties will have real-time access to online voter registration information, for purposes of verification. Other provisions include portable registration for voters who move; the creation of a Modernization Task Force; and the elimination of the state's "Inactive – Failed to Vote" status, which has proven problematic.

### **CONNECTICUT ELECTION DAY & ONLINE REGISTRATION**

[http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=-Bill&bill\\_num=HB05024&which\\_year=2012](http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=-Bill&bill_num=HB05024&which_year=2012)

The Election Day Registration that Connecticut Governor Dannel Malloy signed into law in 2012 went into effect on July 1, 2013, allowing eligible unregistered voters and those switching municipalities to register and vote at a centralized location on Election Day. The online voter registration provisions will separately take effect on January 1, 2014.

### **NEW YORK GOVERNOR ANDREW CUOMO**

<http://www.governor.ny.gov/press/08162012-voter-registration-reform>

On August 16, 2012, New York Governor Andrew Cuomo announced an initiative that allows voter registration applications, as well as party and address changes, to be completed online through the state Department of Motor Vehicles (DMV) website.<sup>69</sup> Governor Cuomo also pledged to equip every DMV office with computerized data entry devices where voters can register themselves. Driver License applications, which include voter registration applications, will be made available in more languages. While DMV reforms are just one among many types needed, they promise to make voter registration easier, cheaper, and more efficient across the state.

### **NEW YORK VOTER EMPOWERMENT ACT**

[http://assembly.state.ny.us/leg/?default\\_fld=&bn=A00187&term=2013&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y](http://assembly.state.ny.us/leg/?default_fld=&bn=A00187&term=2013&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y)

[http://assembly.state.ny.us/leg/?default\\_fld=&bn=S00619&term=2013&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y](http://assembly.state.ny.us/leg/?default_fld=&bn=S00619&term=2013&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y)

New York Assemblymember Brian Kavanaugh (D-74) and Senator Michael Gianaris (D-12) are leading a voter registration modernization effort known as the "Voter Empowerment Act." Consenting citizens would be automatically registered at designated government agencies, including those who move within the state. Pre-registration would be introduced for 16 and 17-year-olds. Registration information would be

put online and the process would be computerized. Registration and party identification changes would be allowed to continue through 10 days before the election, and certain changes (related to automated registration) would be allowed on Election Day.

### **VALUE OUR TIME ELECTIONS ACT**

<http://hdl.loc.gov/loc.uscongress/legislation.113hr289>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative James Moran (D-VA08), takes a four-pronged approach to electoral reform. It first addresses voter registration modernization, requiring the availability of online voter registration; automating voter registration, so that, with consent, individuals using public services or receiving public assistance can simultaneously with those interactions register to vote; and setting maintenance, privacy, and security standards for voter information databases. Second, it addresses polling place resources, by requiring minimum standards for the number of voting systems, poll workers, and other election resources; setting distribution standards according to, among all relevant factors, the voting age population and the needs and numbers of disabled and limited English proficiency (LEP) voters; and requiring state remedial plans for wait times of 90 minutes or more. Third, it provides for emergency ballots. Finally, it requires early voting in federal elections.

### **VOTER REGISTRATION MODERNIZATION ACT**

<http://thomas.loc.gov/cgi-bin/bdquery/z?d111:h.r.01719>

This federal proposal, sponsored in the 109<sup>th</sup> Congress by US Representative Zoe Lofgren (D-CA19), seeks to modernize voter registration in five critical areas: requiring the availability of online voter registration; using the internet to update voter registration information; distributing election information by email to registered voters; clarifying the existing National Voter Registration Act (NVRA) requirement to register certain eligible voters; and making available Help America Vote Act (HAVA) funds to cover NVRA compliance as amended therein.

### **WASHINGTON ONLINE REGISTRATION ACT**

<http://apps.leg.wa.gov/rcw/default.aspx?cite=29A.08.123>

Effective January 1, 2008, Washington enacted an online registration system that makes such registration available to otherwise eligible voters who possess a state driver's license or identification card.

69 <http://www.dmv.ny.gov/mydmv/motv-pop.htm>



## PROJECT VOTE, “MODEL PRE-REGISTRATION BILL”

<http://projectvote.org/images/publications/Model%20Bills/>

[Preregistration Model Bill 2010.pdf](#)

Project Vote has suggested that otherwise qualified citizens be able to preregister to vote on or after their sixteenth birthday, with such registration automatically effective upon their eighteenth birthday.

## ***ABSENTEE AND EARLY VOTING***

The “one person, one vote” principle should be about more than “one day.” It is important that voters be given more options as to when they cast their ballots. Absentee ballots are a good first step, but we should not stop there, especially in states that require voters to qualify based on specific conditions in order to obtain an absentee ballot. Opening up voting on a single day or, ideally, series of days prior to Election Day will help voters who cannot, for work, health, or other reasons, make it to the polls on a single Tuesday and do not or cannot engage in traditional absentee voting. Local Boards of Elections have made available their offices or designated other polling stations for this purpose.

### **EXCUSE V. NO-EXCUSE**

For many years, the only early voting that voters had access to was absentee voting by mail, and even then only voters with legally-accepted excuses to vote early could apply for and cast an absentee ballot. Today, twenty-one states still require an excuse before such a ballot is issued.<sup>70</sup> For instance, Alabama, where absentee voting by mail is the only form of early voting available, requires voters to attest to being absent from their home county on Election Day; suffering an illness or physical disability that prevents a trip to the polling place; living outside their home county, such as a member of the armed forces, a voter employed outside the United States, a college student, or a spouse or child of such a person; serving as an appointed election officer or poll watcher at a polling place other than his or her regular polling place; or working a required shift of ten hours or more that coincides with polling hours.<sup>71</sup> Such a regime clearly ignores certain voters, like single parents who work shifts of less than ten hours but are also responsible for childcare or other transportation.

70 <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx>

71 <http://www.sos.state.al.us/elections/absenteevotinginfo.aspx>

Twenty-seven states and the District of Columbia have removed excuses from their absentee voting regimes.<sup>72 73</sup> All voters need to do to vote absentee by mail is meet the deadlines for ballot application and submission.

### **PERMANENT ABSENTEE AND ALL-MAIL VOTING**

Some have made other absentee reforms: seven states and the District of Columbia make absentee voting permanently available to any voter on an opt-in basis, and seven others have made it permanently available if certain criteria are met, in many cases relating to disability.<sup>74 75</sup> Permanent absentee voters are placed on a list and automatically receive a ballot for every election.

In Oregon and Washington, all elections are conducted by mail, and every registered voter automatically receives a ballot.<sup>76</sup> But that is the only voting option they have. There should be alternate means of voting for those that do not have the means to vote by mail, for example, those that cannot access designated ballot drop points.<sup>77</sup>

### **VOTING EARLY, IN-PERSON**

Voting early, in-person has arguably received the most attention in recent elections, and it is indeed an option worth expanding to even more than the thirty-two states – a diverse group covering every region, big and small, conservative and liberal, urban and rural – and the District of Columbia that currently offer it.<sup>78</sup> The concept is simple: replicate Election Day on days prior at designated sites. Interested voters cast their ballots on the same machines they would use if they appeared

72 Minnesota will become number twenty-eight as of 2014 when the omnibus elections bill signed by Minnesota Governor Mark Dayton on May 23, 2013 goes into effect. See [Minnesota Herein](#).

73 [http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#no\\_excuse](http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#no_excuse)

74 Minnesota will have universal access to permanent absentee voting as of 2014 when the omnibus elections bill signed by Minnesota Governor Mark Dayton on May 23, 2013 goes into effect. See [Minnesota Herein](#).

75 <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#permanent>

76 <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#mail>

77 Colorado’s recently passed Voter Access & Modernized Elections Act includes an emphasis (not exclusivity) on mail ballots and a switch from polling places to voter service and polling centers. See [Colorado herein](#).

78 <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#early>

on Election Day, but they have more opportunities to do so. And the more sites, days, and hours that are available, the better, including availability after work hours and on the weekends – if not for the entire voting period, then on at least one occasion therein. Uniformity is also critical. To the greatest extent possible, the same early voting options should be available to all voters within a state.

### **OTHER INNOVATIONS**

Laws in some states and the policies of some individual employers provide leave for voting purposes. Others mark the occasion by celebrating at least a civic/government holiday.<sup>79</sup> Similar federal proposals include moving Election Day to the weekend, moving it to an existing federal holiday, or making it its own federal holiday. While disagreement persists on the merits of these proposals,<sup>80</sup> the discussion should continue.<sup>81</sup>

### **ABSENTEE AND EARLY VOTING TALKING POINTS**

- Early voting means avoiding long lines on Election Day, especially in urban areas where studies have shown that voters utilize early voting at higher rates than their suburban and rural counterparts. Without this option, some are inevitably discouraged by the lines and decide not to vote at all.
- Early voting increases not just convenience for voters but also accessibility. Many people work long hours and cannot make it to the polls at all on Election Day, especially low-income workers or workers paid by the hour who cannot afford to take time off to stand in long lines. Some work the night shift or work all day and then go to night classes. Others have young children to care for. For many elderly voters, just standing and waiting to vote is difficult. Early voting increases the ability to vote for these populations.

<sup>79</sup> Various state-by-state lists exist, making it hard to identify a single, best source. This is just one interpretation, <http://www.timeanddate.com/holidays/us/election-day>.

<sup>80</sup> An Agenda for Election Reform, published in 2007 by the Brennan Center for Justice at NYU School of Law and the Lawyers' Committee for Civil Rights Under Law, suggests that an Election Day holiday would be of no use to those working in the service and retail industries who might be overworked by yet another opportunity for holiday-related sales. See <http://www.866ourvote.org/newsroom/publications/body/00051.pdf> at p. 18.

<sup>81</sup> FairVote's Election Day Holiday Project points out that "democracy, arguably the most important piece of our national heritage, is not celebrated" and argues that "it is at least as deserving of official recognition as any of the other holidays we recognize." They include a list of existing state and federal holidays. See <http://archive.fairvote.org/righttovote/eday.pdf>.

- From going to the wrong polling place, to leaving identification at home, to simple clerical errors, an early voting period prior to Election Day provides an opportunity to clear up any problems or challenges and allow voters to cast regular ballots. Early voting also gives election officials good estimates for what to expect on Election Day, better informing their preparation and allowing them to shift resources if needed. Voters and election officials alike have extra time to solve any problems they may encounter at the polls.

### **ABSENTEE AND EARLY VOTING MODEL LEGISLATION**

#### **COLORADO VOTER ACCESS & MODERNIZED ELECTIONS ACT**

[http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/0F-25BA96A1C5D81E87257AEE005819A6?Open&file=HB1303\\_sen.pdf](http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/0F-25BA96A1C5D81E87257AEE005819A6?Open&file=HB1303_sen.pdf)

Thanks to Colorado Governor John Hickenlooper's signing of HB13-1303, the state will be taking several steps toward increased civic participation. Every registered voter will be mailed a ballot that can be cast by mail or dropped off in-person, or they may choose to vote in-person. Voters will have access to same-day registration during early voting and on Election Day. Counties will have real-time access to online voter registration information, for purposes of verification. Other provisions include portable registration for voters who move; the creation of a Modernization Task Force; and the elimination of the state's "Inactive – Failed to Vote" status, which has proven problematic.

#### **MARYLAND EARLY VOTING WITH SAME-DAY REGISTRATION**

<http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=hb0224&stab=01&pid=billpage&tab=subject3&ys=2013RS>  
<http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=s-b0279&stab=01&pid=billpage&tab=subject3&ys=2013RS>

Following Maryland Governor Martin O'Malley's signing of HB 224 and SB 279, the state has extended early voting from six to eight days and made available additional early voting centers, and as of 2016 will allow early voters to register and vote during a single visit to an early voting center. In addition, there will soon be an online absentee ballot application and online absentee ballot marking and submission. Election Day registration was separately proposed by constitutional amendment, but it did not pass prior to adjournment.<sup>82</sup>

<sup>82</sup> <http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=h-b0017&stab=01&pid=billpage&tab=subject3&ys=2013RS>

## MINNESOTA EARLY VOTING<sup>83</sup>

<https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF0334&ssn=0&y=2013>  
<https://www.revisor.mn.gov/bills/bill.php?f=SF535&y=2013&ssn=0&b=senate>

State Representative Connie Bernardy (DFL-41A), et al, and Senator Katie Sieben (DFL-54), et al, proposed that early voting be available from the fifteenth day before an election through the third day before an election, weekdays between 8 am and 4:30 pm and between 10 am and 5 pm on Saturdays. They required that there be at least one weekday on which such voting is available between 8 am and 8 pm.

## MINNESOTA NO-EXCUSE AND PERMANENT ABSENTEE VOTING<sup>84</sup>

<https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF0193&ssn=0&y=2013>

State Representative Steve Simon (DFL-46B), et al, proposed that no-excuse and permanent absentee voting be available to all voters, as under current law they must provide certain excuses in both cases.

## NEW JERSEY EARLY VOTING

[http://www.njleg.state.nj.us/2012/Bills/S2500/2364\\_R2.HTM](http://www.njleg.state.nj.us/2012/Bills/S2500/2364_R2.HTM)

On May 9, 2013, New Jersey Governor Chris Christie (R) vetoed S 2364, sponsored by State Senator Nia H. Gill (D-34), et al, which would have made available early voting at specially designated polling places from the fifteenth through the second day before an election, Monday through Saturday from 10 am to 8 pm, and Sunday from 10 am to 6 pm. The state already has in place no-excuse and permanent absentee voting.

## NEW MEXICO EARLY VOTING

[http://www.nmlegis.gov/lcs/\\_session.aspx?Chamber=H&LegType=B&LegNo=524&year=13](http://www.nmlegis.gov/lcs/_session.aspx?Chamber=H&LegType=B&LegNo=524&year=13)

During its 2013 session, the New Mexico House passed but the Senate failed to take up State Representative Nathan Cote's (D-53) early voting bill. Where the state currently distributes alternate voting locations based on population broadly counted at the county

<sup>83</sup> Early voting was not included in the omnibus elections bill signed by Minnesota Governor Mark Dayton on May 23, 2013. See <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF0894&ssn=0&y=2013> and <http://www.aclu-mn.org/news/2013/05/21/minnesota-lawmakers-inch-forward-voting-rights-more-work-nee> for more information.

<sup>84</sup> No-excuse and permanent absentee voting were included in the omnibus elections bill signed by Minnesota Governor Mark Dayton on May 23, 2013. See <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF0894&ssn=0&y=2013> and <http://www.aclu-mn.org/news/2013/05/21/minnesota-lawmakers-inch-forward-voting-rights-more-work-nee> for more information.

level,<sup>85</sup> Representative Cote's expansion would have ensured that alternate voting locations be available in population centers of more than 1,500 voters that are more than fifty miles away from an existing location and also are not served by a location designated for Native American early voting, for at least five days (including at least one Saturday).

## STREAMLINED AND IMPROVED METHODS AT POLLING LOCATIONS AND EARLY (SIMPLE) VOTING ACT

<http://hdl.loc.gov/loc.uscongress/legislation.113hr50>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative George Miller (D-CA11), amends the Help America Vote Act to require early voting in all federal elections at sites accessible by public transportation, following standards to be issued by the Election Assistance Commission.<sup>86</sup> It would also address polling place resources, requiring a sufficient number of voting systems, poll workers, and other election resources to ensure fair and equitable wait times within a state of no longer than one hour. If a one hour wait is exceeded, then a state would move to a contingency plan providing for additional, rapid response resources. Finally, it includes requirements for the counting of provisional ballots.

## UNIVERSAL RIGHT TO VOTE BY MAIL ACT

<http://hdl.loc.gov/loc.uscongress/legislation.113hr376>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative Susan Davis (D-CA53), makes no-excuse absentee voting available in all federal elections, restricting it only by application and ballot return deadlines. It is not a replacement for voting at the polls, nor does it place additional requirements on the states. It does, however, remedy inconsistencies across the country. The opportunities and/or barriers to participation in federal elections should not depend on where you live.

## VALUE OUR TIME ELECTIONS ACT

<http://hdl.loc.gov/loc.uscongress/legislation.113hr289>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative James Moran (D-VA08), takes a four-pronged approach to electoral reform. It first addresses voter registration modernization, requiring the availability of online voter registration; automating

<sup>85</sup> As outlined at [http://www.sos.state.nm.us/Voter\\_Information/Absentee\\_and\\_Early\\_Voting.aspx](http://www.sos.state.nm.us/Voter_Information/Absentee_and_Early_Voting.aspx) and governed statutes 1-6-5.6 through 1-6-5.8, <http://public.nmcompcomm.us/nmpublic/gateway.dll/?f=templates&fn=default.htm>.

<sup>86</sup> As of May 13, 2013, the EAC is without Commissioners.

voter registration, so that, with consent, individuals using public services or receiving public assistance can simultaneously with those interactions register to vote; and setting maintenance, privacy, and security standards for voter information databases. Second, it addresses polling place resources by requiring minimum standards for the number of voting systems, poll workers, and other election resources; setting distribution standards according to, among all relevant factors, the voting age population and the needs and numbers of disabled and limited English proficiency (LEP) voters; and requiring state remedial plans for wait times of 90 minutes or more. Third, it provides for emergency ballots. Finally, it requires early voting in federal elections.

### **NATIONAL CONFERENCE OF STATE LEGISLATURES, “NO-EXCUSE ABSENTEE VOTING”**

[http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#no\\_excuse](http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#no_excuse)

The National Conference of State Legislatures cites 27 states and the District of Columbia as offering no-excuse absentee voting. For the purpose of example, we have highlighted the relevant statutes, specifically the no-excuse provisions contained therein, in Iowa,<sup>87</sup> North Carolina,<sup>88</sup> and South Dakota.<sup>89</sup>

### **NATIONAL CONFERENCE OF STATE LEGISLATURES, “PERMANENT ABSENTEE VOTING”**

<http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#permanent>

The National Conference of State Legislatures cites seven states and the District of Columbia as offering permanent absentee voting to all voters, and seven others that offer it in some limited form.<sup>90</sup> For the purpose of example, we have highlighted the relevant statutes, specifically the permanent, for all voters provisions contained therein, in Arizona,<sup>91</sup> California,<sup>92</sup> and Hawaii.<sup>93</sup>

<sup>87</sup> <http://search.legis.state.ia.us/nxt/gateway.dll/ic/1/13/2187/2188/2688/2689?f=templates&fn=default.htm>

<sup>88</sup> [http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_163/GS\\_163-226.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_163/GS_163-226.html)

<sup>89</sup> <http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=12-19-1>

<sup>90</sup> Minnesota will have universal access to permanent absentee voting as of 2014 when the omnibus elections bill signed by Minnesota Governor Mark Dayton on May 23, 2013 goes into effect. See [Minnesota Herein](#).

<sup>91</sup> <http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/16/00544.htm&Title=16&DocType=ARS>

<sup>92</sup> <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=elec&group=03001-04000&file=3200-3206>

<sup>93</sup> [http://www.capitol.hawaii.gov/hrscurrent/Vol01\\_Ch0001-0042F/HRS0015/HRS\\_0015-0004.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol01_Ch0001-0042F/HRS0015/HRS_0015-0004.htm)

### **PROGRESSIVE STATES NETWORK, “VOTE BY MAIL MODEL LEGISLATION”**

<http://www.progressivestates.org/sync/pdfs>

<MultiStateAgendaSiteDocuments/VotebyMail-ModelLegislation.pdf>

Progressive States Network first addresses states that still require an excuse in order to obtain an absentee ballot, saying that those restrictions should be replaced by “a general affirmation of the right of all eligible voters to vote by mail.” They go on to establish application, list maintenance, and ballot procedures for those voting by mail. They also make available permanent vote by mail status. A fact sheet with additional background on this model is available from PSN.<sup>94</sup>

### ***SAME-DAY REGISTRATION***

Same-day registration<sup>95</sup> is among the available tools for voter registration modernization. It provides eligible citizens with the ability to register and vote on the same day. Ten states and the District of Columbia currently have some form of it on the books.<sup>96 97</sup> Their experience has shown that the cut-off dates that remain in other states – in more than half, it is twenty-five or more days before an election – bear little relevance to the running of smooth elections. Quite the contrary – eliminating these cut-offs has clear benefits.

- Same-day registration states have consistently seen higher voter turnout. Four of the top five turnout states in the 2012 presidential election were same-day registration states: Minnesota at 75.7%, Wisconsin at 72.5%, New Hampshire at 70.1%, and Iowa at 69.9%. By comparison, the national average was 58.2%. Average voter turnout was over 10 percentage points higher in same-day registration states (68.6%) than in other states (58.3%).<sup>98 99 100</sup>
- The Help America Vote Act requires states to offer provisional ballots at the polls to voters

<sup>94</sup> <http://www.progressivestates.org/sync/pdfs/MultiStateAgendaSiteDocuments/VotebyMailAbsenteeVotingInThe21stCentury.pdf>

<sup>95</sup> <http://www.demos.org/publication/what-same-day-registration-where-it-available>

<sup>96</sup> New laws in California and Maryland are expected to go into effect in 2016. See [California](#) and [Maryland](#) herein

<sup>97</sup> <http://www.ncsl.org/legislatures-elections/elections/same-day-registration.aspx>

<sup>98</sup> <http://www.demos.org/publication/what-same-day-registration-where-it-available>

<sup>99</sup> <http://www.demos.org/publication/what-same-day-registration-where-it-available#1>

<sup>100</sup> <http://elections.gmu.edu/Turnout%201980-2012.xls>



whose names do not appear on the voter rolls or who face other voting-prohibitive issues. Such ballots are only counted if election officials subsequently verify that the individuals were in fact eligible to vote. Thanks to same-day registration, many are able to cast immediately meaningful votes.

- Young Americans move frequently – for school, jobs, or family – making it difficult for them to keep their voter registrations current. Same-day registration is a powerful tool to help ensure that they and any mobile population, including low-income citizens, are able to register and vote.
- Would-be voters who have yet to make decisions about candidates have more time to make up their minds. Certainly voter registration is not dependent on such decisions, but less informed voters are often less inclined to participate. If they miss the deadlines, under same-day registration they could still vote in a way that will count.

It is also important to note that same-day registration does not:<sup>101</sup>

- Unreasonably burden election administrator workloads;
- Significantly increase costs (may save money); or
- Make voting more vulnerable to fraud (as safeguards and penalties are still in place).

Full realization of same-day registration requires that it be available during all voting periods. But regardless of whether that is achieved or it is only available during either early voting or on Election Day, it is a reform well worth considering.

### **SAME-DAY REGISTRATION** **TALKING POINTS**

- The flexibility that same-day registration offers turns out more voters. While other factors may be involved, experts attribute at least 3 to 6 percentage points of historical increases to same-day registration.<sup>102</sup>

101 <http://www.demos.org/publication/election-day-registration-ground-level-view-0>

102 [http://www.demos.org/sites/default/files/publications/VotersWinSDR\\_2010\\_Demos.pdf](http://www.demos.org/sites/default/files/publications/VotersWinSDR_2010_Demos.pdf)

- Same-day registration allows many provisional ballot voters to reregister and cast a meaningful ballot. They have to meet eligibility requirements, but they do not have to worry about their votes being tossed out.
- Vulnerable populations gain a lot from same-day registration. People who move frequently would not have to navigate a confusing patchwork of voting laws. Undecided voters who might elect upon the deadline not to register could still have their voices heard and cast a ballot that counts.
- The pros far outweigh the cons when it comes to same-day registration. In fact, while election administrators have identified some challenges, no serious risks are known.<sup>103</sup>

### **SAME-DAY REGISTRATION** **MODEL LEGISLATION**

#### **CALIFORNIA SAME-DAY REGISTRATION**

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201120120AB1436&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB1436&search_keywords=)

The same-day registration legislation that California Governor Jerry Brown signed into law in 2012 is expected to take effect in 2016, following the Secretary of State's certification that the state has a HAVA-compliant statewide voter registration database. Interested, eligible parties will be able to register conditionally on Election Day or 15 days prior and cast a provisional ballot to be counted upon verification of their conditional registration. If certain information provided cannot be verified, but their eligibility can, their registration will still be considered effective.

#### **COLORADO VOTER ACCESS & MODERNIZED ELECTIONS ACT**

[http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/0F-25BA96A1C5D81E87257AEE005819A6?Open&file=HB1303\\_sen.pdf](http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/0F-25BA96A1C5D81E87257AEE005819A6?Open&file=HB1303_sen.pdf)

Thanks to Colorado Governor John Hickenlooper's signing of HB13-1303, the state will be taking several steps toward increased civic participation. Every registered voter will be mailed a ballot that can be cast by mail or dropped off in-person, or they may choose to vote in-person. Voters will have access to same-day registration during early voting and on Election Day. Counties will have real-time access to online voter registration information, for purposes of verification. Other provisions include portable registration for voters who move; the creation of a Modernization Task

103 <http://www.demos.org/publication/election-day-registration-ground-level-view-0>

Force; and the elimination of the state's "Inactive – Failed to Vote" status, which has proven problematic.

### CONNECTICUT ELECTION DAY & ONLINE REGISTRATION

[http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill\\_num=HB05024&which\\_year=2012](http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB05024&which_year=2012)

The Election Day Registration that Connecticut Governor Dannel Malloy signed into law in 2012 went into effect on July 1, 2013, allowing eligible unregistered voters and those switching municipalities to register and vote at a centralized location on Election Day. The online voter registration provisions will separately take effect on January 1, 2014.

### MARYLAND EARLY VOTING WITH SAME-DAY REGISTRATION

<HTTP://MGALEG.MARYLAND.GOV/WEBMGA/FRMMAIN.ASPX?ID=HB0224&STAB=01&PID=BILLPAGE&TAB=SUBJECT3&YS=2013RS>  
<http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=s-b0279&stab=01&pid=billpage&tab=subject3&ys=2013RS>

Following Maryland Governor Martin O'Malley's signing of HB 224 and SB 279, the state has extended early voting from six to eight days and made available additional early voting centers, and as of 2016 will allow early voters to register and vote during a single visit to an early voting center. In addition, there will soon be an online absentee ballot application and online absentee ballot marking and submission. Election Day registration was separately proposed by constitutional amendment, but it did not pass prior to adjournment.<sup>104</sup>

### MINNESOTA ELECTION DAY REGISTRATION

<https://www.revisor.leg.state.mn.us/statutes/?id=201.061>

Since 1974, voter registration options in Minnesota have included Election Day registration. Voters choosing this method must complete an application at their polling place on Election Day, take the oath set forth by the Secretary of State, and provide proof of residence – acceptable forms of which include a driver's license, state identification card, student ID or student fee statement, certain tribal ID or verification, or another qualified, present voter who can vouch for

<sup>104</sup> <http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=h-b0017&stab=01&pid=billpage&tab=subject3&ys=2013RS>

the residency in question.<sup>105</sup>

## FORMERLY INCARCERATED PERSONS

Maine and Vermont are the only states where incarcerated persons never lose their voting rights. In every other state, they suffer some form of disenfranchisement,<sup>106</sup> with nearly six million and counting Americans affected.<sup>107</sup> Even those who are out of prison – living in the community, paying taxes and raising families – remain disenfranchised for years, often decades, and sometimes for life. The United States is one of the few Western democratic nations that exclude such large numbers of people from the democratic process. The impact is felt especially acutely by those disproportionately represented in the criminal justice system, including low-income persons and racial and ethnic minorities. One in every thirteen African Americans, 7.7% of that population, is unable to vote.<sup>108</sup> The time is long overdue to restore the voting rights of Americans who have completed their sentences, including prison, parole, and probation, but continue to be denied their ability to fully participate in civic life.<sup>109</sup>

The extent of disenfranchisement can depend on the nature of the offense committed. In states that make a distinction, non-violent offenses generally provide a smoother path to rights restoration. More serious crimes can complicate restoration, and some crimes rule it out completely, or nearly so. It can also depend on the nature of the sentence handed down. Some allow those on probation to vote. Others require full sentence completion (probation or parole).

Methods of restoration also vary between states.

<sup>105</sup> The omnibus elections bill signed by Minnesota Governor Mark Dayton on May 23, 2013 decreased the number of vouchers a voter may sign from fifteen to eight. See <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF0894&ssn=0&y=2013> and <http://www.aclu-mn.org/news/2013/05/21/minnesota-lawmakers-inch-forward-voting-rights-more-work-nee> for more information. A decrease to three vouchers was included in <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF0269&ssn=0&y=2013>.

<sup>106</sup> In November 2012, The Sentencing Project published *Felony Disenfranchisement Laws in the United States*, [http://sentencingproject.org/doc/publications/fd\\_bs\\_fdlawsinus\\_Nov2012.pdf](http://sentencingproject.org/doc/publications/fd_bs_fdlawsinus_Nov2012.pdf). Other state-by-state analyses include the American Civil Liberties Union, <http://www.aclu.org/maps/map-state-felony-disfranchisement-laws>, Brennan Center for Justice at NYU School of Law, [http://sentencingproject.org/doc/publications/fd\\_bs\\_fdlawsinus\\_Nov2012.pdf](http://sentencingproject.org/doc/publications/fd_bs_fdlawsinus_Nov2012.pdf), and ProCon.org, <http://felonvoting.procon.org/view.resource.php?resourceID=286>.

<sup>107</sup> <http://www.sentencingproject.org/template/page.cfm?id=133>

<sup>108</sup> Ibid.

<sup>109</sup> See <http://www.sentencingproject.org/map/map.cfm> for more national and state statistics.

For some it is automatic: as soon as the sentence completion requirement is fulfilled, rights are restored, and all that the formerly incarcerated person has to do is reregister to vote. For others there might be a waiting period, some amount of time between release and reregistration. In a few states, rights restoration requires its own application process before one can reregister. And there are still some states that have lifetime bans in place for certain formerly incarcerated persons.

Given the current reality that voting rights are withheld in most states in some form or another, we should do what we can to make restoration as automatic, transparent, and available as possible. Many formerly incarcerated persons do not know that they have regained their rights automatically or that they are eligible for restoration at all. Educating them about rights restoration and voter registration is a critical component of their civic rehabilitation. We must also ensure that the public servants with whom they interact, particularly court and correctional officers and other criminal justice personnel, are prepared to facilitate that process. Proper facilitation also requires modern data systems and data sharing between relevant state agencies. Enhancing civic participation is well worth these investments.

### **FORMERLY INCARCERATED PERSONS** **TALKING POINTS**

- Laws disenfranchising formerly incarcerated persons are rooted in the Jim Crow era. They were enacted alongside poll taxes and literacy tests and were intended to keep African Americans from voting. By 1900, 38 states denied voting rights to people with criminal convictions, most of which disenfranchised people until they received a pardon. The intended effects of these laws continue to this day.
- Voting is our check and balance. It is the path to the better America that we envision – the America where the missteps in our past do not dictate our future. It is our assurance that those in power govern only by the consent of the people and it is our safeguard against tyranny. A strong, vibrant democracy requires the broadest possible base of voter participation, and allowing formerly incarcerated persons to vote is the best way to ensure the greatest level of participation.
- Voting is symbolic of political equality and full

citizenship. When a citizen is denied this right and responsibility, their standing as a full and equal member of society is called into question.

- Voting fosters a sense of community, and people who feel part of a community, and supported by that community, are more likely to succeed in their new lives and less likely to fall back into their old ways. If we really want our criminal justice system to result in reform and rehabilitation, we need to bring formerly incarcerated persons back into full participation in civic life. Criminologists agree that the most successful rehabilitation is enjoyed by those who rekindle their sense of civic responsibility and become active, productive members of their communities. That is good for all of us and for democracy.
- The disenfranchisement of formerly incarcerated persons exacerbates the discrimination they face, particularly in minority communities which are disproportionately represented in the system. They work; they pay taxes; and they are affected by government decisions. They should be able to hold their elected officials accountable for those decisions. They should be able to vote.
- Rights restoration is not about one party or another making electoral gains. Paying your debt to society should not mean forever giving up your right to participate in that society, regardless of party affiliation. This is a nonpartisan fight for fairness and inclusivity.

### **FORMERLY INCARCERATED PERSONS** **MODEL LEGISLATION**

#### **DEMOCRACY RESTORATION ACT**

<http://hdl.loc.gov/loc.uscongress/legislation.112hr2212>

<http://hdl.loc.gov/loc.uscongress/legislation.112s2017>

The current patchwork of laws that disenfranchise formerly incarcerated persons has created an inconsistent and unfair federal electoral process, perpetuating entrenched racial discrimination. This federal proposal, sponsored in the 112<sup>th</sup> Congress by US Representative John Conyers (D-MI14) and US Senator Ben Cardin (D-MD), seeks to restore voting rights in federal elections to people who are out of prison and living in the community.

## MARYLAND VOTER REGISTRATION PROTECTION ACT

<http://mgaleg.maryland.gov/webmga/frmMain.aspx?tab=subject3&ys=2007rs/billfile/sb0488.htm>

In 2007, Maryland replaced its “complicated felony disfranchisement regime [with] a more uniform process for the restoration of voting rights to formerly incarcerated people upon completion of their sentence[,] repealed a three-year waiting period for rights restoration after completion of sentence[, and] also repealed the lifetime voting ban for people convicted of some offenses.”<sup>110</sup> The 2007 reforms also addressed certain reporting requirements related to voter registration and other vital statistics.

## MINNESOTA, FORMERLY INCARCERATED PERSONS<sup>111</sup>

<https://www.revisor.mn.gov/bills/bill.php?b=House&f=F0491&ssn=0&y=2013>  
<https://www.revisor.mn.gov/bills/bill.php?f=F107&y=2013&ssn=0&b=senate>

Under a proposal by State Representative Raymond Dehn (DFL-59B), et al, and Senator Bobby Joe Champion (DFL-59), formerly incarcerated persons would not have to separately apply for rights restoration; they would simply have to reregister to vote. Even if correctional facilities failed to provide the notice required, those individuals would still be able to register. Moreover, one’s rights would only be withheld during the period of incarceration.

## NORTH CAROLINA VOTER REGISTRATION UPON RESTORATION OF CITIZENSHIP

[http://ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_163/GS\\_163-82.20A.html](http://ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_163/GS_163-82.20A.html)

Since 2007, North Carolina election law has directed the State Board of Elections, Department of Correction, and Administrative Office of the Court to jointly develop educational programs and procedures to support the enfranchisement of formerly incarcerated persons. Key components include informing affected persons that while restoration of rights does remove their disqualification to vote, it does not automatically reregister them to vote; and providing them the opportunity to register, at least by including written notice with the enclosure of a voter registration form.

<sup>110</sup> [http://www.aclu.org/pdfs/votingrights/righttovote\\_20080125.pdf](http://www.aclu.org/pdfs/votingrights/righttovote_20080125.pdf) at p. 15

<sup>111</sup> These reforms for formerly incarcerated persons were not included in the omnibus elections bill signed by Minnesota Governor Mark Dayton on May 23, 2013. See <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF0894&ssn=0&y=2013> and <http://www.aclu-mn.org/news/2013/05/21/minnesota-lawmakers-inch-forward-voting-rights-more-work-nee> for more information.

## RHODE ISLAND RESTORATION OF VOTING RIGHTS ACT

<http://webserver.rilin.state.ri.us/Statutes/TITLE17/17-9.2/INDEX.HTM>  
<http://webserver.rilin.state.ri.us/Statutes/TITLE17/17-9.2/17-9.2-3.HTM>

Following a 2006 ballot measure, Rhode Island reformed its procedures for the enfranchisement of formerly incarcerated persons, the key components of which include:<sup>112</sup> advance notice on the loss of voting rights; list matching and purge procedures with appropriate safeguards against disenfranchisement; written notice on how to restore one’s rights; the deeming of state correctional departments as “motor voter” agencies; and enfranchisement education for criminal justice personnel.

## BRENNAN CENTER, “COMPONENTS OF A RIGHT TO VOTE BILL, JULY 2006”

[http://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_48179.pdf](http://www.brennancenter.org/sites/default/files/legacy/d/download_file_48179.pdf)

The formerly incarcerated persons model legislation offered by the Brennan Center for Justice at NYU School of Law is founded on five key components: restoration of rights ranging from full restoration, even during incarceration, to restoration upon completion of sentence and a waiting period; notice given prior to conviction or sentencing and again prior to release; voter registration assistance; maintenance of statewide voter registration databases that include eligible and registered formerly incarcerated persons among the names of all registered voters; and education for state officials and the public.

## *POLLING PLACE RESOURCES*

We have seen far too often a precinct where ten machines sit free as one voter walks in the door and another precinct where one hundred voters wait in line as one operable machine carries the voting load. Minutes turn into hours waiting to exercise a fundamental right. Some are inevitably forced to leave, when a solution as simple as redistributing the machines or having more available might have solved the problem.

Machine availability plays just one part in the debate over polling place resources. Indeed, we take for granted how much goes into fully equipping each polling place for each election. That is, we take it for granted until we hear about or ourselves face Election Day problems.

<sup>112</sup> [http://www.aclu.org/pdfs/votingrights/righttovote\\_20080125.pdf](http://www.aclu.org/pdfs/votingrights/righttovote_20080125.pdf) at pp. 17 and 48



It was just such a story, that of 102-year-old Desiline Victor, who waited in line for hours on November 6, 2012 in order to cast her ballot,<sup>113 114</sup> that led President Obama to identify polling place resources as a top priority in his second term. Officially established on March 28, 2013, the Presidential Commission on Election Administration will take up several concerns,<sup>115</sup> including poll worker<sup>116</sup> training and recruitment; efficient management of voter rolls and poll books; voting machine capacity and technology; and voting accessibility for certain vulnerable populations.<sup>117 118</sup>

But these ideas are not new; they have always been critical components of civic participation in America. Without question, we need to invest in equitable access to polling place resources.

**POLLING PLACE RESOURCES TALKING POINTS**

- As election technology advances, poll workers continue to be an inadequately trained, aged population. It is important that more people step up to be poll workers, including youth who are increasingly the driving force behind growing civic participation in this country. And anyone who takes on that role must be trained on the logistics of Election Day and at least the basics of the laws that govern the voting process.
- Voter registration modernization will help cut down on errors that result in voters' names not being added to the rolls and/or not being recorded in the poll books.<sup>119</sup>
- Beyond modernization, politically-motivated

113 <http://blog.pfaw.org/content/ensuring-desiline-victor-and-all-americans-get-have-their-say-polls>

114 [http://www.huffingtonpost.com/2013/02/12/desiline-victor-state-of-the-union\\_n\\_2674160.html](http://www.huffingtonpost.com/2013/02/12/desiline-victor-state-of-the-union_n_2674160.html)

115 <http://www.whitehouse.gov/the-press-office/2013/03/28/executive-order-establishment-presidential-commission-election-administr>

116 On September 27, 2005, Election Data Services released quantitative poll worker data from Election Day 2004, <http://projectvote.org/images/publications/Poll%20Workers/EDS-2004-Part2-Chapter12.pdf>.

117 The United States Election Assistance Commission (EAC) maintains a resource list for persons with disabilities, [http://www.eac.gov/voter\\_resources/resources\\_for\\_voters\\_with\\_disabilities.aspx](http://www.eac.gov/voter_resources/resources_for_voters_with_disabilities.aspx). As of May 13, 2013, the EAC is without Commissioners, so the resource page may not be actively undergoing updates. The National Disability Rights Network maintains a similar list, <http://www.ndrn.org/en/issues/voting.html>.

118 See [http://www.justice.gov/crt/about/vot/sec\\_203/activ\\_203.php](http://www.justice.gov/crt/about/vot/sec_203/activ_203.php) and [http://www.justice.gov/crt/about/vot/sec\\_203/203\\_brochure.php](http://www.justice.gov/crt/about/vot/sec_203/203_brochure.php) for Department of Justice (DOJ) information about language minority voting rights and Section 203, the primarily relevant portion of the Voting Rights Act.

119 Herein at [Voter Registration Modernization](#).

voter purges, like those conducted in Florida<sup>120</sup> and other states,<sup>121</sup> need to end.

- With respect to voting machine technology, jurisdictions should ensure that whatever machines they use are equitably available and fully verifiable and auditable.
- Eligible voters should not be denied their rights based on immutable characteristics. Persons with disabilities sometimes require physical accommodations or assistance from others, or both, in order to vote. Those that rely heavily on languages other than English might very well need voting materials, or translation assistance, in their native tongue.

**POLLING PLACE RESOURCES MODEL LEGISLATION**

**CALIFORNIA, VOTERS WITH DISABILITIES & LIMITED ENGLISH PROFICIENCY**

[http://www.sos.ca.gov/elections/elections\\_dis.htm](http://www.sos.ca.gov/elections/elections_dis.htm)

California's Polling Place Accessibility Guidelines<sup>122</sup> covers all accessibility points from parking and voting areas to elevators and restrooms, and offers modification techniques for when accessibility is lacking. But California does not stop there in providing information to voters with disabilities. The state also provides an American Sign Language voting guide with both English<sup>123</sup> and Spanish audio; <sup>124</sup> audio recordings are also available for order on CD and cassette.<sup>125</sup> In addition, several of the state's voting systems allow private and independent voting for persons with disabilities.<sup>126</sup> For voters with limited English proficiency (LEP), specifically those that speak Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, or Vietnamese, there are voter materials<sup>127</sup> and voter hotlines.<sup>128</sup>

120 <http://blog.pfaw.org/content/UPDATE2-Right-wing-Florida-officials-win-fight-for-citizenship-data>

121 <http://blog.pfaw.org/content/push-for-citizenship-data-goes-viral>

122 As of May 6, 2013, California had last updated its Polling Place Accessibility Guidelines, <http://www.sos.ca.gov/elections/polling-place-accessibility/>, in March 2010.

123 <http://www.sos.ca.gov/elections/voting/guide-voting-english.htm>

124 <http://www.sos.ca.gov/elections/voting/guide-voting-spanish.htm>

125 <http://voterguide.sos.ca.gov/alt-versions/audio/>

126 <http://www.sos.ca.gov/voting-systems/oversight/county-vsyst-ca-map-counties3.htm>

127 <http://www.sos.ca.gov/elections/new-voter/>

128 <http://www.sos.ca.gov/elections/new-voter/voter-assistance-hotlines.htm>

## INDIANA POLL WORKER TRAINING MATERIALS

<http://www.in.gov/sos/elections/2661.htm>

Indiana takes a two-pronged approach. Its online clearinghouse starts with materials for poll worker trainers: a PowerPoint template,<sup>129</sup> examples of valid and invalid ID,<sup>130</sup> and common mistakes.<sup>131</sup> It continues with a video training library for poll workers themselves – thirteen chapters including both an introduction<sup>132</sup> and a conclusion.<sup>133</sup> There are also training videos and materials to accompany various voting systems.

## LINES INTERFERE WITH NATIONAL ELECTIONS (LINE) ACT

<http://hdl.loc.gov/loc.uscongress/legislation.113s58>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Senator Barbara Boxer (D-CA), seeks redress for critical polling place resource shortages. First, it calls for Help America Vote Act minimum standards for the number of voting systems, poll workers, and other election (including physical) resources. Second, it calls for the Attorney General and Election Assistance Commission<sup>134</sup> to issue distribution standards according to, among all relevant factors, the voting age population and the needs and numbers of disabled and limited English proficiency (LEP) voters. The goal of these measures is to equalize voter wait times within a state and prevent them from exceeding one hour. Exceeding 90-minute wait times would trigger the enforcement of a state remedial plan.

## LOS ANGELES POLLWORKER TRAINING

<http://www.lavote.net/voter/pollworker/>

Los Angeles County, California provided extensive training to its poll workers, including inspectors and clerks, for the November 6, 2012 election. In addition to formal training classes, there was an Election Guide and Checklist,<sup>135</sup> What to Do if . . . Election Day Problems Occur at the Polls,<sup>136</sup> and

129 As of May 6, 2013, Indiana had last updated its County Training PowerPoint template, [http://www.in.gov/sos/elections/images/Poll\\_Worker\\_Training\\_09.14.2012.ppt](http://www.in.gov/sos/elections/images/Poll_Worker_Training_09.14.2012.ppt), on September 14, 2012.

130 As of May 6, 2013, Indiana had last updated its Photo ID Card Examples, [http://www.in.gov/sos/elections/files/2011\\_Photo\\_ID\\_Card\\_Examples\(2\).pdf](http://www.in.gov/sos/elections/files/2011_Photo_ID_Card_Examples(2).pdf), in 2011.

131 As of May 6, 2013, Indiana had last updated its Top Ten Election Day Mistakes, [http://www.in.gov/sos/elections/files/Top\\_ten\\_Election\\_Day\\_mistakes\\_by\\_poll\\_workers\\_June\\_Conference\\_2008.pdf](http://www.in.gov/sos/elections/files/Top_ten_Election_Day_mistakes_by_poll_workers_June_Conference_2008.pdf), in 2008.

132 <http://youtu.be/58zkXUDp7qU>

133 <http://youtu.be/Xwkm-o5T9Po>

134 As of May 13, 2013, the EAC is without Commissioners.

135 [http://www.lavote.net/voter/pollworker/PDFS/ELECTION\\_GUIDE\\_CHECKLIST.pdf](http://www.lavote.net/voter/pollworker/PDFS/ELECTION_GUIDE_CHECKLIST.pdf)

136 [http://www.lavote.net/voter/pollworker/PDFS/WHAT\\_TO\\_DO\\_IF.pdf](http://www.lavote.net/voter/pollworker/PDFS/WHAT_TO_DO_IF.pdf)

online video instruction in areas including the setup and operation of InkaVote Plus voting systems<sup>137</sup> and the management of a perfect polling place.<sup>138</sup> LA's poll worker recruitment included specific outreach to bilingual citizens, county employees,<sup>139</sup> and students.<sup>140</sup> LA also evaluates the poll worker experience.<sup>141</sup>

## STREAMLINED AND IMPROVED METHODS AT POLLING LOCATIONS AND EARLY (SIMPLE) VOTING ACT

<http://hdl.loc.gov/loc.uscongress/legislation.113hr50>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative George Miller (D-CA11), amends the Help America Vote Act to require early voting in all federal elections, at sites accessible by public transportation, and following standards to be issued by the Election Assistance Commission.<sup>142</sup> It would also address polling place resources, requiring a sufficient number of voting systems, poll workers, and other election resources to ensure fair and equitable wait times within a state of no longer than one hour. If a one-hour wait is exceeded, then a state would move to a contingency plan providing for additional, rapid response resources. Finally, it includes requirements for the counting of provisional ballots.

## VALUE OUR TIME ELECTIONS ACT

<http://hdl.loc.gov/loc.uscongress/legislation.113hr289>

This federal proposal, sponsored in the 113<sup>th</sup> Congress by US Representative James Moran (D-VA08), takes a four-pronged approach to electoral reform. It first addresses voter registration modernization, requiring the availability for online voter registration; automating voter registration, so that, with consent, individuals using public services or receiving public assistance can simultaneously with those interactions register to vote; and setting maintenance, privacy, and security standards for voter information databases. Second, it addresses polling place resources, by requiring minimum standards for the number of voting systems, poll workers, and other election resources; setting distribution standards according to, among all relevant factors, the voting age population and the needs and numbers of disabled and limited English

137 <http://youtu.be/OJQ3JzgxEEo>

138 <http://youtu.be/aF4Flh1SpNU>

139 [http://www.lavote.net/voter/pollworker/PDFS/INFORMATIONAL\\_BROCHURE.pdf](http://www.lavote.net/voter/pollworker/PDFS/INFORMATIONAL_BROCHURE.pdf)

140 [http://www.lavote.net/voter/pollworker/PDFS/STUDENT\\_POLLWORKER\\_BROCHURE.pdf](http://www.lavote.net/voter/pollworker/PDFS/STUDENT_POLLWORKER_BROCHURE.pdf)

141 As of May 6, 2013, the last report available, [http://www.lavote.net/voter/PDFS/POST\\_ELECTION\\_REPORTS/2012\\_Inspector\\_Survey\\_Analysis\\_Report.pdf](http://www.lavote.net/voter/PDFS/POST_ELECTION_REPORTS/2012_Inspector_Survey_Analysis_Report.pdf), was from the June 5, 2012 Presidential Primary.

142 As of May 13, 2013, the EAC is without Commissioners.

proficiency (LEP) voters; and requiring state remedial plans for wait times of 90 minutes or more. Third, it provides for emergency ballots. Finally, it requires early voting in federal elections.

**ADVANCEMENT PROJECT, “PLIGHT OF THE POLL WORKER: EFFORTS TO IMPROVE TRAINING AND SUPPORT FOR POLL WORKERS IN OHIO, PENNSYLVANIA, MARYLAND, FLORIDA, AND MICHIGAN”**

[http://projectvote.org/images/publications/Poll%20Workers/Plight\\_of\\_the\\_Poll\\_Worker-Advancement\\_Project.pdf](http://projectvote.org/images/publications/Poll%20Workers/Plight_of_the_Poll_Worker-Advancement_Project.pdf)

Advancement Project surveyed poll worker training and support programs and the problems they face stemming from inadequate or inconsistent training in Ohio,<sup>143</sup> Maryland,<sup>144</sup> Pennsylvania,<sup>145</sup> Florida,<sup>146</sup> and Michigan.<sup>147</sup> They make specific recommendations in several locations. In addition to generally recommending sharing poll worker training and recruitment information with the public and actively soliciting public input, they suggest “open[ing] poll worker trainings to the general public”; including minority ethnic media outlets and high schools and colleges among recruitment vehicles; creating informative, easy-to-read information posters for polling places and palm cards for poll workers; “increase[ing] ‘hands on’ poll worker training”; and building an evaluation component into training, with subsequent trainings required if a certain understanding level is not met.

**ASIAN AMERICAN JUSTICE CENTER, “VOTING RIGHTS & SECTION 203”**

<http://www.advancingequality.org/voting-rights>

The Asian American Justice Center, part of the Asian American Center for Advancing Justice, is a rich resource for information about language minority

voting rights<sup>148</sup> and Section 203,<sup>149</sup> the most relevant portion of the Voting Rights Act. Perhaps most notable are the suggested implementation checklist, which offers a simplified list of best practices for implementing Section 203,<sup>150</sup> and the handbook,<sup>151</sup> which goes into further detail about what covered and non-covered jurisdictions can do to address language minority voting rights.

**PROJECT VOTE, “ELEMENTS OF A SUCCESSFUL POLLWORKER TRAINING PROGRAM”**

[http://projectvote.org/images/publications/Policy%20Briefs/Project\\_Vote\\_Policy\\_Brief\\_9\\_Elements\\_of\\_Successful\\_Poll\\_Worker\\_Training.pdf](http://projectvote.org/images/publications/Policy%20Briefs/Project_Vote_Policy_Brief_9_Elements_of_Successful_Poll_Worker_Training.pdf)

Project Vote defines properly and poorly trained poll workers. Properly trained poll workers “understand the laws and procedures for voting in their state, exercise discretion responsibly, seek guidance when appropriate, and act in a professional and respectful manner with all voters.” Poorly trained poll workers are “not well acquainted with their state’s laws and procedures for voting, exercise discretion arbitrarily and treat some voters with considerably more deference than other voters.” To help bridge the gap between the two, Project Vote’s recommendations are both general (e.g. “statewide uniformity, collaborating with local election officials, community input, and training methods” that take into account diversity of poll workers and their need to refer back to materials once training is complete) and specific (e.g. making sure that clear policies and procedures govern “redirecting voters to the proper polling location; provisional ballots; a second ballot to replace a spoiled first ballot; ID at the polls; diversity training; using new machines; bringing someone in the booth to help; and challenger rights, responsibilities and limitations”).

143 The Advancement Project document was published in October 2006. The Ohio state page, <http://www.ohioelectionstraining.sos.state.oh.us/>, was last accessed on May 6, 2013.

144 The Advancement Project document was published in October 2006. The Maryland state page, [http://www.elections.state.md.us/get\\_involved/election\\_judges.html](http://www.elections.state.md.us/get_involved/election_judges.html), was last accessed on May 6, 2013.

145 As of May 6, 2013, Pennsylvania had last updated its Elections Officials Training Program, [http://www.dos.state.pa.us/portal/server.pt/community/poll\\_worker\\_training/12373](http://www.dos.state.pa.us/portal/server.pt/community/poll_worker_training/12373), on August 21, 2013.

146 As of May 6, 2013, Florida had last updated its Voter Registration and Voting Guide, not poll worker-specific, [http://election.dos.state.fl.us/publications/pdf/2011/2011-2012\\_VoterRegGuide.pdf](http://election.dos.state.fl.us/publications/pdf/2011/2011-2012_VoterRegGuide.pdf), in September 2011.

147 As of May 6, 2013, Michigan had last updated Managing Your Precinct on Election Day: Election Inspectors’ Procedure Manual: A Quick Reference Guide to the State and Federal Laws Which Govern the Operation of Polling Places, [http://www.michigan.gov/documents/sos/Managing\\_Your\\_Precinct\\_on\\_Election\\_Day\\_391790\\_7.pdf](http://www.michigan.gov/documents/sos/Managing_Your_Precinct_on_Election_Day_391790_7.pdf), in October 2008.

148 For Election 2012, there was a voting assistance fact sheet and several state-specific palm cards with alternate translations, <http://www.advancingequality.org/restrictive-voter-laws-and-other-election-issues>.

149 <http://www.advancingequality.org/section-203> includes fact sheet translations in Bangla, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, and Vietnamese.

150 As of May 6, 2013, AAJC had last updated Suggested Implementation Checklist for Jurisdictions Covered by Section 203 of Voting Rights Act, <http://www.advancingequality.org/files/Section%20203%20Implementation%20Checklist.pdf>, on October 19, 2011. Coauthored by the Asian American Pacific Legal Center, Asian American Institute, and Asian Law Caucus.

151 As of May 6, 2013, AAJC had last updated Help Asian Americans Protect Their Voting Rights: A Guide to Ensure Language Assistance During Elections, <http://www.advancingequality.org/files/Section%20203%20handbook%20Final%2002%202010.pdf>, in February 2012. Coauthored by the Asian Pacific American Legal Center.

They also reference models from Iowa,<sup>152</sup> Missouri,<sup>153</sup> North Carolina,<sup>154</sup> and Wisconsin.<sup>155</sup>

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152 The Project Vote document was published on February 8, 2007. The Iowa state page, <http://sos.iowa.gov/elections/auditors/poll-wkrtr.html>, was last accessed on May 5, 2013.

153 The Project Vote document was published on February 8, 2007. The Missouri state page, <http://extension.missouri.edu/cd/poll-workertrainers/>, was last accessed on May 5, 2013.

154 As of May 6, 2013, North Carolina had last updated its Precinct Official Certification Guide, <http://www.ncsbe.gov/GetDocument.aspx?id=2588>, in January 2007.

155 As of May 6, 2013, Wisconsin had last updated its Election Day Manual, [http://gab.wi.gov/sites/default/files/publication/65/election\\_day\\_manual\\_pdf\\_15730.pdf](http://gab.wi.gov/sites/default/files/publication/65/election_day_manual_pdf_15730.pdf), in October 2012.



# RESOURCES

## ADVANCEMENT PROJECT

<http://www.advancementproject.org/>

Advancement Project is a multi-racial civil rights organization. Founded by a team of veteran civil rights lawyers in 1999, Advancement Project was created to develop and inspire community-based solutions based on the same high quality legal analysis and public education campaigns that produced the landmark civil rights victories of earlier eras. From its inception, the organization has worked “on-the-ground,” helping organized communities of color dismantle and reform the unjust and inequitable policies that undermine the promise of democracy. Simultaneously, they have aggressively sought and seized opportunities to promote this approach to racial justice.

## AFL-CIO

<http://www.aflcio.org/>

AFL-CIO is the umbrella federation for US unions, with 57 unions representing more than 12 million working men and women. The federation works to ensure that all people who work receive the rewards of their work—decent paychecks and benefits, safe jobs, respect and fair treatment. They work to make the voices of working people heard in the White House, on Capitol Hill, in state capitals across the country and in corporate boardrooms. They provide an independent voice for working families and ways for working people to be actively engaged in politics and legislation. They also hold corporations accountable for their treatment of employees and ensure the voice of working people is heard in the financial system. They also work with federations of unions in other countries toward global social and economic fairness.

## AMERICAN CIVIL LIBERTIES UNION

<http://www.aclu.org>

The American Civil Liberties Union is a guardian of liberty, working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country. These rights include: your First Amendment rights - freedom of speech, association and assembly; freedom of the press, and freedom of religion; your right to equal protection under the law - protection against unlawful discrimination; your right to due process - fair treatment by the government whenever the loss of your liberty or property is at stake; and your right to privacy - freedom from unwarranted government intrusion into your personal and private affairs. The organization also works to extend rights to segments of the population that have traditionally been denied their rights, including people of color; women; lesbians, gay men, bisexuals and transgender people; prisoners;

and people with disabilities.

## ASIAN AMERICAN CENTER FOR ADVANCING JUSTICE

<http://www.advancingjustice.org/>

The Asian American Center for Advancing Justice promotes a fair and equitable society for all by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities. Its member organizations include Asian American Institute, Asian American Justice Center, Asian American Pacific Legal Center, and Asian Law Caucus.

## BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW

<http://www.brennancenter.org/>

The Brennan Center for Justice at NYU School of Law is a nonpartisan law and policy institute that seeks to improve our systems of democracy and justice. The Center works to hold our political institutions and laws accountable to the twin American ideals of democracy and equal justice for all. Their work ranges from voting rights to campaign finance reform, from racial justice in criminal law to Constitutional protection in the fight against terrorism. Part think tank, part public interest law firm, part advocacy group, and part communications hub, they seek meaningful, measurable change in the systems by which our nation is governed.

## COMMON CAUSE

<http://www.commoncause.org/>

Common Cause has a respected tradition as an effective citizens' lobby working to ensure honest, open, accountable, and effective government. Best known in recent years for its tireless advocacy of campaign finance reform, Common Cause spearheaded efforts to pass the Bipartisan Campaign Reform Act of 2002, the most significant campaign reform bill in a generation, banning political parties from raising and spending soft money.

## CORNELL UNIVERSITY LAW SCHOOL, LEGAL INFORMATION INSTITUTE

<http://www.law.cornell.edu/>

The Legal Information Institute is a small research, engineering, and editorial group housed at the Cornell Law School in Ithaca, NY. The Institute's collaborators include publishers, legal scholars, computer scientists, government agencies, and other groups and individuals that promote open access to law worldwide. They work to ensure that the law remains free and open to everyone, which includes supporting global expansion of the free access to law movement, serving government, empowering citizens, and developing web science for the law.

## **DEMOCRACY 21**

<http://www.democracy21.org/>

Democracy 21 is a nonprofit, nonpartisan organization dedicated to making democracy work for all Americans. Along with its education arm, Democracy 21 Education Fund, it works to eliminate the undue influence of big money in American politics, prevent government corruption, empower citizens in the political process and ensure the integrity and fairness of government decisions and elections. The organization promotes campaign finance reform and other related political reforms to accomplish these goals.

## **DĒMOS**

<http://www.demos.org/>

Dēmos is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy by deploying original research, advocacy, litigation, and strategic communications to create the America the people deserve. They are guided by three overarching commitments: achieving true democracy by reducing the role of money in politics and guaranteeing the freedom to vote; creating pathways to ensure a diverse, expanded middle class in a new, sustainable economy; and transforming the public narrative to elevate the values of community and racial equity.

## **ELECTION ASSISTANCE COMMISSION<sup>156</sup>**

<http://www.eac.gov/>

The Election Assistance Commission was established by the Help America Vote Act of 2002 (HAVA). It is an independent, bipartisan commission charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, and serving as a national clearinghouse of information on election administration. The Commission also accredits testing laboratories and certifies voting systems, as well as audits the use of HAVA funds. Other responsibilities include maintaining the national mail voter registration form developed in accordance with the National Voter Registration Act of 1993. They hold public meetings and hearings to inform the public about their progress and activities.

## **FAIRVOTE**

<http://www.fairvote.org/>

FairVote focuses its research, education and outreach on several bold yet achievable changes within three general categories: fair access to participation, supporting universal voter registration, a constitutionally protected right to vote and education preparing youth for their role in our democracy; fair elections, supporting a national popular vote for president, instant runoff voting for single-winner

offices and more transparent and accountable election administration; and fair representation, supporting choice voting and other methods of proportional voting for local, state and national elections.

## **FEDERAL ELECTION COMMISSION**

<http://fec.gov/>

In 1975, Congress created the Federal Election Commission to administer and enforce the Federal Election Campaign Act - the statute that governs the financing of federal elections. The duties of the FEC, which is an independent regulatory agency, are to disclose campaign finance information, enforce the provisions of the law such as the limits and prohibitions on contributions, and oversee the public funding of Presidential elections.

## **FREE SPEECH FOR PEOPLE**

<http://freespeechforpeople.org/>

Free Speech For People works to challenge the misuse of corporate power and restore republican democracy to the people. The organization is advancing the movement to amend the US Constitution to overturn *Citizens United*, *Buckley v. Valeo*, and the fabrication of corporate constitutional rights; engaging in legal advocacy to confront the misuse of the US Constitution to claim corporate exemptions from our laws, which damage our communities and undermine freedom and self-government; and renewing and reforming corporate charter laws and other tools to make corporations responsible and accountable to the public.

## **JUSTICE DEPARTMENT, CIVIL RIGHTS DIVISION, VOTING RIGHTS SECTION**

<http://www.justice.gov/crt/about/vot/>

The Voting Rights Section within the Civil Rights Division at the Justice Department is charged with enforcing federal voting rights statutes, including the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006; the Voting Rights Act of 1965; the Uniformed and Overseas Citizens Absentee Voting Act of 1986; the National Voter Registration Act of 1993 (Motor Voter); and the Help America Vote Act of 2002.

## **LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

<http://www.lawyerscommittee.org/>

The principal mission of the Lawyers' Committee for Civil Rights Under Law is to secure equal justice for all through the rule of law, targeting in particular the inequities confronting African Americans and other racial and ethnic minorities. It is a nonpartisan, nonprofit organization formed in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial

<sup>156</sup> As of May 13, 2013, the EAC is without Commissioners.

discrimination and the resulting inequality of opportunity.

#### **NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, CONSTITUTION OF THE UNITED STATES**

<http://www.archives.gov/exhibits/charters/constitution.html>

The work of many minds, the Constitution stands as a model of cooperative statesmanship and the art of compromise, and the National Archives serves as its guardian and chief ambassador.

#### **NATIONAL CONFERENCE OF STATE LEGISLATURES**

<http://www.ncsl.org>

The National Conference of State Legislatures serves the legislators and staffs of the nation's 50 states and of its commonwealths and territories. The organization provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues. They advocate for the interests of state governments before Congress and federal agencies.

#### **NATIONAL DISABILITY RIGHTS NETWORK**

<http://www.ndrn.org>

The National Disability Rights Network is the nonprofit membership organization for the federally mandated Protection and Advocacy (P&A) Systems and Client Assistance Programs (CAP),<sup>157</sup> collectively the largest provider of legally based advocacy services to people with disabilities in the United States. The organization has three main priorities: obtain increased appropriations for the programs that fund the P&A/CAP network; keep federal laws for people with disabilities robust, as P&As must enforce those statutes at the state level; and provide training and technical assistance to its members on a broad range of topics including legal, fiscal, governance, leadership, communications and organizational development of the P&A/CAP system.

#### **NORTH CAROLINA CENTER FOR VOTER EDUCATION**

<http://www.ncvoter.com/>

The North Carolina Center for Voter Education is a nonpartisan, nonprofit organization dedicated to informing and involving citizens so they may fully participate in democracy.

#### **PEW RESEARCH CENTER**

<http://www.pewresearch.org/>

Pew Research Center is a nonpartisan fact tank that informs the public about the issues, attitudes and trends shaping America and the world. It conducts public opinion polling, demographic research, media content analysis and other empirical social science

research. It does not take policy positions. It is a subsidiary of The Pew Charitable Trusts.

#### **PROCON.ORG**

<http://www.procon.org/>

ProCon.org promotes critical thinking, education, and informed citizenship by presenting controversial issues in a straightforward, nonpartisan, primarily pro-con format.

#### **PROGRESSIVE STATES NETWORK**

<http://www.progressivestates.org/>

Progressive States Network engages and builds the capacity of state and national leaders to advance public policy solutions that uphold America's promise to be a just and equitable democracy. Working with its partners and allies, the organization serves as a leading national voice for state legislators; promotes an active democracy and shared economic prosperity; embraces our nation's rich diversity and increased access to opportunity for all; protects and enhances transparency, accountability, and stewardship of our public and private institutions; and supports strategic initiatives, processes, and systems that provide immediate results and long term impact.

#### **PROJECT VOTE**

<http://projectvote.org/>

Project Vote works to empower, educate, and mobilize low-income, minority, youth, and other marginalized and under-represented voters. Since 1994, the organization has developed state-of-the-art voter registration and Get Out the Vote programs and has helped register more than 5.6 million Americans in low-income and minority communities. They have also achieved a nationwide presence through long-term relationships with service and advocacy partners. Project Vote has taken a leadership role in nationwide election administration issues, working through research, legal services, and advocacy to ensure that their constituencies are not prevented from registering and voting.

#### **PUBLIC CAMPAIGN**

<http://www.publiccampaign.org/>

Public Campaign is a nonprofit, non-partisan organization dedicated to sweeping campaign reform that aims to dramatically reduce the role of big special interest money in American politics. The organization is laying the foundation for reform by working with a broad range of organizations, including local community groups, around the country that are fighting for change and national organizations whose members are not fairly represented under the current campaign finance system. Together they are building a network of national and state-based efforts to create a powerful national force for federal and state campaign reform.

157 <http://www.ndrn.org/en/about/paacap-network.html>

## **PUBLIC CITIZEN**

<http://www.citizen.org/>

For four decades, Public Citizen has proudly championed citizen interests before Congress, the executive branch agencies, and the courts, working within five policy groups: Congress Watch, the Energy Program, Global Trade Watch, the Health Research Group, and the Litigation Group. Within its Congress Watch portfolio, the organization works to strengthen our democracy by exposing and combating the harmful impact of money in politics. Its work in this area focuses on money in politics, government ethics, lobbying reform, and open government.

## **SCOTUSBLOG**

<http://www.scotusblog.com/>

SCOTUSblog is devoted to comprehensively covering the Supreme Court of the United States.

## **THE SENTENCING PROJECT**

<http://www.sentencingproject.org>

Established in 1986, The Sentencing Project works for a fair and effective US criminal justice system by promoting reforms in sentencing policy, addressing unjust racial disparities and practices, and advocating for alternatives to incarceration. The organization is a leader in the effort to bring national attention to disturbing trends and inequities in the criminal justice system with a successful formula that includes the publication of groundbreaking research, aggressive media campaigns and strategic advocacy for policy reform. They are dedicated to changing the way Americans think about crime and punishment.

## **THOMAS**

<http://thomas.loc.gov>

THOMAS was launched in January of 1995, when the leadership of the 104th Congress directed the Library of Congress to make federal legislative information freely available to the public. Since that time, THOMAS has expanded the scope of its offerings.

## **UNITED FOR THE PEOPLE**

<http://united4thepeople.org/index.html>

Under the banner of United For The People, organizations and public officials are calling for constitutional remedies to overturn the Supreme Court's *Citizens United* decision and related cases. Although they have differences in scope and tactics, all are united in the understanding that the Court's decisions must be remedied by amending the Constitution.

## **US PIRG**

<http://www.uspirg.org/>

US PIRG is a consumer group that stands up to powerful interests whenever they threaten our health and safety, our financial security, or our right to fully participate in our democratic society. For decades, the organization has stood up for consumers, countering the influence of big banks, insurers, chemical manufacturers, and other powerful special interests. Today its work to reclaim our democracy includes the push to overturn the entirety of the *Citizens United* decision through a constitutional amendment, and several short-term strategies to stanch the flow of big money in our elections.

## **US REPRESENTATIVE JOHN LEWIS (D-GA05)**

<http://johnlewis.house.gov/>

On March 7, 1965, what became known as Bloody Sunday, voting rights marchers were beaten in their attempt to cross the Edmund Pettus Bridge in Selma, Alabama. Fifty-eight of six hundred marchers were treated at a local hospital for their injuries, including then twenty-five-year-old John Lewis, chairman of the Student Nonviolent Coordinating Committee (SNCC).<sup>158</sup> First elected in 1986, today Lewis still serves in the US Congress representing Georgia's Fifth Congressional District.<sup>159</sup> He remains a leading champion of voter empowerment measures, taking proactive steps to increase civic participation among Americans from all walks of life, and defending rights when they come under attack.<sup>160</sup>

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158 <http://www.archives.gov/exhibits/eyewitness/html.php?section=2>

159 <http://johnlewis.house.gov/john-lewis/biography>

160 [Voters In](#)





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the promise of America real for every American:  
Equality. Freedom of speech. Freedom of religion. The  
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