



# TUNING IN & TURNING OUT

Millennials are active but not voting;  
what's stopping them and  
how can they make their voices count?





(1) Appalachian State University students marching to the on campus polling site in 2012, before the Board of Elections attempted to remove the location. (2) North Carolina students marching for voting rights at the NAACP's Historic Thousands on Jones Street. (3) NAACP's Journey for Justice completes its march from Selma, AL to Washington, DC. (4) Many students waited in line for more than an hour to cast a vote in the on campus early voting site at Appalachian State University during the 2016 primary. (5) Students organizing break out session. (6) Yale Chapter of NAACP Youth attend a rally. (7) Common Cause California student activists working in small groups to identify ways to make student voting more accessible.



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**Yael Bromberg, Allegra Chapman and Dale Eisman**

## Acknowledgements

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The Common Cause Education Fund gratefully acknowledges support from the Lisa and Douglas Goldman Fund, The Philip and Janice Levin Fund, John D. and Catherine T. MacArthur Foundation, and the Rockefeller Brothers Fund for making this work possible.

The authors gratefully acknowledge and appreciate the work, suggestions, and input from several colleagues and collaborators; any errors are our own, not theirs. Hearty thanks to Stephen Spaulding, former senior counsel for Common Cause, and Jenny Flanagan, vice president for state operations, for support, guidance, review, and insight on messaging, structure, and analysis. You both very much helped shape this report. Huge thanks, too, to Scott Swenson, vice president for communications, for big-picture messaging.

Marilyn Carpinteyro, regional director of state operations, and Aaron Scherb, director of legislative affairs, provided helpful suggestions on framing and structure. Thanks for digital and social media support to Izzy Bronstein, associate digital content producer and Jack Mumby, digital campaign organizer. Common Cause President Karen Hobert Flynn gave great advice and feedback on the overall topic and project, along with suggestions for next steps following this report. Thanks as well to former Common Cause President Miles Rapoport, who encouraged the report's creation and development.

Jon Sherman, Michael Burns, Archita Taylor and the team at Fair Elections Legal Network's Campus Vote Project helped us in dissecting the national landscape of student ID laws. Tova Wang, director of policy and research for the Center for Secure and Modern Elections, provided feedback and bird's-eye view suggestions. Finally, thank you to our Common Cause legal interns Danielle Caputo and Ian O'Keefe. We are grateful to all for their assistance.

Special thanks to Kerstin Vogdes Diehn for layout and design and for her patience through multiple reviews.

The authors also thank the following for sharing their stories and providing helpful input:

- Alexandra Flores-Quilty, John Aspray, and Breana Ross, current and former Presidents, United States Student Association;
- Matt Cordeiro, former President of the Rutgers University Student Assembly, current millennial organizer, Game-Changer Labs;
- Kathay Feng, executive director, California Common Cause;
- Bob Phillips, executive director, and Brent Laurenz, director of outreach and special projects, North Carolina Common Cause;
- Jay Heck, executive director, Common Cause in Wisconsin;
- Pam Wilmot, executive director, Massachusetts Common Cause;
- Susan Lerner, executive director, New York Common Cause;
- Peter Levine, associate dean and professor in Tufts University's Jonathan M. Tisch College of Civic Life and director of the Center for Information and Research on Civic Learning and Engagement (CIRCLE);
- Lamar Wise and J Gibbons, Oregon Student Association;
- Abby Johnson and Brea Baker, Yale Chapter of the NAACP;
- Jylise Smith, Texas NAACP Houston Branch Young Adults;
- John L. Davis, IV, youth candidate for Texas legislature.

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September 2016

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*The Common Cause Education Fund is the public education and research affiliate of Common Cause, a nonpartisan, grassroots organization dedicated to upholding the core values of American democracy and working to create open, honest, and accountable government; promote equal rights, opportunity and representation for all; and empower all people to make their voices heard as equals in the political process. The Common Cause Education Fund supports that work with a broad array of activities, including research, education, citizen engagement, coalition building, policy development and litigation, and by helping state and national leaders with strategic support, policy expertise, research materials, and legal analysis.*

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# EXECUTIVE SUMMARY

In every election, young Americans arguably have more at stake than any other group of citizens, simply because they have longer to live with the choices we all make.

But throughout our history, including in every election since the 26<sup>th</sup> Amendment lowered the voting age to 18 in 1971, voter turnout among younger Americans has lagged well behind that in every other age group.<sup>1</sup> Worse yet, with just a few exceptions, youth turnout has declined steadily. About half of voters aged 18-24 went to the polls in 1972, the first presidential election under the 26<sup>th</sup> Amendment; only 38 percent voted in 2012, the most recent presidential year.

The decline in voting rates comes as Millennials (ages 18-35) have overtaken Baby Boomers to become the largest generation of living Americans, according to the Pew Research Center.<sup>2</sup> Because they vote at far lower rates than Boomers however (63.4 percent versus 38 percent in 2012), Millennials continue to wield far less clout in our politics.

This report, released as the nation marks the 45<sup>th</sup> anniversary of the 26<sup>th</sup> Amendment, examines the history of voter participation among young adults, particularly students, and ongoing campaigns to increase or depress it. It includes detailed recommendations to increase voter registration by young Americans and turnout by those who've registered.

Despite signs of a spike in political interest among the young, a wave of new state laws is threatening to keep millions of Millennial voters, along with citizens of color, seniors and the disabled, from exercising the right to vote. These laws are being advanced almost exclusively by Republican lawmakers,<sup>3</sup> breaking with their party's history of support for voting rights and ballot access.

After the 2010 election, and with renewed vigor following the Supreme Court's 2013 decision in *Shelby County v. Holder* (discussed in the body of this report), legislatures in much of the country passed voter photo ID laws. But confronted with evidence that the laws were aimed at keeping large groups of voters – particularly voters of color – away from the polls, federal courts in Wisconsin, Texas, North Carolina, and North Dakota have struck down or ordered changes to the laws in those states to ensure against discriminatory impacts. Those decisions are welcome, but more voters would be better protected by legislation restoring lost provisions of the Voting Rights Act, which allowed federal authorities to block states from erecting obstacles to the ballot box.

There is better news in a growing number of other states, where new laws are making registration and voting more convenient. The most promising of these reforms may be the rapid spread of automatic registration, which adds qualified citizens to the voter rolls whenever they do business with the Department of Motor Vehicles or another state agency.

Part I of the report focuses on the history of the 26<sup>th</sup> Amendment and new obstacles to voting by young Americans which have appeared in recent years. These new barriers are reminiscent of the now-outlawed permanent residency requirements imposed on young voters in the 1970s, shortly after the 26<sup>th</sup> Amendment was ratified.

Fifteen states have strict voter identification requirements; seven of those do not accept student ID cards for voting and 12 do not accept out-of-state government-issued identification such as driver's licenses. Six accept neither a student ID nor an out-of-state government-issued ID, forcing students who want to vote to acquire new, in-state identification when they move to campus. As this report is published, court challenges to these requirements are underway in multiple states.



## TO INCREASE VOTER REGISTRATION, COMMON CAUSE RECOMMENDS

- ✓ Every state should have a robust program to pre-register 16- and 17-year-olds so that they are added to the voter rolls automatically on their 18<sup>th</sup> birthdays.
- ✓ States should provide easy-to-access mechanisms for online voter registration.
- ✓ States should follow the lead of Oregon, California, West Virginia, Vermont, and Connecticut in automatically registering eligible citizens doing business at Department of Motor Vehicle and other state offices.
- ✓ Eligible citizens should be permitted to register and vote on the same day, including on Election Day; that option is now available in over a dozen states, and efforts to extend it continue.
- ✓ Public and private colleges and universities should maximize on-campus registration opportunities.
- ✓ Registration within each state should be portable, so voters who move within the state are not required to re-register at their new addresses.
- ✓ Local governments should require landlords and realtors to provide tenants and home buyers with information about how and where they can register to vote.
- ✓ Congress should restore the full protections of the Voting Rights Act by enacting the Voting Rights Advancement Act.

The case for strict voter ID requirements has been made almost exclusively by Republican lawmakers and groups like the American Legislative Exchange Council (ALEC), a corporate-backed lobby whose “model” ID law on the subject has been introduced in at least 20 states.<sup>4</sup> Those advocates say the laws protect against voter fraud, though they have never been able to provide evidence that voter impersonation – the only fraud tough ID laws might detect – is even a minor problem in U.S. elections.<sup>5</sup> Independent studies and a series of courts have concluded that evidence of voter fraud is thin to non-existent and does not justify burdening our constitutional right to vote.

Voter ID laws particularly impact highly mobile populations such as college students, who comprise 36.2% of all 18-24 year-olds. Collegians tend to move every August, often settling into a new address and/or campus, attending new classes and seeking out new friends. In the midst of those adjustments, depending on the location of their school, many have only about one month to register to vote or update their registration for the November election. When states impose obstacles to voting, such as requiring that students find and visit an off-campus Department of Motor Vehicles office to procure and pay for a voter ID card and/or documentation, many are effectively shut out of our democracy.

Other, still emerging research suggests that strict photo ID requirements also make voting more difficult for young people who do not attend college, particularly those who do not own or drive vehicles and/or live in communities with robust public transportation systems. Indeed, one study in Wisconsin in 2005 found the percentage of voters using a driver’s license as their voter ID was strikingly lower among young adults than among the voting age population as a whole; the disparity increased when gender, age, race, and geographical factors were included.<sup>6</sup>

Against this backdrop, it’s not surprising that a new generation of 26th Amendment litigation has cropped up, with students following the path of people of color, individuals with disabilities, immigrants and others impacted by voting laws in fighting for the franchise in court.

While some state lawmakers and election officials are scheming to suppress the vote, others are implementing election modernization plans designed to attract new voters.

Part II of this report examines policy solutions that modernize opportunities for registration and voting and recommends their adoption in additional states and localities. Those policies include preregistration of high school





## TO INCREASE VOTER TURNOUT, COMMON CAUSE RECOMMENDS

- ✓ States should adopt “no-excuse” absentee voting, giving voters freedom to vote on or before Election Day.
- ✓ States should provide generous early voting opportunities, giving voters at least three weeks to cast their ballots. Early voting opportunities should be provided during evenings and weekends as well as during regular weekday working hours.
- ✓ To ensure that early voting options enhance turnout as well as make voting more convenient, states should adopt early voting alongside same day registration and should run educational campaigns to ensure all eligible voters are aware of their options.
- ✓ State and local election officials should ensure that polling places are located on campuses or in locations convenient to students.
- ✓ Voters who report to the wrong precinct on Election Day should be permitted to vote a regular ballot and their votes should be counted in contests for which they are eligible to vote.
- ✓ Individuals who complete prison sentences must have their right to vote restored upon completion, not after parole or probation.

students under 18; online voter registration; same-day or Election Day registration; and automatic registration, in which eligible citizens are added to the voter rolls when they do business with a state agency. Other model voter expansion laws include no-excuse-needed absentee voting, early in-person voting, laws related to how provisional ballots are counted when cast in the wrong polling place, and laws restoring the voting rights of those completing sentences, a group composed largely of young men of color.

On the local level, reforms that impact young voters include efforts to secure polling places on campus, institutionalize recruitment of young voters to serve as poll-workers, and local ordinances requiring landlords to provide voter registration forms and voter information to new tenants.

Some young people are leading the way to engage their peers in politics. Part III of the report moves from law and policy to share field organizing practices with demonstrated success in advancing reforms. These approaches include short-term actions such as protests that build popular support for voting rights and other democracy reforms, and forums for candidates or elected officials that help highlight the needs of young people. Some students also are working to implement a longer-term strategy for student-friendly reforms on the local and state level, including online voter registration and same-day registration. Others are leading get-out-the-vote efforts on campuses across the country and institutionalizing movements to expand the base of student advocates.

Taken together, these examples of student engagement provide strong evidence that the Millennial generation is poised to break the patterns set by its predecessors and lift voter turnout among younger Americans to levels rivaling those seen in older age groups.



Despite signs of a spike in political interest among the young, a wave of **new state laws is threatening** to keep millions of Millennial voters, along with citizens of color, seniors and the disabled, from exercising the right to vote.

# INTRODUCTION

If the excitement around the primaries is any gauge, turnout among young voters could approach or exceed record numbers in 2016.

For as long as it has been measured, youth voter turnout has lagged behind that of other age groups. With a few exceptions, it has declined steadily since ratification in July 1971 of the 26<sup>th</sup> Amendment, which lowered the voting age to 18.

Nearly half of all eligible young Americans rushed to the polls in 1972, the first presidential election under the amendment; in 2012, the most recent presidential election, 18-29-year-olds comprised 21.2 percent of the voting-eligible population but cast just 15.4 percent of the votes. Meanwhile, the voting rates of those aged 45 to 64, and 65 and older, exceeded their shares of the voting eligible population by 3.5 and 3.2 points, respectively.<sup>1</sup>

Youth voting spiked in the 1992, 2004, and 2008 presidential contests, the last time thanks to the “Obama effect,” as nearly 50 percent of eligible young Americans went to the polls to help elect the nation’s first African-American president.<sup>2</sup>

Since then, in a movement led by Republican legislators and governors, some states have made it harder for young voters, particularly students, to participate, most often by imposing strict photo ID laws. These laws have triggered an increase of 26<sup>th</sup> Amendment lawsuits in federal courts across the country.

Just over half of the states, in contrast, have adopted or are considering a variety of voter-friendly policies. Automatic voter registration is now in place in five states and under consideration in 28;<sup>3</sup> same day or Election Day registration is available in more than a dozen states;<sup>4</sup> and preregistration of high school students in advance of their 18<sup>th</sup> birthdays is provided in about 20 states.<sup>5</sup>

On the local level, election administrators are recruiting young people to serve as poll workers and supporting local ordinances like those in East Lansing, MI, and Minneapolis, MN, that promote voter registration of student tenants in college towns.

There’s evidence students will take advantage of these opportunities. A 2015 survey by the Higher Education Research Institute (HERI) at UCLA found nearly a 10 percentage point increase from the previous year in the number of college freshmen reporting there is a “very good” chance they’ll vote in an upcoming election.<sup>6</sup> The HERI annual survey also reported record-breaking levels of engagement among full-time, first-year students at four-year colleges and universities. And according to a Rock the Vote – USA Today poll in March 2016, 76% of Millennials reported that they’re likely to vote in 2016.<sup>7</sup>

Students are particularly mobile. They tend to move every August and must adjust to changes associated with a new school year – new classes, new books, new classroom buildings, and new housing. Because registration typically closes 30 days before Election Day, many students have only about one hectic month to register for the upcoming November election. Additional obstacles to voter registration and in-person voting, such as the need to locate and visit an off-campus Department of Motor Vehicles office to procure and pay for a voter identification card and/or underlying documentation, are likely to suppress youth participation in our democracy.

While students and younger citizens face unique hurdles to voting, campaigns and elected officials have good reason to encourage their participation. Today's young Americans eschew political labels. The Pew Research Center reported in 2014 that, "[i]n the past decade, the share of self-described independents with no firm ties to either party has grown in every generation, but it has increased most among Millennials;" half of them identify as independent.<sup>8</sup> Their non-alignment and sheer numbers – 18-35-year-olds now are roughly equal to Baby Boomers as a percentage (31 percent) of the voting age population<sup>9</sup> – give candidates and activists in both major parties a powerful incentive to seek their support and enhance their access to the ballot box.

Today's Millennials can be tomorrow's long-term voters; this report documents encouraging signs that they're positioned to break historical patterns for their age group and dramatically increase their political activity. But without increased action now to ensure that the franchise is free, fair, and accessible to them and indeed to all eligible voters, today's young voters and the generations that follow are less likely to fulfill the promise of the 26<sup>th</sup> Amendment.



## A NOTE TO READERS

This report focuses on problems confronting young people, especially students, in exercising their right to vote. While a recent wave of restrictive voting laws – aimed primarily at working Americans, including voters of color and immigrant citizens – has impacted students, other large groups of young voters also face special challenges in exercising the franchise.

Young men and women in the military, for example, face unique hurdles in having their voices heard in our elections. Millennials make up the majority – 71% – of service members.<sup>10</sup> Thousands of them are deployed overseas each year, often on short notice. Those in combat zones understandably have higher priorities than registering and voting; but regardless of their assignments or locations, they and other Americans living overseas face early deadlines for registration and absentee voting.<sup>11</sup>

While research on them is scanty, a second group of young people, neither in school nor the military, appear particularly vulnerable to the loss of their voting rights at the hands of strict voter ID requirements. Because many of them lack access to an automobile or choose to rely on public transit, these young Americans typically don't have driver's licenses, the most common form of ID used for voting. Indeed, one study in Wisconsin found the percentage of voters using a driver's license for voter ID purposes was strikingly lower among young adults than among the voting age population generally, and that the disparity increased when gender, age, race, and geographical factors are included.<sup>12</sup>

In all but two states (Maine and Vermont), a third substantial group of young Americans, imprisoned for felonies, has lost the right to vote altogether. The research organization Child Trends reports that nearly 800,000 people aged 18-29 were incarcerated in 2010. Incarceration rates for young, African-American men in particular have exploded since the 1980s.<sup>13</sup> Between 1980 and 2010, police arrested twice as many young, black men as young, white men for drug crimes, despite evidence that white youth use drugs at a slightly higher rate.<sup>14</sup>

Fifteen states restore the right to vote when individuals complete prison sentences but remain on probation and/or parole; 10 states continue to withhold voting rights even after former offenders have been released from supervision.<sup>15</sup>

Once released from custody, former offenders are called on to get jobs, pay taxes, and resume life as responsible citizens. But in much of the country they are denied any say in how those taxes are spent or who makes decisions about spending them.

We expect renewed emphasis on rights restoration in upcoming state legislative sessions. At the federal level, two restoration bills, the Democracy Restoration Act,<sup>16</sup> sponsored by Sen. Ben Cardin, D-MD, and the Civil Rights Voting Restoration Act,<sup>17</sup> sponsored by Sen. Rand Paul R-KY, were introduced in 2015.

# PART I

## Youth Voting: The National Legal and Political Landscape

### The Bipartisan History of the 26th Amendment

Forty-five years ago, North Carolina became the 38<sup>th</sup> state to ratify the 26th Amendment, setting the voting age at 18 as part of the Constitution.<sup>18</sup> Ratification took less than three months, the quickest such action in our history.

But getting the amendment through Congress so it could be submitted to the states was a struggle. Similar proposals, more than 150 in all, had been introduced in every Congress since 1942.<sup>19</sup> The amendment was most debated in wartime, when the public was reminded that 18-year-olds could be sent to battle but blocked from the ballot box. **President Dwight D. Eisenhower** supported the effort during his 1954 State of the Union Address:

“For years our citizens between the ages of 18 and 21 have, in time of peril, been summoned to fight for America. They should participate in the political process that produces this fateful summons. I urge Congress to propose to the States a constitutional amendment permitting citizens to vote when they reach the age of 18.”<sup>20</sup>

The final, successful push to expand the franchise to those 18 and over came as millions of young Americans mobilized to oppose the Vietnam War and support the civil rights movement.<sup>21</sup>

Congress had tried to give 18-year-olds the right to vote in 1970 through an amendment to the Voting Rights Act of 1965, the country’s most important law protecting against discrimination at the polling place. The Supreme Court quickly reviewed and approved the measure for federal elections, but struck down its application to state elections; the decision put the burden on Congress to pass a constitutional amendment and get the states on board in time for the 1972 election.<sup>22</sup>

Senate hearings on a proposed constitutional amendment revealed wide bipartisan support, including testimony by Sens. **Ted Kennedy, D-MA** and **Barry Goldwater, R-AZ**; senators approved the amendment 94-0 on March 10, 1971. Less than two weeks later, the House of Representatives voted 401-19 in favor, and sent the proposal to the states.

During a ceremonial signing to certify the Amendment, **President Richard Nixon** expressed confidence that young voters would revitalize American democracy:

“[T]he reason I believe that your generation, the 11 million new voters, will do so much for America at home, is that you will infuse into this country some idealism, some courage, some stamina, some high moral purpose that this Nation always needs, because a country throughout history, we find, goes through ebbs and flows of idealism. Time after time the country needs an infusion of new spirit, an infusion of youth. You are bringing that.”<sup>23</sup>

The legislative history of the 26th Amendment reflects its broad support in Congress and across the country.<sup>24</sup> But despite bipartisan enthusiasm for their involvement nearly 50 years ago, young Americans today face obstacles in exercising the right to vote. Particularly since President Obama’s election and the Supreme Court’s 2010 decision in *Shelby County v. Holder*, gutting the heart of the Voting Rights Act’s protections against voter discrimination, Republican legislators and administrations in a number of states have passed new restrictions on voting. These laws target large groups of Americans, including people of color, immigrant citizens, the elderly, those with disabilities, and students and other young people.



The new laws include strict identification requirements, cuts to early voting periods, and elimination of high school voter preregistration programs. At the same time, as detailed in Parts II and III of this report, about half of the states and a substantial number of localities have adopted or are considering policies and practices to make voting more accessible.

## Courts in the 1970s Protected Youth Access to the Ballot

In the years immediately following ratification of the 26<sup>th</sup> Amendment, many states and municipalities sought to limit its impact – with little success. These youth voter suppression attempts were not always blatant; they consisted largely of complex residency tests that supporters said were necessary to prove each new voter was a permanent resident of his or her locality. During that period, the U.S Supreme Court<sup>25</sup> and federal and state courts in California,<sup>26</sup> Michigan,<sup>27</sup> Kentucky,<sup>28</sup> Tennessee,<sup>29</sup> Colorado,<sup>30</sup> New Hampshire,<sup>31</sup> New Jersey,<sup>32</sup> Massachusetts,<sup>33</sup> and Texas<sup>34</sup> consistently upheld youth access to the ballot box.

The **Supreme Court** has only ruled once on a case including a 26<sup>th</sup> Amendment claim. In *Symm v. United States*, the high court in 1979 affirmed a three-judge district court’s decision invalidating a residency questionnaire that applied only to students and military personnel seeking to register in Waller County, Texas.<sup>35</sup> Another Supreme Court case, *Dunn v. Blumstein*, upheld the constitutional right of young voters to be free of a presumption of non-residency, but did so on 14<sup>th</sup> Amendment grounds.<sup>36</sup> Specifically, the Court in *Dunn* invalidated Tennessee’s one-year residency requirement to vote, noting that the state likely aimed to prevent student and military voters from dominating local elections.<sup>37</sup>

In the 1970s, courts across the country also addressed maneuvers to block college students from registering and voting from their school addresses.

For example, in 1972 the **New Jersey**

**Supreme Court** invalidated the discriminatory treatment of students by local election officials who subjected them to increased questioning to prove residency, explaining that:

“The enactment of the [26th Amendment] removed the last vestige of legal obstacle to their establishment of domicile at their college residences... [T]hey should currently have the right to vote at their college residences so long as they actually live there, are interested in and are concerned with their college communities, and assert in good faith their purpose of voting there and no place else.”<sup>38</sup>

Within weeks of the New Jersey ruling, a federal court in New Hampshire struck down a measure preventing students and others from establishing domicile for voting purposes. The court reasoned that “[i]n this day of widespread planning for change of scene and occupation, we cannot see that a requirement of permanent or indefinite intention to stay in one place is relevant to responsible citizenship.”<sup>39</sup>

The earliest cases involving the 26th Amendment were not limited to voter registration. The **Colorado Project of Common Cause** sued to invalidate age-based restrictions on students’ right to circulate and sign petitions for an initiative and referendum.<sup>40</sup> In 1972, the Supreme Court of Colorado explained:

“The prohibition against denying the right to vote to anyone eighteen years or older by reason of age applies to the entire process involving the exercise of the ballot and its concomitants. History and reason leads us to this conclusion. Throughout the Congressional hearings relating to Title III of the Voting Rights Act of 1970 and the Twenty-Sixth Amendment was the recurring theme of Congress’ distress with youths’ alienation and its hope that youths’ idealism could be channeled within the political system itself.”<sup>41</sup>

Similarly, when students in Amherst, MA brought a 26th Amendment suit challenging the college town’s scheduling of a special election during winter break, the **1st U.S. Circuit Court of Appeals** cautioned in 1975 that it would be “disturbed” if, despite alternatives, a town continued to hold elections during students’ vacations or recess schedules, “secure in the conviction that [students’] returning to town [to vote] and [relying on] absentee voting would be considered insignificant burdens.”<sup>42</sup>



The Supreme Court **has only ruled once** on a case including a 26th Amendment claim.

## Attempts to Curb Youth Turnout Today

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Despite these decisions upholding students' rights to vote from their school residences, attempts to curb student voting persist. Some county and state officials continue to argue that college dorms and off-campus housing are temporary residences and do not fulfill residency requirements. Some have resorted to fearmongering to prevent student registrations, threatening trouble with the IRS for parents who continue to claim students registered in their college towns as dependents for tax purposes and warning of the potential loss of residence-based scholarships, or trouble with car insurance policies.<sup>43</sup> There are persistent reports from students of these activities and some political scientists have attempted to document them;<sup>44</sup> however there appears to be no comprehensive government directive informing college administrators and county clerks that they are legally dubious.

The country's patchwork of election administration regulations, including arbitrary registration deadlines, also can erect barriers to student voter registration that directly conflict with the 26th Amendment's promise of full voting rights for those 18 and older.

### Barriers to Voter Registration

In 2012, New Hampshire blocked students from registering to vote unless they established "permanent" residency, such as by getting an in-state driver's license.<sup>45</sup> Some New Hampshire lawmakers admitted the bill was intended to suppress the student vote.<sup>46</sup> Students challenged the law, seeking to vote from their campus addresses though they maintained driver's licenses in their pre-college states and intended to leave New Hampshire upon graduation. The state trial court sided with the students<sup>47</sup> and, in May 2015, the New Hampshire Supreme Court struck down the law as an unreasonable burden on the right to vote.<sup>48</sup>

In 2011, Maine's top election official targeted students who had voted in Maine but had out-of-state addresses on file with the University of Maine system. An investigation launched at the request of state Republican Chairman Charlie Webster concluded that no voter fraud occurred; nevertheless the students received correspondence that appeared calculated to have a chilling effect on their right to vote.<sup>49</sup> Then-secretary of state Charles E. Summers Jr. asserted that new residents have a duty to obtain a Maine driver's license and vehicle registration or cancel their voter registration.<sup>50</sup> After the voting rights community warned that these actions constituted unlawful voter intimidation, the state dropped Summers' claim.

Virginia courts controversially applied the outdated domicile test in 2004.<sup>51</sup> There, students at the College of William & Mary were required to fill out a questionnaire to register to vote. Two students whose registration applications were rejected filed suit, and the Williamsburg Circuit Court applied an outdated domicile test to gauge their voter eligibility. The court found that one student's commitment to the Virginia National Guard proved his intent to remain in the state indefinitely; the second student was not permitted to register because she lived in a dormitory and testified that she intended to pursue the best employment opportunity after graduation, irrespective of location. Although the student was a lifelong Virginia resident, the court was not convinced that she intended to remain indefinitely in Williamsburg, and denied her voter registration application. There appears to be no record of appeal from this decision. Based on the reasoning of the Williamsburg Circuit Court and the available record, this student seemingly would not qualify to vote anywhere.

Similarly, in Waller County, Texas, when a student from Prairie View A&M University, a historically black college, ran for the commissioner's court in 2003, the local district attorney and county attorney threatened students with felony prosecution for "illegal voting" if they did not meet the old, unconstitutional standard that premised voter eligibility on permanent residency. Although the threatened prosecutions were enjoined, Waller County reduced early voting hours, a move particularly harmful to students because Election Day was scheduled during spring break. The NAACP filed suit, Waller County reversed the changes to early voting, and the student candidate narrowly won the election.<sup>52</sup>

New obstacles to voter registration in Kansas and Arizona extend to state demands that voters provide documentary proof of citizenship to register to vote.<sup>53</sup> The requirement has been struck down in state and federal courts in Kansas; the National Voter Registration Act, the governing law, includes no such requirement.<sup>54</sup> Grudgingly complying with a court order, Kansas' Secretary of State began in mid-June 2016 to process "suspended" registration forms that had not been accompanied by documentary proof.<sup>55</sup>

A proof of citizenship requirement for voter registration has a particular impact on student voters. For example, most students registered by the [United States Students Association](#) in Arizona reported being able to register for

federal but not state elections.<sup>56</sup> Under a rule adopted in October 2015 by the Kansas Secretary of State's office, county election officials began purging more than 36,000 names from the statewide voter list; those targeted had not produced proof of citizenship within 90 days after registering to vote. A New York Times analysis found that more than half of the voters culled were under 35, 20 percent were aged 18-20, and 90 percent were new voters.<sup>57</sup> A federal court acknowledged that the requirement disenfranchised "thousands of otherwise eligible voters in the upcoming federal elections" and barred Kansas from requiring proof of citizenship for those registering to vote in federal elections at their DMVs.<sup>58</sup> Despite Supreme Court precedent barring states from requiring documentary proof of citizenship for federal voter registration forms, this issue remains the subject of ongoing litigation in federal courts and impacts voters in Alabama, Georgia, and Kansas.<sup>59</sup>

## **In-Person Voting: Unnecessary obstacles to proving identity and casting a valid ballot.**

After the 2000 presidential election exposed vulnerabilities in the machinery of our elections, Congress moved to shore up the system by passing the Help America Vote Act of 2002 ("HAVA"), the first comprehensive federal law on election administration.

HAVA requires limited voter identification requirements for some new registrants and leaves states free to adopt stricter standards that are consistent with other voting statutes or constitutional precepts.<sup>60</sup> Prodded by Republican legislators, some states have exploited that flexibility to impose ID requirements and other voting restrictions that discriminate against large groups of voters, particularly people of color, disabled voters, and students – especially those who go out-of-state for college.

The result, at least temporarily, is a hodgepodge of state laws and registration requirements that are regularly being challenged in court. The laws vary in flexibility, the type of documentation allowed, acceptable alternate forms of ID, and remedies for voters unable to meet ID requirements at the polls. The Brennan Center for Justice reports that around 11% of the general electorate does not have a photo ID.<sup>61</sup>

HAVA's identification requirements are limited to new registrants who have not previously voted in a federal election in the state and who registered to vote by mail without providing a valid ID or driver's license information that matches state records. Those registrants need not supply a photo ID but can provide a utility bill or "other government document" to satisfy the law.<sup>62</sup>

The National Conference of State Legislatures reported earlier this year that 33 state voter identification laws are in force; one in West Virginia has not yet taken effect and three more – in Arkansas, Missouri and Pennsylvania – recently have been struck down.<sup>63</sup> Since that report was released, courts in several states have struck down or set aside those laws for the 2016 election.

Since HAVA's enactment, and with greater force following the *Shelby* decision, a wide range of state laws impacting student voting have been put into place.

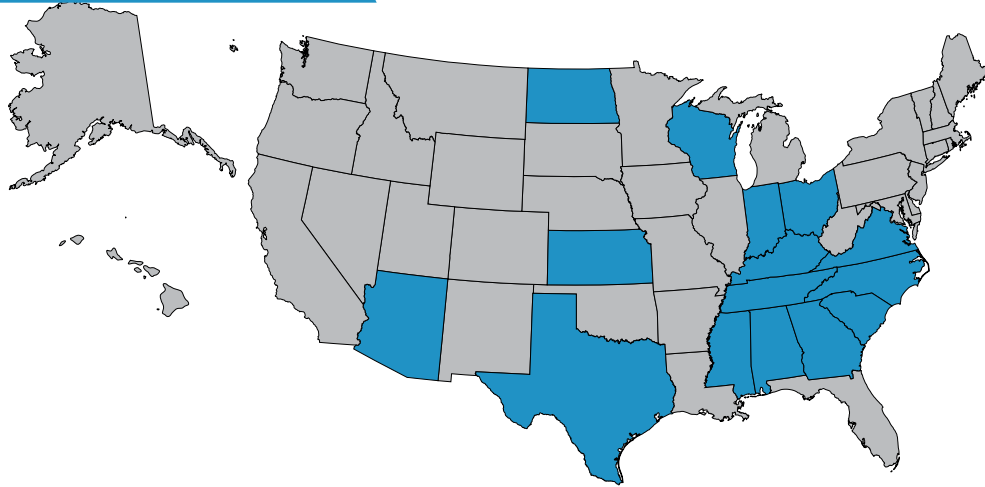
Washington State is among a group of states that facilitate student voting; it has no photo ID requirement and allows voters who can't produce specified written ID to cast provisional ballots that are accepted if the signature on the declaration matches the signature on the voter's registration record. Valid identification in Washington includes student identification cards issued by public or private institutions of higher education.<sup>64</sup>

Texas is a strict photo ID state; until recently, voters there were to produce ID from an extremely limited list that included a Texas-issued driver's license or handgun license – but not a student ID card.<sup>65</sup> The Texas law is the subject of current litigation but was in effect in the 2014 election. On July 20, 2016, the Fifth Circuit – arguably the most conservative federal appellate court – found that the law has a discriminatory effect, and ordered a lower court to determine whether the legislature intended to discriminate in passing the law, a finding that could be damning for the state as the case progresses. Texas has agreed to relax its restrictions for the 2016 election, but there is no sign the state is giving up its fight for strict voter ID requirements.

Texas's professed justification for the law does not stand up to scrutiny. If proof of a voter's identity was the state's true aim, a student ID would be more than sufficient. College enrollment typically requires extensive proof of identity, including parents' addresses, the student's social security number or tax identification numbers, and proof of high school graduation or its equivalent. Students seeking financial aid often have additional identification requirements.

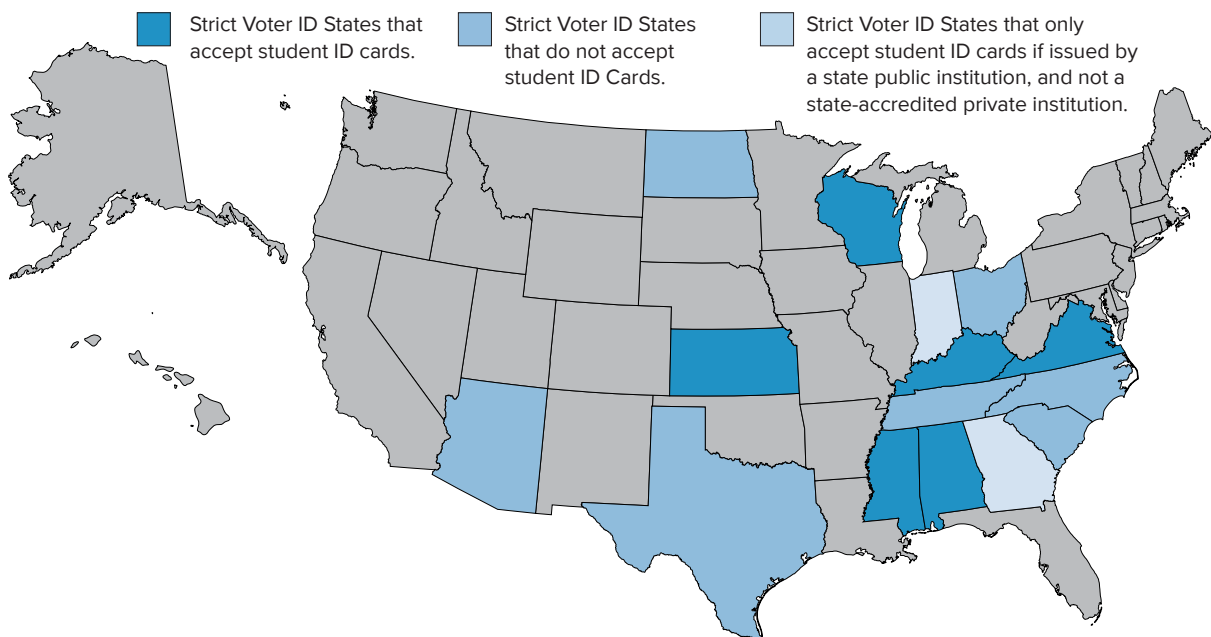
Students wishing to vote face an array of requirements:<sup>66</sup>

## STRICT VOTER ID STATES



Fifteen states are “strict voter ID states,” meaning that voters who lack a required ID can’t vote when they show up at the polls. These states do not recognize alternative forms of ID, such as an affidavit with signature match, and will not count a provisional ballot unless valid proof of identification is later provided. Narrow exemptions to the rule may apply; for example, in cases of indigence, religious belief or permanent disability. Details regarding your voter ID requirements can be found on your Secretary of State’s website. (Alabama,<sup>67</sup> Arizona,<sup>68</sup> Georgia,<sup>70</sup> Indiana,<sup>71</sup> Kansas,<sup>72</sup> Kentucky,<sup>73</sup> Mississippi,<sup>74</sup> North Carolina,<sup>75</sup> North Dakota,<sup>76</sup> Ohio,<sup>77</sup> South Carolina,<sup>78</sup> Tennessee,<sup>79</sup> Texas,<sup>80</sup> Virginia,<sup>81</sup> Wisconsin<sup>82</sup>).<sup>83</sup> Federal courts have recently struck down or modified strict voter ID laws in North Carolina, North Dakota, Texas, and Wisconsin for the upcoming election; because litigation is ongoing, we’re maintaining their classification as strict voter ID states here.

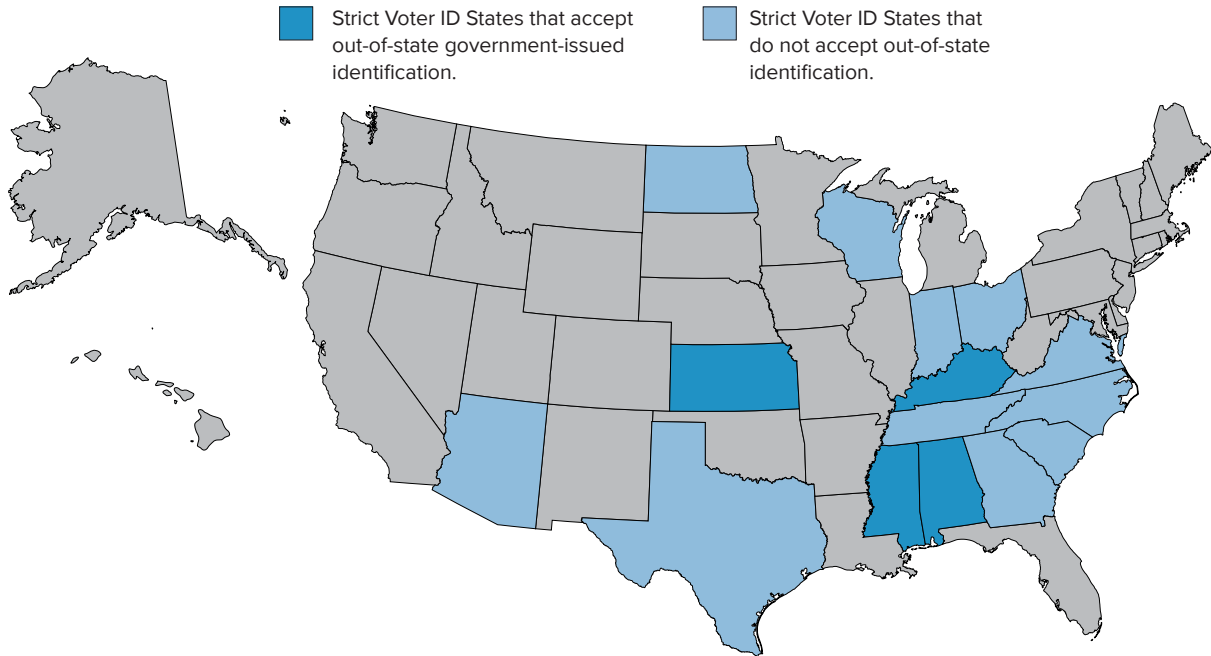
## STRICT VOTER ID STATES THAT DO NOT ACCEPT STUDENT ID CARDS



Seven strict voter ID states do not accept student ID cards for voting. (Arizona, North Carolina, North Dakota, South Carolina, Tennessee, Texas, Ohio<sup>84</sup>). Two other strict voter ID states accept permit student identification cards issued by state-supported institutions but not IDs from private, post-secondary institutions (Georgia, Indiana).<sup>85,86</sup>

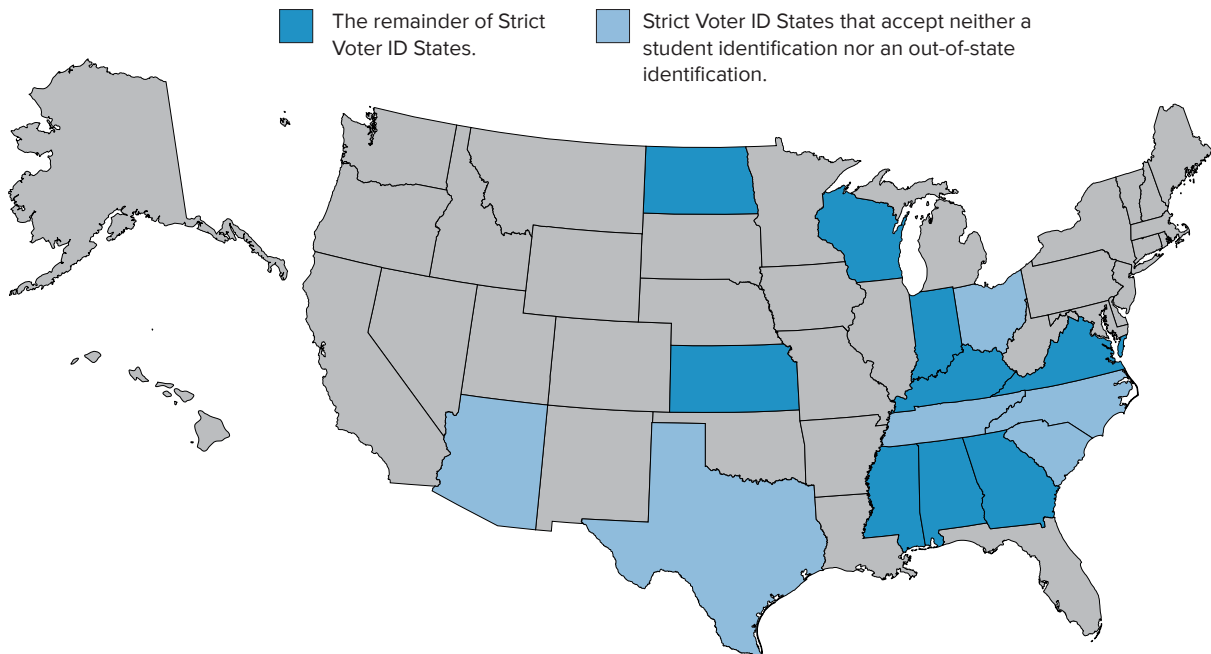


## STRICT VOTER ID STATES THAT DO NOT ACCEPT OUT-OF-STATE IDENTIFICATION



Eleven of the 15 strict voter ID states do not accept out-of-state driver's licenses. (Arizona,<sup>87</sup> Georgia,<sup>88</sup> Indiana, North Carolina,<sup>89</sup> North Dakota,<sup>90</sup> Ohio,<sup>90</sup> South Carolina,<sup>91</sup> Tennessee, Texas, Virginia, Wisconsin).<sup>92,93</sup>

## STRICT VOTER ID STATES THAT DO NOT ACCEPT STUDENT ID CARDS OR OR OUT-OF-STATE IDENTIFICATION



Six of the 15 strict voter ID states accept neither student IDs nor out-of-state government-issued identification cards such as driver's licenses. (Arizona, North Carolina, Ohio, South Carolina, Tennessee, Texas).<sup>94</sup>



These **obstacles to voting** are direct descendants of the domicile and permanent residency tests outlawed in the 1970s. Not surprisingly, they've spawned a new generation of voting rights litigation.

The Wisconsin presidential primary in April 2016 illustrates how these laws limit student voting. Although Wisconsin accepts student identification from public and private universities for voting, the state requires that college IDs provide more specific information than is demanded by some other states. For voting purposes, Wisconsin student ID cards must include a date of issuance and signature and must expire within two years after issuance. Students also must provide an enrollment verification letter

or other proof of enrollment. The result is that most university-issued IDs in Wisconsin do not meet the legislative requirements.<sup>95</sup> These requirements, along with the state's ban on the use of out-of-state, government-issued IDs, created voting lines hundreds-of-students-long on Election Day.<sup>96</sup>

These obstacles to voting are direct descendants of the domicile and permanent residency tests outlawed in the 1970s. Not surprisingly, they've spawned a new generation of voting rights litigation.

## The New Generation of 26<sup>th</sup> Amendment Litigation

*Shelby's* elimination of federal "preclearance" allowed all states to change voting laws without seeking permission from federal authorities; the change triggered a slew of state legislation imposing voter ID requirements and repealing reforms that had increased turnout, particularly among people of color. But voters are fighting back with increasing success, as courts recognize the true aim and impact of such laws.

In Tennessee, the Nashville Student Organizing Committee and individual student plaintiffs filed suit in 2015 to challenge a strict voter photo ID law that allows faculty to vote using an employee ID issued by a public college or university but prohibits use of student ID issued by the same institution. A 2013 amendment also disallows the use of out-of-state identification cards such as driver's licenses.

The Tennessee plaintiffs challenged the exclusion of student IDs from the list of acceptable voter IDs. Before complete evidence could be gathered, the court dismissed the case; it was persuaded by the state's purported concern about false student identifications. Surprisingly, the judge asserted that "[it] is not relevant to the outcome of the court's analysis whether there is any empirical basis to support the speculation that student identifications are falsified at a significant rate, that this has the potential to contribute to voter identification fraud, or that this concern is of a different magnitude than concerns about falsification of faculty/staff identifications from the state institutions."<sup>97</sup>

In contrast, on December 17, 2015, just four days before the Tennessee ruling, a federal judge in the Western District of Wisconsin denied the state's motion to dismiss a disparate treatment claim by student voters there.<sup>98</sup> That court rejected the state's reasoning that excluding certain forms of student ID is rational to prevent the use of false identification. The case, which is still being litigated as this report is published, challenges piecemeal provisions imposed between 2011 and 2013 to limit youth access to the ballot. Restrictions include:

- Imposition of strict photo identification requirements;
- Elimination of high school preregistration programs;
- Preemption and overturning of local laws in college towns like Madison that directed landlords to distribute voter registration forms to new tenants;<sup>99</sup> and
- New impediments on students' ability to register to vote from their campus addresses.<sup>100</sup>

The day after the April 2016 Wisconsin presidential primary, an election marred by voter confusion and long lines following the ID law's implementation, Todd Allbaugh, a former chief of staff to a Republican state senator, acknowledged that GOP lawmakers intended for the law to hit minorities and students the hardest.<sup>101</sup> "I was in the room when this thing was conceived and birthed. Some bills worked differently in reality than they were intended. This one worked exactly as intended," Allbaugh said.<sup>102</sup>

Allbaugh's comments were in line with those of Wisconsin Congressman Glenn Grothman, another Republican. In news coverage of the Wisconsin primary, he said the photo ID law would help secure the state for the eventual GOP nominee in the presidential race. "I think photo ID is gonna make a little bit of difference," he asserted.<sup>103</sup>

## Case Study: North Carolina

Litigation in North Carolina demonstrates what voter suppression looks like in the wake of *Shelby*, and how new voter restrictions impact young people and those of color.

There, an expansive voter suppression law is being challenged in four now-consolidated cases filed by college students, reform groups, and the Justice Department. The 4th U.S. Circuit Court recently struck down the entire law, including the photo ID measure, concluding that the legislation targeted African-Americans with "almost surgical precision." The law includes:

- A strict voter photo ID requirement;
- Shortening of the state's early-voting period by a full week;
- Elimination of same day registration during the early-voting period;
- A prohibition of counting ballots cast in the wrong precinct – even in statewide or national races;
- Expansion of the ability of partisan operatives to challenge voters at the polls; and
- Elimination of a preregistration program for 16- and 17-year olds.

When introduced in the North Carolina legislature, the bill centered almost exclusively on a flexible voter identification mandate;<sup>104</sup> it did not address early voting, same-day registration, out-of-precinct voting, or preregistration of teens. The original draft expressly permitted the use of student IDs issued by North Carolina public universities and colleges and would have allowed voters to prove their identity by using any out-of-state, government-issued identification card.



I just don't understand **why you drew the line** where you did. It seems to me, you could just as easily draw the line and include all students as being eligible with their student ID's to vote."

In floor debate, Rep. Paul Luebke, D-30<sup>th</sup> District, questioned why the law differentiated between student IDs issued by public and private institutions:<sup>105</sup>

"I just can't understand, and I want you to again explain why I shouldn't tell a constituent who's from NCCU (North Carolina Central University) that you're okay, you can run on down with the ID and vote, but tell a student from Duke that he or she can't do that. I just don't understand why you drew the line where you did. It seems to me, you could just as easily draw the line and include all students as being eligible with their student ID's to vote. What's – what's wrong with that?"<sup>106</sup>

The bill's sponsor, Representative Ruth Samuelson, R-104<sup>th</sup> District, explained: "We could have drawn the line a number of places. We chose the cleanest and clearest way to do it was to draw it on government issued ID's."<sup>107</sup> Indeed, the floor discussion explained the provision of student IDs as a safeguard for students lacking driver's licenses.<sup>108</sup>

Signed into law six weeks after *Shelby*, the final version of the North Carolina bill went beyond drawing the line at private college IDs; it eliminated the use of both public college and out-of-state government-issued identifications, except under limited circumstances. The State Board of Elections has estimated that nearly 320,000 registered voters – approximately five percent of the state total – lack an acceptable voter ID.<sup>109</sup> The change impacts North Carolina students who do not have a North Carolina driver's license and out-of-state students who do not renew their licenses after moving to North Carolina.

Before the law was passed, North Carolina had arguably the nation's most voter-friendly election laws. Over a 15-year span, the state improved from 43<sup>rd</sup> to 8<sup>th</sup> in the nation for youth registration and from 31<sup>st</sup> to 10<sup>th</sup> in youth turnout. A CIRCLE (Center for Information & Research on Civic Learning & Engagement) report, filed in the lawsuit, concluded that the 2013 legislation was "likely to have a strong negative effect" on youth. "Because HB 589 in-

roduces a number of restrictions at the same time (or eliminates or restricts measures that facilitated voting), it is likely to suppress registration and turnout among young voters,” the report said.<sup>110</sup>



## VOTER SUPPRESSION IN NORTH CAROLINA

The CIRCLE Report details the statistical impact of North Carolina’s voter suppression law on young voters:

- ✓ **Preregistration eliminated:** Over 160,000 young people under the age of 17 had preregistered to vote from 2010-2013.
- ✓ **Same-Day Registration (SDR) eliminated during early voting period:** In 2012, young voters comprised 8.99% of all North Carolina voters, but 20.58% of those who utilized SDR did so at in-person early-voting locations.
- ✓ **In-Person Early Voting reduced:** Approximately half of all young voters in North Carolina cast their ballots using in-person early voting in the 2012 and 2008 presidential elections.
- ✓ **Voter ID requirement:** Over 14% of North Carolina’s younger voters may not have a state-issued ID or driver’s license.
- ✓ **Provisional ballots and Out-of-Precinct Voting:** Over 25% of young voters who cast provisional ballots in the 2012 presidential election in North Carolina did so because they were either in the wrong precinct or had not reported moving. In the 2012 primary, the 2010 general election, and the 2008 presidential election, over half of the young voters casting provisional ballots were either in the wrong precinct or had not reported moving. Because young voters are significantly more likely than older voters to be provisional voters (over three times more likely in 2012), young voters are more likely than older voters to attempt to vote in the incorrect precinct or not report a move.

Facing four consolidated federal lawsuits, North Carolina legislators apparently decided they had gone too far. In 2015, after months of pre-trial maneuvering and two weeks before trial was to begin, they passed a new bill to relax the strict photo ID component. The change, which took effect Jan. 1, 2016, permits voters without the required photo ID to secure a ballot by attesting to a “reasonable impediment” in obtaining it; acceptable impediments include a lack of proper documents or work schedule.<sup>111</sup> Because the ID requirement was not repealed and the law gives election officials discretion to withhold ballots, the challenge proceeded to trial.<sup>112</sup>

Even with this change to the voter ID law, students faced obstacles at the polls in the March 2016 presidential primary. College campuses are located in four of the five counties that during the early voting period recorded the highest concentrations of provisional ballots from voters without valid ID.<sup>113</sup>

On Election Day, as students joined other North Carolina voters in long lines stemming from confusion surrounding the new voter ID laws, out-of-state students were unsure if their ballots would be counted.<sup>114</sup> Ruby McClennan, a UNC-Chapel Hill freshman who had registered to vote in November 2015, arrived at the polls with her New York driver’s license and was given a provisional ballot because she lacked the required North Carolina ID. “If you can prove that I’m a registered voter on your computer, why can I not vote?” she asked. “I’m bummed that my first time getting to vote I don’t even know if my vote counts until 10 days after the election.”<sup>115</sup>

In July 2016, the **4th U.S. Circuit Court of Appeals** found that North Carolina intentionally discriminated against minorities in passing the law. The court instructed a district judge to enjoin the challenged provisions regarding photo ID, early voting, same-day registration, out-of-precinct voting, and preregistration.

The current increase in litigation challenging repressive voter measures is a reminder of the continuing challenge in fulfilling the bipartisan promise of the 26<sup>th</sup> Amendment. The new wave of restrictive photo identification laws, in particular, burdens students and requires them to organize and seek remedies in court and/or through changes in policy.



# PART II

## Policies that Encourage and Increase Youth Participation

While some states have moved to discourage or block young voters, there is a growing movement in others toward election reforms aimed at increasing turnout, including among young people. Many of those reforms, including online voter registration and preregistration, have passed with bi-partisan support.

Because the majority of high school graduates enroll in college<sup>116</sup> and many move away from their parents' homes,<sup>117</sup> students have a special stake in simple and accessible voter registration. There's clear evidence that the more our laws streamline registration and make voting more accessible, the more voters will participate in our democracy. Expansion of opportunities to vote, through early and absentee voting, also promotes involvement.

Registration and election reforms have additional, practical benefits. Many save money for states, facilitate efficient administration (with work spread out, rather than bulked around Election Day), make registration lists more accurate, and give eligible voters more opportunities to vote. And regardless of party, because half of all Millennials (aged 18-33) identify as political independents, legislators have a powerful incentive to adopt election reforms with track records of increasing participation among young Americans.<sup>118</sup>

### Increasing voter registration:



#### COMMON CAUSE RECOMMENDS

- ✓ Every state should have a robust program to preregister 16- and 17-year-olds so that they are added to the voter rolls automatically on their 18<sup>th</sup> birthdays.
- ✓ States should provide easy-to-access mechanisms for online voter registration.
- ✓ States should follow the lead of Oregon, California, West Virginia, Vermont, and Connecticut in automatically registering eligible citizens doing business at Department of Motor Vehicle and other state offices.
- ✓ Eligible citizens should be permitted to register and vote on the same day, including on Election Day; that option is now available in over a dozen states, and efforts to extend it continue.
- ✓ Public and private colleges and universities should maximize on-campus registration opportunities.
- ✓ Registration within each state should be portable, so voters who move within the state are not required to re-register at their new addresses.
- ✓ Local governments should require landlords and realtors to provide tenants and home buyers with information about how and where they can register to vote.
- ✓ Congress should restore the full protections of the Voting Rights Act by enacting the Voting Rights Advancement Act.

## Preregistration

Preregistration opportunities are available in nearly half the country. Typically, they allow 16- and 17-year-olds to sign up at a Department of Motor Vehicles office and have their names put on the voter rolls when they turn 18 (so long as other conditions are met).<sup>119</sup> Because preregistration can boost political participation, its popularity is spreading among voting rights activists and reform-minded lawmakers in Congress and the states.<sup>120</sup>

Even where preregistration is relatively new, states using it report turnout increases from 2%-13% among those aged 18-24.<sup>121</sup> Young people who preregister also “tend to have persistently higher turnout rates over several elections.”<sup>122</sup> The Fair Elections Legal Network notes that “preregistration creates many more contact points at which government agencies, teachers or third-party voter registration organizations can offer young people registration opportunities.” In this way, it encourages civic-mindedness to take root while students are still in high school.

A study of preregistration in Florida demonstrated its effectiveness; between its adoption in 2000 and 2008, 78,000 young Floridians were preregistered. In every year since preregistration was implemented, people who were preregistered were more likely to vote than

were those registered on or after they turned 18. “African-Americans who preregistered were 5.2 percentage points more likely to vote in the 2008 election than those who registered after they turned 18,” the study found.<sup>123</sup>

In Hawaii and Florida, among other states, experience suggests that educating and energizing young people about the availability of preregistration is key to making it work. Election administrators in those states are required to take affirmative actions to

implement preregistration. Their activities can include in-school registration drives, offering voter registration forms at school assemblies, and linking registration to student poll worker programs.<sup>124</sup>

## Online Voter Registration

States are moving quickly to embrace online registration, with over half implementing it since Arizona blazed the trail in 2002.<sup>125</sup> Online registration has proven popular in red and blue states alike, making registration easier for voters and easing administrative burdens on elections officials.

Paper-based registration is cumbersome, inefficient, and costly; it invites human error and inaccurate registration rolls, leaving some voters unable to vote on Election Day. The [Presidential Commission on Election Administration](#), a bipartisan team created by President Obama to recommend ways to reduce voter lines on Election Day, recommended online registration as “an invaluable tool for managing the accuracy of voter rolls and reducing the costs of list maintenance.”<sup>126</sup> The commission concluded that online registration reduces the potential for error in uploading data, saves a “significant” amount of money, increases the accuracy and currency of the voter rolls, and improves the voter experience, as eligible voters know immediately that they’ve been registered.<sup>127</sup>

Online registration is particularly attractive to people with disabilities, who frequently cannot travel to registration offices or satellite sites,<sup>128</sup> and to students, who move frequently and need an efficient and accessible way to update address records. And because so many young people are active online, making registration available online makes sense for election administrators.

## Same Day Registration

Same Day Registration (SDR) – also called Election Day Registration – permits an eligible voter to register and vote on the same day, either just on Election Day or during an early voting period as well. SDR raises participation rates by upwards of 10 percentage points; it has proved particularly effective in increasing turnout among young voters, people of color, and other groups traditionally underrepresented in our democracy.<sup>129</sup>



African-Americans who preregistered were **5.2 percentage points more likely to vote** in the 2008 election than those who registered after they turned 18.

Most states close voter registration about a month before Election Day, cutting off participation just as many voters and young voters in particular are tuning into the campaign.<sup>130</sup> A recent study indicated that “keeping registration open through Election Day in 2012 would have allowed an additional 3 million to 4 million Americans to register and vote.”<sup>131</sup>

After Colorado enacted a wide-ranging election reform bill in 2013, including voting-by-mail and same day registration during an early voting period, turnout jumped by 319,225 voters from 2011, the last non-presidential election before the reforms were implemented.<sup>132</sup> That’s roughly equal to the population of Aurora, the state’s third largest city. Colorado now boasts the most comprehensive elections system in the country.<sup>133</sup>

At least 13 states and the District of Columbia now offer same day registration; the majority adopted it in the past five years.<sup>134</sup> As noted earlier, North Carolina’s attempt to eliminate this reform, among others, was struck down in July by the 4th U.S. Circuit Court of Appeals; the state has announced it will carry the case to the U.S. Supreme Court.

While SDR can increase overall turnout, it is most effective among communities of color and young people. Indeed, in the 2008 election, young people whose home states offered SDR were 41% more likely to vote than those whose states did not.<sup>135</sup> Same day registration could increase turnout by young Americans in presidential elections by as much as 14 percentage points.<sup>136</sup> What’s more, young voters are “more likely to be contacted by a political party in states with Election Day registration by an estimated 11 percentage points in presidential elections, and by an estimated 18 percentage points in midterm elections.”<sup>137</sup> SDR not only encourages young people to vote, it positions them for future elections, pushing candidates to reach out and consider their concerns.



Same day registration could increase turnout by young Americans in presidential elections **by as much as 14 percentage points.**

## Automatic Voter Registration (AVR)

Running for President in 1976, Jimmy Carter proposed that government take the initiative in registering eligible Americans to vote.<sup>138</sup> France, Sweden, Argentina, Peru, Indonesia, and other countries<sup>139</sup> register individuals automatically; their turnout rates trump those of the U.S.<sup>140</sup>

That may be about to change. Since early 2015, Oregon, California, West Virginia, Vermont, and most recently Connecticut have embraced automatic registration.<sup>141</sup> In Illinois, supporters of AVR are contemplating a bid to overturn Gov. Bruce Rauner’s veto of legislation that would have provided automatic registration across the state.<sup>142</sup>

Oregon led the way, in March 2015, with its “New Motor Voter” law. The law requires county elections officials to register all eligible individuals who conduct license and ID transactions at Department of Motor Vehicle (DMV) offices, so long as they don’t opt out of the process.<sup>143</sup> The Oregon law effectively turns the federal requirement that states provide opportunities to register to vote at DMVs from an opt-in to an opt-out policy.<sup>144</sup> With some procedural variations, states have worked off this model.

In mid-May 2016, Connecticut officials announced plans to implement automatic registration through an agreement between the DMV and the secretary of state’s office rather than a change in state law.

Common Cause state organizations, along with their coalition partners and other national organizations, advanced these reforms in Oregon and California and are pushing them across the country. The two trend-setting states will initially offer the service at DMV offices; other states are considering including more agencies – public assistance offices, WIC offices, etc. – to reach all income brackets and promote a robust, inclusive democracy. States and localities also may take the initiative to automatically register voters in schools and colleges. As with preregistration, this reform can help ensure early – and continued – participation by younger voters.

Automatic registration could swell the electorate by millions of people. In Oregon alone, registration rates in the first four months of 2016 increased by more than 50 percentage points from those early in the presidential year of

2008.<sup>145</sup> Indeed, before implementation of AVR, Oregon was processing over 4,000 new registrations a month; following its implementation, the state now processes over 12,000 a month through the reform alone – a threefold increase.<sup>146</sup>

Safe and effective implementation of the program is critical. As advocates, elections officials, and legislators continue to push for automatic voter registration, they’ll be challenged to ensure that statutes or regulations include appropriate protections for those unwittingly registered – a likely rare but possible occurrence. They’ll also need to conduct outreach and educational campaigns to inform and encourage eligible voters about the new options. Registration is the first step; consistent participation is the second. Government and advocacy groups alike must take these next steps to engage and encourage citizens. Reforms serve no one unless people are aware of and use them.

## Compliance with the National Voter Registration Act and Expansion of Registration Requirements to Schools and Universities

The National Voter Registration Act of 1993 requires most states (those without Election Day or same day registration when the law was passed) to offer voter registration services through Department of Motor Vehicles offices,



**Automatic registration could swell the electorate by millions of people.** In Oregon alone, registration rates in the first four months of 2016 increased by more than 50 percentage points from those early in the presidential year of 2008.

public assistance offices, and other agencies. The law also establishes rules for how states can remove registered voters from the rolls<sup>147</sup> and appoint agencies to supply registration services.<sup>148</sup>

Some states have focused all their efforts on compliance with the federal law; New York, California and others have gone beyond the law to expand registration opportunities on college and university campuses. As detailed in Part III, advocates in California gained the support of the secretary of state to extend the NVRA voter registration requirements to high schools, community colleges, and public universities.

Strong state practice, including training, reporting, and oversight, is needed to ensure all mandated agencies comply with the NVRA. Some states remain out of compliance. Several law firms and organizations, including Demos, the Lawyers’ Committee for Civil Rights Under Law, Project Vote, and the Brennan Center for Justice, have joined organizational plaintiffs including Common Cause state organizations to negotiate with and/or litigate against recalcitrant states. The result has been significantly higher registration rates at NVRA-designated agencies and voter registration purges that meet the law’s requirements.<sup>149</sup>

Like automatic registration, full compliance with NVRA likely would provide a particular boost to registration and voting by young people. In addition, states must also heed the NVRA’s requirements for the conduct of voter registration purges or “clean-up” of the rolls; that way, no one – including students – will be inappropriately knocked off the lists.

## Compliance with the Higher Education Act

The Higher Education Act requires colleges and universities to make a “good faith effort” to distribute voter registration forms to each student in a degree or certificate program.<sup>150</sup> Each institution must make forms “widely available” for general and special federal elections and for gubernatorial elections.<sup>151</sup> Forms may be distributed by regular or electronic mail; however, emails must include a voter registration form or link to a website where the form can be downloaded. If the institution opts to distribute forms via email, the email must be devoted exclusively to voter registration.<sup>152</sup> Only colleges and universities in states with Election Day Registration are exempt from the provision.

## Portable registration

With portable registration, voters who relocate within a state may update their voter registration address at a polling place to cast a valid ballot. Some states require the voter to sign an affidavit attesting to the change before permitting him or her to vote; others permit the individual to vote only by provisional ballot.

Our society is mobile; more than 11 percent of Americans, including young people leaving for college, joining the military, or starting new jobs, moved between 2011 and 2012.<sup>153</sup> Until states adopt same day or Election Day registration and implement automatic registration, millions of these eligible voters, including college and university students, are at risk of losing the right to vote simply because their information was not updated by the close of registration.

Delaware, Hawaii, Oregon, and Texas allow a voter to cast a regular ballot after updating his/her registration address at the polling place.<sup>154</sup> In Florida, Ohio, and Utah, an individual may vote only a provisional ballot after updating his/her address at the polls. That typically requires the voter to take additional action before the vote can be counted.<sup>155</sup> Fourteen other states, plus Washington, DC, allow individuals to register or update their registration and vote on the same day.

## Municipal Renter-Voter Laws

Cities with large student populations, including East Lansing, MI, Minneapolis, MN, and Madison, WI – all home to major public universities – have ordinances requiring landlords to provide new tenants with voter registration forms and information. Championing the measure in Minneapolis, Councilman Jacob Frey explained: “Between the age of 19 and 25, you’re moving practically every year sometimes. Even the most civically engaged people can easily forget to register.”<sup>156</sup> East Lansing Mayor Nathan Triplett called the ordinance in his city a “no brainer.”<sup>157</sup>

Despite its popularity, the popular renter-voter ordinance in Madison was overturned by a state law. Michigan is considering a similar step (SB 639). That bill includes other voter restrictions that would impact students and has been criticized by national voting rights groups.<sup>158</sup> To the dismay of local officials, the bill has been referred to the Senate Committee on Elections and Government Reform.

## Expanding opportunities to vote:



### COMMON CAUSE RECOMMENDS

- ✓ States should adopt “no-excuse” absentee voting, giving voters freedom to vote on or before Election Day.
- ✓ States should provide generous early voting opportunities, giving voters at least three weeks to cast their ballots. Early voting opportunities should be provided during evenings and weekends as well as during regular weekday working hours.
- ✓ To ensure that early voting options enhance turnout as well as make voting more convenient, states should adopt early voting alongside same day registration and should run educational campaigns to ensure all eligible voters are aware of their options.
- ✓ State and local election officials should ensure that polling places are located on campuses or in locations convenient to students.
- ✓ Voters who report to the wrong precinct on Election Day should be permitted to vote a regular ballot and their votes should be counted in contests for which they are eligible to vote.
- ✓ Individuals who complete prison sentences must have their right to vote restored upon completion, not after parole or probation.



## No-Excuse Absentee Voting

All states mail absentee ballots to voters, with a set deadline for returning completed ballots before Election Day. Twenty states require absentee voters to provide an excuse – such as sickness or temporary absence – before accepting their ballots.<sup>159</sup> Most states allow individuals to return absentee ballots by mail or in-person at designated locations by Election Day; some states also permit individuals to designate someone to drop off their ballots. As of September 2015, 27 states and the District of Columbia permitted an individual to vote absentee without an excuse. Three states – Oregon, Colorado, and Washington – have all-mail voting systems (Colorado’s system includes an option for in-person voting).<sup>160</sup>

Americans under age 50 typically juggle jobs and childcare; those under 30 often also must deal with class schedules. Some states do not require employers or schools to provide time off to vote for employees and students, increasing the importance of laws and public policies that provide multiple opportunities to vote before Election Day.

The Presidential Commission on Election Administration recommended in 2013 that states expand voting opportunities. “Nearly a third of voters in the 2012 election cast their ballot before Election Day, more than double the

rate of the 2000 election,” the Commission’s report noted. “Of the more than 47 million Americans who cast ballots early in 2012, 29 million were cast by mail and 18.5 million early in-person.”<sup>161</sup>

The Commission heard from experts and administrators in both major political parties who testified to the importance of “alleviating congestion” on Election Day by providing voters



Litigation was not our first attempt to fight the blatant voter suppression, but it is **a powerful tool to fight for justice.**”

with multiple voting options. It noted that each form of early voting has detractors, but asserted that early voting – including no-excuse absentee voting – is “here to stay” and advised states to embrace it.<sup>162</sup>

## Early In-person Voting

Thirty-three states, plus Washington, DC, permit registered voters to vote in-person before Election Day.<sup>163</sup> The time window for those votes ranges from four to 45 days before Election Day, with an average of 19 days;<sup>164</sup> most early voting periods end a few days before Election Day. Early voting periods work best for students if they’re extended to three weeks, with early morning and late hours on weekdays and on weekends so that students do not have to neglect school, jobs and other responsibilities to vote.

## Polling Places on Campus

There appears to be no comprehensive accounting of the number of on-campus polling places, but the Institute for Southern Studies reports that, “[e]arly voting sites have been eliminated on campuses across North Carolina and the South, part of a broader effort by local elections officials and state lawmakers to erect new barriers to voting.”<sup>165</sup> Students at **Appalachian State University** in Boone, N.C. sued to contest the relocation of a campus polling place to an off-campus site; after a trial judge ruled in their favor, the county board of elections restored on-campus voting.<sup>166</sup>

“Litigation was not our first attempt to fight the blatant voter suppression, but it is a powerful tool to fight for justice,” said **Ian O’Keefe**, a student-plaintiff in the Appalachian State lawsuit.<sup>167</sup>

A long battle between **Prairie View A&M University** students and Waller County, TX produced an agreement in 2013 to place a polling location on campus. The dispute united the Republican Prairie View Alumni and student government leaders who wrote to the Texas Secretary of State, claiming a violation of the Voting Rights Act. Ultimately, county commissioners voted to use the student center as a polling site.<sup>168</sup> The fight for students’ rights at Prairie View A&M didn’t end there; students also pushed for an early voting site on campus and encountered opposition from Democratic and Republican county chairs.

Students at both Appalachian State and Prairie View A&M demonstrated their readiness to take advantage of the

opportunity to vote. During the 2016 primary, Appalachian State's early voting site was the most used of Watauga County's six sites;<sup>169</sup> turnout at Prairie View A&M's precinct was 150% of the county average.<sup>170</sup>

The Prairie View and Appalachian State stories illustrate two paths to expanding and keeping polling locations on campus. By combining public pressure and litigation – when needed – student activists and concerned citizens can pave the way for increased campus voting in years to come.

## **Counting Eligible Provisional Ballots Cast in the Wrong Location**

Due to their mobility, some students in every election show up to vote at the wrong place – but in the right county – and are forced to cast provisional ballots. A 2014 Fair Elections Legal Network report found that 22 states<sup>171</sup> fully reject (i.e., set aside and never open) provisional ballots cast in the wrong location, even in statewide or federal races. Fifteen states<sup>172</sup> and the District of Columbia salvage at least some portion of these ballots.

In some states, provisional votes cast in the proper county or state – but not the correct precinct – are counted in contests in which the voter is eligible to vote. Policies barring counting of these votes are a real inconvenience for voters who find – often after a long wait in line at the polling place – that they're at an incorrect location. When given a provisional ballot, these voters may be unaware that – depending on the state – some or all of their votes may be discarded.

## **Students as Poll Workers**

The Presidential Commission on Election Administration recommended in 2013 that states recruit young people as poll workers.<sup>173</sup> Because Election Day falls on Tuesday, a workday for most Americans, many jurisdictions struggle to find poll workers. College and high school students could help solve that problem.

The City of Chicago ran one of the nation's largest college poll worker programs, with 1,500 students, in 2014 and 2015. Precincts with student workers transmitted election results more quickly<sup>174</sup> and 73% of students who volunteered to poll work in a second election went on to volunteer for a third. Continued civic-participation could be a catalyst for consistent voting and engagement.

# PART III

## Self-help – How Students and Other Young People Are Increasing Political Engagement and Voter Turnout

To consistently bring large numbers of young people, and particularly students, to the polls, it will take more than laws and public policies that facilitate political participation.

In one 2014 study, “one-third of young registered voters reported that they did not vote because schedule conflicts prevented them from going to the polls ...”<sup>175</sup> Young Americans also have reported “high levels of dissatisfaction and distrust in our political system.”<sup>176</sup> According to a 2014 poll, 17.2% of young Americans didn’t vote because “they were not interested and/or felt that their vote would not count.”<sup>177</sup>

These numbers, combined with the robust participation of young people in movements like Black Lives Matter and Occupy, suggest that anemic political participation by young Americans has less to do with apathy than with their sense that they’re neither connected to nor taken seriously by those in power.

Across the country, grassroots groups, advocates, and student organizations are tackling that problem with campaigns supporting electoral reforms and other efforts to demonstrate the importance and impact of civic engagement.

### Organizing 101: Getting Out the Vote and Moving Reform as part of a national student network

The [United States Student Association \(USSA\)](#), the country’s oldest and largest student-led organization, works to amplify student voices by mobilizing grassroots power on student issues.

Its Oregon affiliate, the [Oregon Student Association \(OSA\)](#), runs the largest non-partisan voter registration, education, and get-out-the-vote drive in the state and one of the largest in the country. In 2014, OSA registered 55,311 students, one of every 40 Oregon voters. Students registered by OSA had 18% higher turnout than the national average for young voters; 90% of the young people voting in Oregon in 2014 were registered by OSA.<sup>178</sup>

OSA’s get-out-the-vote operation is particularly effective due to longstanding relationships built with county election administration officials. Because most Oregonians vote by mail, student governments joined county election administrators to set up supervised drop-boxes on campuses. According to OSA Organizing Director J Gibbons, “these drop-boxes are very popular with students because they are much more accessible than others located miles off campus, and the drop-boxes do not require pre-paid postage.”<sup>179</sup>

A similar system set up by the [Washington Student Association \(WSA\)](#) negotiated with county clerks to place official ballot drop-off boxes on all four-year campuses in the state.<sup>180</sup> This approach may be especially effective in engaging student voters on campuses that lack on-site polling places.

OSA also helped secure the historic “New Motor Voter” law passed in Oregon in March 2015; the group’s representatives met with legislators, testified at committee hearings, and worked alongside other organizations, including Common Cause Oregon, to ensure its passage. The law provides for automatic registration of eligible citizens when they do business at state motor vehicle agencies.

OSA is widely recognized as a voice for students. When university administrators informed some out-of-state students that registering to vote from campus would jeopardize their eligibility for an attractive scholarship, OSA

worked with legislators to pass a bill (SB 1525) in 2014 that clarifies that scholarships are not risked by the act of registering to vote.<sup>181</sup>

And when a bill to require additional voter identification was proposed in the legislature, OSA worked to clarify that Student ID cards would be acceptable. According to Lamar Wise, Legislative Director of OSA, student identification was deemed valid for voting because students had already provided sufficient identification to enroll in their institutions.<sup>182</sup>

“States like Oregon and Washington can really engage youth in the political process in unique ways,” said Alexandra Flores-Quilty, President of USSA.<sup>183</sup>



After weeks of preparation, it was amazing to see **people of all backgrounds gather to advocate for change** ... The challenging part of the planning process was determining logistics for the day so that people from different groups could come out to the event.”

## Spreading the word in California

Extended polling hours, online registration and other electoral reforms will have little effect on political participation unless young voters are aware of them.

After **California Common Cause** and the **California State Student Association (CSSA)**<sup>184</sup> secured passage of online voter registration in September 2011,<sup>185</sup> CSSA groups organized to spread the word on how to register to vote online and meet applicable deadlines. Within one month, 800,000 people registered, one-third of them under 25.<sup>186</sup> California Common Cause’s student activist trainings<sup>187</sup> give on-campus volunteers tools to conduct voter registration drives and host informational programs. At the University of California, San Diego, the **Student Organized Voter Access Committee (SOVAC)**<sup>188</sup> works to enhance student turnout; the group has worked alongside registrars, public figures, and the nonprofit community to create successful drives on National Voter Registration Day. In one three-day drive, the student organization helped register 1,700 new students on campus.<sup>189</sup>

California’s Secretary of State also has taken the initiative to boost student turnout, providing registration services at high schools, community colleges, and public universities.<sup>190</sup>

## Rally on Campus

Through Black Lives Matter, the Fight for 15, climate change marches, and other movements, young Americans are occupying public spaces to demand reform of police practices, working conditions, and climate protection. Their activism turns the stereotype of Millennial “slacktivists” – who “like” things on Facebook without doing more – on its head. Voter registration and voting are natural byproducts of this activism.

Building on the momentum of last summer’s NAACP’s Journey for Justice – a 1,000-mile journey from Selma, AL to Washington, DC – the **Yale Chapter of the NAACP** organized an on-campus rally last October for juvenile justice reform. The event concluded with a voter registration drive, allowing participants to translate their advocacy efforts into votes. Marchers of all ages, faith traditions, and races were represented in calls for “Books not Bars” and “Schools not Prisons.”

Abby Johnson and Brea Baker, Yale seniors who spearheaded the event, explained its success:

“After weeks of preparation, it was amazing to see people of all backgrounds gather to advocate for change ... The challenging part of the planning process was determining logistics for the day so that people from different groups could come out to the event. With so many events happening on Yale’s campus and in the community, we thought that information about the march might be lost in the sea of announcements that go out every week but we constantly reminded people about the event and encouraged people to share information about the march with their friends. Ultimately, the success of the march was a collaborative effort – it would not have been possible without the support of the New Haven and Yale Police Departments and community leaders.”

## Engaging Local Candidates & Officeholders

It's easy for politicians to ignore the needs of young people if most of those people don't vote. It's even easier if young people don't step up to make themselves heard.

In Texas, the [NAACP Houston Branch Young Adults](#), spearheaded by Jylise Smith, joined four other youth groups – [Houston Area Urban League Young Professionals](#), [Maverick PAC](#) (a group of Republican young professionals), [Young Democrats](#), and [Young Republicans](#) – to host a forum in 2015 for mayoral candidates. Seven candidates convened at the University of Houston to meet over 200 young voters. Young voters representing both political parties organized the event, created Facebook and Eventbrite pages, and handed out fliers on their campuses to promote it. Thanks to the event, young professionals were enlisted to assist in voter registration drives.

In North Carolina, a Common Cause-organized mixer in September 2015 allowed college and university students in Raleigh to meet elected officials and candidates for local office. Brent Laurenz, director of outreach and special projects for [Common Cause North Carolina](#), said many young people are interested in “keeping it local” – local beer, “locavore” restaurants, etc. “In that same vein, they should vote local!” At the event, about a dozen city council and mayoral candidates and individuals from local youth groups joined to connect over beers (local, of course) at a downtown watering hole.

The well-attended event allowed candidates to talk with constituents and gave students a chance to make their concerns heard. Organizers said outreach to television and print journalists was key to their success.

## Run for office!

It's axiomatic that “a democratically elected government is only as good as those willing to stand for its offices.”<sup>191</sup> While few Millennials run for office, it's clear that many are concerned with issues – climate change, wealth gaps, racial and gender equality, national security – that require government action.<sup>192</sup> Shauna Shames, a political scientist at Rutgers University-Camden who conducted a multi-year-long study of Millennials' views of government, says “[c] hanging this situation will thus involve not only decreasing the costs of running but also increasing the motivation to run by sharing positive stories of the change politics can bring about. Doing this could also close the demographic gaps in political ambition and thereby bring new voices into politics.”<sup>193</sup>

John L. Davis IV, an accounting student at Stephen F. Austin State University in Texas, is currently running for the state legislature's District 85 seat to represent and advocate for his family.<sup>194</sup>



I was lucky enough to go to college, and I feel responsible for improving my community. American government is ‘for us’ and ‘by us,’ and youth need to be that ‘us.’”

Because of a felony conviction, Davis' father is unable to vote and has suffered setbacks in searches for a decent job with a fair wage.<sup>195</sup> “I was lucky enough to go to college, and I feel responsible for improving my community,” John Davis said. “American government is ‘for us’ and ‘by us,’ and youth need to be that ‘us.’”<sup>196</sup>

Davis honed his leadership skills through his NAACP youth chapter and recently was elected state president of the [Texas Youth and College](#)

[Division of the NAACP](#).<sup>197</sup> Having gained experience in organizing and advocacy – he went to Washington to advance the Voting Rights Advancement Act and rally to “raise the wage” – Davis observed that “corporations are well represented, but the common man or woman is not. We are being overlooked. We're not given a seat at the table; instead we're just on the menu.”

Davis argues that young people tend to stay out of politics because their interests and needs typically aren't addressed by legislation. But noting that Dr. Martin Luther King Jr. was just 26 when he helped organize the Montgomery bus boycott, Davis said he hopes his campaign can bolster other young people's interest in politics, campaigning, and running for office.



However his campaign ends, Davis' experience could provide an example for his community.

## **New Jersey: A case study in building a movement**

In 2003, Rutgers University students organized the first **Tent State University** (TSU), a week-long tent city that contributed to a thriving social movement in which students collaborated to advance shared goals.<sup>198</sup> Participatory democracy among students was central to its mission. The tent city dedicated large, main tents to advocacy, generating thousands of phone calls and letters to the state legislature, and workshops with speakers including state and congressional representatives, veterans, immigrants, community members, and undocumented students. Other main tents were devoted to the arts, which attracted a wide range of students and facilitated live concerts every evening, and logistics, which ensured the food, security, and central maintenance of the operation.

Over 10 years, the TSU organizing model took root at Rutgers and spread to 15 campuses across the country, two campuses abroad, and the 2008 Democratic National Convention.

In 2007, TSU leaders at Rutgers began exploring how power could be shifted to make local government in New Brunswick, NJ more representative of and accountable to the community. This inspired creation of **Empower Our Neighborhoods** (EON), a campaign to change local government from an at-large electoral system to a hybrid system, with six ward-based council seats and three at-large seats. Over the next two years, EON and the student movement fought to put the question on the ballot, surviving a legal challenge and garnering support through strong movement building efforts.<sup>199</sup> The proposal was rejected however, losing by just 82 votes.<sup>200</sup>

Meanwhile, on campus, TSU organizers and allies at Rutgers worked to gain a foothold and eventual sweep of the undergraduate student government in response to its threat to eliminate student organizations of color. The revamped student government was able to boost voter registration programs and direct student fees to support new student advocacy on the university, city, state, and national levels. The student government also joined the **United States Student Association**, and in February 2011 initiated creation of a statewide student association, **New Jersey United Students**.

## **Conclusion**

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Successful democratic government depends on an informed and engaged populace. The steady decline in voter turnout among Americans in every age group – other than those over 65 – sends a troubling signal about the future of our democracy. To reverse that trend, we need to strengthen and safeguard the rights guaranteed by the 26<sup>th</sup> Amendment and adopt laws and policies like those spotlighted in Part II of this report. We must also encourage and support public-spirited individuals and groups like those spotlighted in Part III to work toward a cultural shift to enhance civic engagement in every demographic group.

Partisan gridlock, beginning in Washington and increasingly evident at every level of government, along with politicians' collective failures to address issues particularly important to young people, has contributed to an atmosphere in which Millennials steer clear of politics. Action to reverse that mindset is critical. Without it, the sons and daughters of today's Millennials are likely to be even less engaged and more estranged than their parents from politics and elections. We must remind eligible young Americans of their voting rights and opportunities, and use modern communications tools to raise awareness of the importance of engagement and their ability to influence governmental decisions. Technology is certainly not the only solution, but it can serve as a strong connector between ideas and action. The more information young Americans receive – in encouraging and motivating formats – the likelier they are to engage.

Some young people already are rising to the challenge of civic engagement; they were in the forefront of the Occupy movement and are prominent in climate change rallies and "Black Lives Matter" protests, among other activities. But they're still disproportionately absent from the political realm. "They're tuned out [of politics and elections] for a reason – it's because they're turned off," author Jennifer Lawless has observed.<sup>201</sup>

Getting them tuned in and turned on should be among the highest priorities of the next President, public officials at every level, university and college administrators, and indeed of every American.

## Executive Summary Endnotes

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- 11 The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), passed in 1996, protects the right to vote for military and civilians living abroad, requiring states to permit these Americans to register and vote absentee in federal elections from their last U.S. addresses. The law includes important protections, but additional steps are needed to ensure that states provide voting materials to eligible voters overseas well in advance of voting deadlines. Through the Military and

Overseas Voter Empowerment Act, passed in 2009, states are required to transmit absentee ballots to UOCAVA voters at least 45 days before a federal election, when the voter has submitted a request by that date. States have an uneven record of UOCAVA compliance however; a Justice Department report in December 2015 detailed ongoing litigation in five states aimed at enforcing the law. See *Fact Sheet: MOVE Act*, DEPARTMENT OF JUSTICE (Oct. 27, 2010), <https://www.justice.gov/opa/pr/fact-sheet-move-act>.

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- 31 See *Newburger et al v. Peterson*, 344 F. Supp. 559, 563 (D.N.H. 1972) (holding that a state law that disqualifies a citizen from voting in a town if s/he has a firm intention of leaving that town at a fixed time in the future, offends the Equal Protection Clause of the 14<sup>th</sup> Amendment, explaining that “[i]n this day of widespread planning for change of scene and occupation we cannot see that a requirement of permanent or indefinite intention to stay in one place is relevant to responsible citizenship.”).
- 32 See *Worden v. Mercer County Board of Elections*, 61 N.J. 325 (1972) (invalidating the questioning of students’ residency beyond all other applicants, upholding students right to register to vote from college addresses).
- 33 See *Walgren v. Board of Selectmen*, 519 F.2d 1364, 1368 (1st Cir. 1975) (determining that the holding of a special contest during winter break when students are out of town is not unconstitutional based on the particular underlying facts, where the board made a good faith attempt to reschedule the special contest, and the novel issue was raised at the last minute, but cautioning that “we would be disturbed if, given time explore alternatives and given alternatives which would satisfy all reasonable town objectives, a town continued to insist on elections during vacations or recess, secure in the conviction that returning to town and absentee voting would be considered insignificant burdens.”).
- 34 See *Ownby v. Dies*, 337 F. Supp. 38 (E.D.TX. 1971) (invalidating state law on the bases of the 14<sup>th</sup> and 26<sup>th</sup> Amendments, declaring students eligible to vote from their college addresses under the same terms and conditions applicable to those older than twenty-one years of age). See also *Symm*, *supra* at n. 15.
- 35 See *Symm v. United States*, 439 U.S. 1105 (1979), *summarily aff’g* 445 F. Supp. 1245 (S.D.T.X. 1978) (invalidating, based on the 26<sup>th</sup> Amendment, a residency questionnaire that is a part of a more pervasive pattern of conduct to limit student voter registration from college campus address, and that treats young registrants differently than other voters).
- 36 *Dunn v. Blumstein*, 504 U.S. 330 (1972). See also *Cheyenne River Sioux Tribe v. Andrus*, 566 F.2d 1085 (8th Cir. 1977) (applying a uniform age qualification to vote pursuant to the Indian Reorganization Act, 25 USC 461 *et seq.*, and denying relief sought by a tribe to limit youth access to the ballot to persons over twenty-one years of age as prescribed in the Tribal Constitution), *cert. denied*, 439 U.S. 820 (1978).
- 37 *Id.* at 356, n.28.
- 38 *Worden*, 61 N.J. at 346-48 (further explaining, “Whether they live on or off campus they are subject to and concerned with not only the state laws and regulations but the local laws and regulations as well. It is there that they pay their sales and gasoline taxes along with any other applicable charges, it is there that they deal with the local courts and local government bodies, and it is there that they are classified as residents by the Census Bureau. They are no more mobile than the general population, which has admittedly become quite restless, and they are no more transient than many other groups whose right to vote in communities where they are short-term residents is never questioned.”).
- 39 *Newburger*, 344 F. Supp. at 563 (further explaining, “On the one hand, New Hampshire excludes from the franchise a student candid enough to say that he intends to move on after graduation, a newly-arrived executive with a firm intention to retire to his Florida cottage at age 65, a hospital intern or resident with a career plan that gives him two or three years in New Hampshire, a construction worker on a long but time-limited job, an industrial or government trainee working up a precise career ladder, a research contractor on a project with a deadline, a city manager hired for a term, a military person on a term of duty, a hospital patient with a hoped-for goal of discharge. On the other hand, those persons who are less precise in their planning or less confident that their plans will be realized at a time certain are allowed to vote. It is impossible for us to see how such people would possess any greater knowledge, intelligence, commitment, or responsibility than those with more precise time schedules.”).
- 40 *Colorado Project-Common Cause*, 178 Colo. at 1.
- 41 *Id.* at 8.

42 *Walgren*, 519 at 1368.

43 See e.g., Richard G. Niemi, Michael J. Hammer, Thomas H. Jackson, *Where Can and Should College Students Vote? A Legal and Empirical Perspective*, 8 ELECTION L. J. 4, 327, 339 (2009); Student Voting Guide FAQ, BRENNAN CENTER FOR JUSTICE (2010), <https://www.brennancenter.org/analysis/student-voting-guide-faq>.

44 See *id.*

45 Specifically, an amended voter registration form prescribed by and promulgated according to the new law, required voter registrants to affirm:

*In declaring New Hampshire as my domicile, I am subject to the laws of the state of New Hampshire which apply to all residents, including laws requiring a driver to register a motor vehicle and apply for a New Hampshire's driver's license within 60 days of becoming a resident.*

46 In a public hearing, the bill's sponsor, Gregory Sorg (R-3) explained that average taxpayers in college towns are having their votes "diluted or entirely canceled by those of a huge, largely monolithic demographic group . . . composed of people with a dearth of experience and a plethora of the easy self-confidence that only ignorance and inexperience can produce." Their "youthful idealism," he added, "is focused on remaking the world, with themselves in charge, of course, rather than with the mundane humdrum of local government." Peter Wallsten, *In states, parties clash over voting laws that would affect college students, others*, WASH. POST (Mar. 8, 2011, 10:41 AM), <http://www.washingtonpost.com/wp-dyn/content/article/2011/03/06/AR2011030602662.html?sid=ST2011031002881>.

47 The New Hampshire trial court ruled with the students, explaining:

Out of state students attending school in New Hampshire do not, as a consequence of choosing to vote in New Hampshire, have to obtain a New Hampshire driver's license or register their car in New Hampshire. The [separate] issue of whether a student must obtain a New Hampshire license and registration depends on whether the student becomes a resident of New Hampshire as defined by our laws.

Rivers et al. v. State of New Hampshire, No. 219-2012-cv-00458, slip op. at 8 (N.H. Superior Court Sept. 24, 2012).

48 See *Guare v. State of New Hampshire*, 167 N.H. 658 (2015).

49 See Letter by Demos and ACLU of Maine to Maine Secretary of State Charles E. Summers, Jr. (Oct. 17, 2011), *available at*: <http://www.demos.org/sites/default/files/publications/ACLU%20of%20Maine%20Letter%20to%20Sec.%20Summers.pdf>. See also Scott Keyes, *Maine Elections Chief Uses GOP List to Intimidate Student Voters and Encourage them to Re-Register in Another State*, THINK PROGRESS (Sept. 29, 2011, 5:10PM), <http://thinkprogress.org/justice/2011/09/29/331788/maine-student-voter-intimidation>.

50 The letter by the head elections official in Maine stated: "If you are currently using an out-of-state driver's license or motor vehicle registration, I ask that you take appropriate action to comply with our motor vehicle laws within the next 30 days (i.e., by October 20, 2011). If, instead, you are no longer claiming to be a Maine resident, I ask that you complete the enclosed form to cancel your voter registration in Maine so that our central voter registration system can be updated." *Id.*

51 See Patrick J. Troy, *No Place to Call Home: A Current Perspective on the Troubling Disenfranchisement of College Voters*, 22 WASH. U. J.L. & POL'Y 591, 605-07 (2006). The underlying Virginia case is not available on Lexis Nexis, and there appears to be no record of an appeal of the case.

52 See *Veasey v. Perry*, 71 F. Supp. 3d 627, 635-36 (S.D.T.X. 2014) (detailing history of voter suppression in Waller County, Texas).

53 See Guide to Kansas Secure and Fair Elections Act, Office of the Kansas Secretary of State (2016), *available at*: [http://www.sos.ks.gov/forms/elections/A\\_Guide\\_to\\_SAFE\\_Act.pdf](http://www.sos.ks.gov/forms/elections/A_Guide_to_SAFE_Act.pdf) (last accessed Apr. 2, 2016); Voter Registration Information, Office of the Arizona Secretary of State, <http://www.azsos.gov/elections/voting-election/register-vote-or-update-your-current-voter-information> (last accessed Apr. 2, 2016).

54 See *Belenky v. Kobach*, No. 2013-1131, slip op. (Dist. Ct. of Shawnee County, Kan. Div. Seven, Jan. 15, 2016) (striking down Kansas's two-tiered voter registration system which requires documentary proof of citizenship for state and not federal voter registration); *Fish v. Kobach*, No. 16-2105-JAR-JPO, slip op. at 1 (D. Kan. May 17, 2016) (partially granting a motion for a preliminary injunction to bar Kansas from demanding proof of citizenship for federal voter registration at DMVs.).



- 55 See *Kris Kobach knuckles under to court in major victory for thousands of Kansas voters*. <http://www.kansascity.com/opinion/opn-columns-blogs/yael-t-abouhalkah/article83865987.html>.
- 56 Telephone interview with Alexandra Flores-Quilty, President of United States Student Association (July 30, 2015) (on file with Yael Bromberg).
- 57 Julie Bosman, *Kansas Voter ID Law Sets Off a New Battle Over Registration*, NY TIMES, Oct. 15, 2015, available at: <http://www.nytimes.com/2015/10/16/us/politics/kansas-voter-id-law-sets-off-a-new-battle-over-registration.html?smid=tw-share>.
- 58 *Fish v. Kobach*, No. 16-2105-JAR-JPO, slip op. at 66 (D. Kan. May 17, 2016).
- 59 See *League of Women Voters v. Newby*, No. 16-236, slip op. (D.C. Dist. Ct. Feb. 23, 2016) (denying a request for temporary restraining order to halt the last-minute permission granted by Executive Director of the Election Assistance Commission to allow Kansas, Alabama, and Georgia to require documentary proof of citizenship for federal voter registration forms); *Arizona v. Inter Tribal Council of Arizona, Inc.*, 133 S. Ct. 2247 (2013) (ruling that Proposition 200, an Arizona law requiring documentary proof of citizenship as a condition for federal voter registration, is preempted by Congress's power to regulate federal elections). See also Sari Horwitz, *Want to vote in this state? You have to have a passport or dig up a birth certificate*, WASH. POST, Feb. 19, 2016, available at: <https://www.washingtonpost.com/news/post-nation/wp/2016/02/19/how-kansas-has-become-a-battleground-state-for-voting-rights/>.
- 60 See 52 USC § 21083 (b) (Requirements for voters who register by mail).
- 61 Keesha Gaskins and Sundeep Iyer, *The Challenge of Obtaining Voter Identification*, THE BRENNAN CENTER (July 18, 2012), <http://www.brennancenter.org/publication/challenge-obtaining-voter-identification>.
- 62 See 52 USC § 21083 (b)(2)(A).
- 63 See Wendy Underhill, *Voter Identification Requirements – Voter ID Laws*, NATIONAL CONFERENCE OF STATE LEGISLATURES (2016), <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx#LawsinEffect> (hereinafter “NCSL Analysis”).
- 64 See WASH. REV. CODE § 29A.40.160(7)(b) (2016) (For persons desiring to vote at a voting center, “the identification must be valid photo identification, such as a driver’s license, state identification card, student identification card, tribal identification card, or employer identification card. Any individual who desires to vote in person but cannot provide identification shall be issued a provisional ballot, which shall be accepted if the signature on the declaration matches the signature on the voter’s registration record.”).
- 65 See TEX. ELEC. § 63.0101 (2016).
- 66 The Campus Vote Project of the Fair Election Legal Network closely tracks the criteria that students and universities must meet in order to comply with student voter identification requirements.
- 67 See ALA. CODE § 17-9-30 (2016). Although Alabama provides an alternative for verification of identification, whereby two election officials sign sworn statements saying they know the voter, the availability of such an alternative is limited.
- 68 See ARIZ. REV. STAT. § 16-579 (2016).
- 70 See GA. CODE ANN. § 21-2-417 (2016).
- 71 See IND. CODE ANN. §§ 3-11.7-5-2.5; 3-5-2-40.5 (a)(4) (2016).
- 72 See KAN. STAT. ANN. § 25-2908(d) (2016). See also Valid Forms of Photographic Identification, Kansas Secretary of State, <http://www.gotvoterid.com/valid-photo-ids.html>.
- 73 See KY. REV. STAT. ANN. § 117.227 (2016). Although Kentucky provides for voter verification if the voter has personal acquaintance with the precinct officer, the availability of such verification is subject to happenstance. North Dakota additionally applies some leniency for an individual appearing to vote with a different mailing address, or one who is not in the pollbook but is determined eligible to vote.
- 74 See MISS. CODE ANN. § 23-15-563 (2016).
- 75 North Carolina allows for an alternative to voter identification by attesting to a reasonable impediment, however such an alternative is subject to discretion. See N.C. GEN. STAT. §§ 163-166.13; 163-166.15; 163-182.1B (2016).
- 76 See N.D. CENT. CODE § 16.1-05-07 (2016). North Dakota additionally applies some leniency for an individual appearing to vote with a different mailing address, or one who is not in the pollbook but is determined eligible to vote.

- 77 See OHIO REV. CODE ANN. § 3505.18(A)(1) (2016). Ohio voters who do not have a valid form of identification may return to election officials to validate their provisional ballots within seven days after the election by producing, among other options, the last four digits of the individual's social security number. See *also* *Id.* § 3505.181(B)(7)(b).
- 78 See S.C. CODE ANN. § 7-13-710 (2016). South Carolina allows for an alternative to voter identification by attesting to a reasonable impediment, however such an alternative is subject to discretion. Therefore, like North Carolina, South Carolina is categorized here as a strict voter identification state.
- 79 See TENN. CODE ANN. § 2-7-112(c); -(f) (2016).
- 80 See TEX. ELEC. CODE §§ 63.0101; 63.011; 65.054; 65.0541 (2016).
- 81 See VA CODE ANN. §§ 24.2-633; -643(B); -653(B) (2016).
- 82 See WIS. STAT. §§ 5.02(6m); 6.79(2)(a) (2016).
- 83 See *generally* Report, *Student ID as Voter ID*, FAIR ELECTION LEGAL NETWORK (2016), <http://fairelectionsnetwork.com/students/> (hereinafter "FELN Report"); and NCSL Analysis.
- 84 Ohio is listed as a state that does not accept student identification to vote, because it is the only state in the nation that requires the inclusion of an address on its student identification for voting purposes. Because students are highly mobile, the requirement is a Catch 22.
- 85 See *supra* n. 67-82. See *also* FELN Report.
- 86 In contrast, eight of the strict voter ID states allow student identification cards to vote, regardless of whether they are issued by a public or private college. As demonstrated by research developed by the Fair Election Legal Network, states have specific requirements regarding voting eligibility information on college IDs, such as the inclusion of expiration date, photo, and/or signature. It is then incumbent on post-secondary institutions to update their cards to comply with these specifications. See FELN Report.
- 87 Although Arizona Statute allows the showing of a "United States, federal, state, or local government issued identification," valid form of identification must bear the photograph, name and current address of the elector as it appears in the precinct register. ARIZ. REV. STAT. § 16-579(A)(1)(a) (2016).
- 88 See *supra* n. 70. See *also* Georgia Voter Identification Requirements, Georgia Secretary of State Office, [http://sos.ga.gov/index.php/elections/georgia\\_voter\\_identification\\_requirements2](http://sos.ga.gov/index.php/elections/georgia_voter_identification_requirements2).
- 89 North Carolina allows for the showing of a driver's license or nonoperators identification card issued by another state, the District of Columbia, or a territory or commonwealth of the United States, only if the voter's registration was within 90 days of the election. See N.C. GEN. STAT. § 163-166.13(e)(8) (2016).
- 90 See OHIO REV. CODE ANN. § 3505.18(A)(1) (2016).
- 91 See S.C. CODE ANN. § 7-13-710(A) (2016).
- 92 While Mississippi does not list out-of-state licenses in its statute, see MISS. CODE ANN. § 23-15-563 (2016), this is by statute a non-exhaustive list, and the Secretary of State provides for such identification. See Mississippi Voter ID, Mississippi Secretary of State Office, <http://www.msvoterid.ms.gov/Pages/VoterIDAcceptID.htm>.
- 93 See *supra* n. 67-82.
- 94 See *supra* n. 67-93.
- 95 See Ari Berman, *Wisconsin's Voter ID Law Caused Major Problems at the Polls Last Night: Students waited hours to vote and longtime voters were turned away by the state's new photo ID law*, THE NATION, Apr. 6, 2016, available at: <http://www.thenation.com/article/wisconsins-voter-id-law-caused-major-problems-at-the-polls-last-night/>; Jeff Glaze, Doug Erickson, Nico Savidge, *Election turnout robust despite some confusion over new photo ID requirement*, WISCONSIN STATE JOURNAL, Apr. 5, 2016, available at: [http://host.madison.com/wsj/news/local/govt-and-politics/election-turnout-robust-despite-some-confusion-over-new-photo-id/article\\_8ff43ee8-2b6f-5266-b0a9-bd4c9fcff181.html](http://host.madison.com/wsj/news/local/govt-and-politics/election-turnout-robust-despite-some-confusion-over-new-photo-id/article_8ff43ee8-2b6f-5266-b0a9-bd4c9fcff181.html); Jason Stein, Karen Herzog, *Heavy turnout seen across state, some long lines at polls*, MILWAUKEE-WISCONSIN JOURNAL SENTINEL, Apr. 5, 2016, available at: <http://www.jsonline.com/news/statepolitics/heavy-turnout-seen-across-state-some-long-lines-at-polls-b99700961z1-374667001.html>.
- 96 *Id.*

97 See *Nashville Student Organizing Committee et al v. Hargett*, No. 3:15-cv-00210, slip op. at 18 (M.D. Tenn. Dec. 21, 2015) (granting the State of Tennessee’s motion to dismiss).

98 See *One Wisconsin Inst. v. Nichol et al.*, No. 15-cv-324 (W.D. Wis. Dec. 17, 2015) (granting in part and denying in part State of Wisconsin’s motion to dismiss). See also *id.* (W.D. Wis. May 12, 2016) (denying Defendants’ motion for summary judgment on the 26th Amendment claim, and denying in part the motion on the 14th Amendment claim).

99 See 2013 Wisconsin Act 76. The preemption bill came as a response to a 2012 municipal renter-voter ordinance in Madison – home to 42,000 University of Wisconsin students. Despite the city’s opposition to the state preemption bill, the Republican controlled state legislature ultimately passed Act 76, largely along party lines, which was signed into law by Republican Governor Scott Walker.

100 See 2011 Wisconsin Act 23. Wisconsin took aim at college administrators who provided municipal election clerks with dorm lists to assist college students to register to vote and cast a valid ballot from their campus addresses. Pursuant to the Act, colleges can no longer provide housing lists without also certifying the citizenship status of those students. Wis. Stat. § 6.34(3)(a)7.b. This requirement, however, conflicts with universities’ obligations under federal law to protect students’ privacy rights. See Family Educational and Privacy Rights Act (FERPA), 20 USC § 1232. College students must now waive their privacy rights to allow colleges to produce such housing lists to election officials, or college students must bring, on an individual basis, alternative proof of college residency. See Resource Guide, Voter Photo Identification Law, Government Accountability Board of the State of Wisconsin, *available at*: [http://www.gab.wi.gov/sites/default/files/publication/137/voter\\_id\\_complete\\_packet\\_10\\_24\\_11\\_pdf\\_75187.pdf](http://www.gab.wi.gov/sites/default/files/publication/137/voter_id_complete_packet_10_24_11_pdf_75187.pdf)

101 Zachary Roth, Ex-staffer: Wisconsin GOP intended ID law to disenfranchise Dems, MSNBC, Apr. 7, 2016, *available at*: <http://www.msnbc.com/news-nation/why-voter-id-wont-save-the-gop>.

102 *Id.* See also Live Interview with U.S. Rep. Glenn Grothman, YOUTUBE, Apr. 5, 2016, [https://www.youtube.com/watch?v=TaOW8\\_qn0Aw](https://www.youtube.com/watch?v=TaOW8_qn0Aw).

103 *Id.*

104 See 2013 N.C. Sess. Laws 381 (H.B. 589).

105 See *League of Women Voters of North Carolina v. Howard*, Exh., Master J.A. 2447, Pls.’ Mot. For Prelim. Inj., *available at*: <http://moritzlaw.osu.edu/electionlaw/litigation/LOWVv.Howard.php>

106 *Id.*, J.A. 2447, (Tr. at 84:6-20).

107 *Id.*, J.A. 2447 (Tr. At 84:20-25) (“We could have drawn the line a number of places. We chose the cleanest and clearest way to do it was to draw it on government-issued ID’s, and that we would do everything we could to make sure that they had access to those ID’s, should they need them.”)

108 *Id.*, J.A. 2448 (Tr. at 91:10-17) (“Now, there are going to be a handful of students, for various reasons, that don’t have a driver’s license, and in that instance, then they can show their student ID. But for most parts, don’t be fooled into thinking there are going to be 89,000 students that are going to be disenfranchised. The vast majority of them have a driver’s license.”)

109 April 2013 SBOE-DMV ID Analysis, State Board of Elections, *available at*: <http://www.nccivitas.org/civitasreview/files/2013/04/latest-SBOE-analysis.pdf>. See also Press Release, Democracy North Carolina (Apr. 19, 2013), <http://www.democracy-nc.org/downloads/SBOEDataNoIDApril2013PR.pdf>.

110 *Id.*

111 See 2015 N.C. Sess. Laws 103, § 8(d).

112 See Sharon McCloskey, *State court allows voter ID case to proceed to trial only after the 2016 presidential primary*, NC POLICY WATCH, Sept. 24, 2015, <http://www.ncpolicywatch.com/2015/09/24/state-court-allows-voter-id-case-to-proceed-to-trial-but-only-after-the-2016-presidential-primary/>.

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114 See Will Doran, *Long lines, confusion over voter ID reported in NC primary*, THE NEWS & OBSERVER, Mar. 16, 2016, <http://www.newsobserver.com/news/politics-government/election/article66495672.html>

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- 118 See *Millennials in Adulthood*, PEW RESEARCH CENTER (Mar. 7, 2014), <http://www.pewsocialtrends.org/2014/03/07/millennials-in-adulthood/>.
- 119 See *Preregistration for Young Voters*, NATIONAL CONFERENCE OF STATE LEGISLATURES, <http://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx>
- 120 Michael P. McDonald and Matthew Thornburg, *Registering the Youth through Preregistration*, 13 N.Y.U. J. Legis & Pub. Pol'y 55 (2010).
- 121 John B. Holbein and D. Sunshine Hillygus, *Making Young Voters: The Impact of Preregistration on Youth Turnout 2* (2016), available at: <http://dukespace.lib.duke.edu/dspace/handle/10161/10420>.
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- 123 *Expanding the Youth Electorate through Preregistration*, PROJECT VOTE 3-4 (Mar. 2010), [http://www.whatkidscando.org/youth\\_on\\_the\\_trail\\_2012/pdf/2010%20Legislative%20Brief%20-%20Preregistration.pdf](http://www.whatkidscando.org/youth_on_the_trail_2012/pdf/2010%20Legislative%20Brief%20-%20Preregistration.pdf).
- 124 *Id.*
- 125 See *Online Voter Registration*, NATIONAL CONFERENCE OF STATE LEGISLATURES (May 9), 2016, <http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>
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- 140 Scott Keyes, *Seven Voting Reforms Other Countries Have Used to Boost Their Turnout Rate*, THINKPROGRESS, May 15, 2013, <http://thinkprogress.org/justice/2013/05/15/2000621/international-voting-reforms/>.
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- 143 See *Oregon Motor Vehicle FAQ*, <http://sos.oregon.gov/voting/Pages/motor-voter-faq.aspx>.
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