

ARE ALL STATE ELECTION LAWS CREATED EQUALLY?
HOW VARIABLE STATE ELECTION LAWS MAY INFLUENCE VOTER
TURNOUT AND OUR FUNDAMENTAL RIGHT TO VOTE

By

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INTRODUCTION

The administration of elections in the United States is currently conducted primarily at the state and local level, even when those elections are for national offices. Although states and localities are bound by constitutional provisions, federal laws, and numerous Supreme Court decisions in administering those elections, most of the details of election procedures are still left up to the states. As one scholar put it, we have a “hyper-decentralized election administration system,”¹ and thus one where rules governing everything from voter identification requirements to voter registration deadlines to polling place hours can vary significantly from state to state. Some of these variable election procedures may be insignificant, and many may not have a noticeable effect on election conduct or results. However, the weighty constitutional and other issues involved in any voting rights questions require us to take a closer look at some of these rules and procedures. This paper begins by establishing *why* the issue of unequal voting procedures is important, and proceeds to examine state-to-state variations in election procedures and their potential effect on election participation and election outcomes.

¹ Hasen, Richard L. “The Untimely Death of Bush v. Gore.” Stanford Law Review. 60 Stan. L. Rev. 1. October 2007.

WHY THIS QUESTION IS IMPORTANT

The right to vote is fundamental

One of the driving forces behind the American Revolution was the frustration of the colonists with their lack of self-determination—they were bound by the laws of England, but had no representation in the British Parliament and had precious few other tools through which they could influence the law-making process. Thus, when the Revolution had been fought and won, and when the time came for a new Constitution to be written, the Founding Fathers established a federalist system of government infused with many crucial democratic elements. Chief among those elements was the right of the people to choose their representatives, a right that not only would allow the people to have a say in the legislative process, but also would guard against a tyrannical government, since elected officials would be accountable to the people.

This right was codified in a few provisions of the original Constitution. First, Article I, Section 2 begins: “The House of Representatives shall be composed of Members chosen every second Year by the People of the several States.” Article II established how citizens would select the president (through the Electoral College). Article IV, Section 4 says that “The United States shall guarantee to every State in the Union a Republican Form of Government.” These constitutional provisions, when taken into consideration alongside the context in which the United States was founded, lead many to believe that the right to vote is a fundamental right.

However, it must be acknowledged that there are many indications in the original Constitution that the founders didn’t consider the right to vote to be fundamental. First, the Constitution did nothing to originally protect the right of suffrage for anyone but white males. Second, U.S. Senators were not originally elected directly by the voters in each state, but rather selected by the state legislatures. Third, the structure of the Electoral College even to this day

provides that the President and Vice President are technically selected by Electors, not directly by the popular vote. Thus, the only national officials originally elected directly by the voters (again, restricted to white males) were members of the U.S. House of Representatives. Fourth, the right to vote is still restricted in many ways: children under 18 are not allowed to vote in any state; those who are not registered are not allowed to vote in most states; and many states also deny felons the right to vote. If the right to vote really is fundamental, questions arise as to why so many restrictions would be permitted.

However, even if one were to concede that the *original* Constitution did not define the right to vote as fundamental, subsequent constitutional amendments seem to have made it so. These constitutional amendments both broadened the field of potential voters and removed obstacles to the exercise of the franchise. The 15th Amendment declared that “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.” The 17th Amendment changed the method for selecting Senators, establishing that Senators would be directly elected by the people as opposed to the previous method of having state legislatures select their Senators. The 19th Amendment paralleled the 15th, but this time extended the right to vote to women. The 24th Amendment outlawed the use of poll taxes for federal elections. Finally, the 26th Amendment lowered the voting age to 18. Additionally, the 14th Amendment has been used frequently to protect citizens’ voting rights. Thus, of the fifteen post-Civil War amendments to the Constitution, a full third directly address voting rights, and another is tangentially related. This removal of barriers to voting and the expansion of the franchise further support the view that the right to vote is fundamental.

Many Supreme Court decisions also support that assertion. As early as 1886 in *Yick Wo v. Hopkins*, the Court suggested that “the political franchise of voting” was “regarded as a fundamental political right, because preservative of all rights.”² The language used in *Reynolds v. Sims*, a case that mandated population equality in legislative districts, is even stronger. The majority opinion in that case, written by Chief Justice Earl Warren, declared: “Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.”³ A few years later, in *Harper v. Virginia Board of Elections*, a case which struck down Virginia’s poll tax, the Court similarly asserted that the right to vote is fundamental, stating that “Classifications which might impinge on fundamental rights and liberties - such as the franchise - must be closely scrutinized.” The majority opinion concluded by saying that “the right to vote is too precious, too fundamental” to be conditioned on payment of a poll tax.⁴

These decisions, along with our country’s history and constitutional provisions, indicate that the right to vote is one of the most fundamental rights that citizens of the United States possess. It is at the heart of our form of government, and is the greatest tool citizens possess in shaping the future of the country.

Thus, the fundamental nature of the right to vote should lead us to question any election procedures that potentially infringe upon or unfairly burden the exercise of that right, and it can be argued that inequalities in election procedures between states create such an infringement or burden.

² 118 U.S. 356 (1886)

³ 377 U.S. 533 (1964)

⁴ 383 U.S. 663 (1966)

Electoral inequalities may threaten our fundamental right to vote

Related to our fundamental right to vote is our expectation of equality in the electoral process. Just as numerous constitutional provisions and court cases speak to the fundamental nature of the vote, many also relate to the question of variable election procedures. Though many important Supreme Court decisions have helped to define or clarify the constitutional elements of the electoral process, many of those elements remain unequal from state to state.

Prior to the 1960s, many lawsuits regarding the electoral process were judged by the Court to be “political questions,” best handled by the other branches of government through the political process. Beginning with the Court’s decision in *Baker v. Carr*⁵ in 1962, however, the Court agreed to hear and decide cases about apportionment, political parties, voting discrimination, and other elements of the electoral process. What these decisions have done is establish a sort of baseline equality in election rules and procedures—for example, votes must be weighted approximately equally within a state, and election rules cannot obviously discriminate against any specific group of voters (particularly racial minorities). What the Court has not done is address other variable election procedures that may threaten the right to vote.

The Court’s silence on these variable election procedures does not mean that there are not constitutional issues at stake. Indeed, as Richard Pildes says, “every dispute about election processes implicates, by definition, questions involving voting and democratic processes. In a colloquial sense, then, every dispute about elections could be said to implicate ‘the right to vote’”⁶ Pildes continues, “But if every dispute implicated ‘the right to vote’ in a *constitutional sense*—under the Fourteenth Amendment, for example—then every issue concerning disputed

⁵ 369 U.S. 186 (1962)

⁶ Pildes, Richard H. “Judging ‘New Law’ in Election Disputes.” *Florida State University Law Review*. 29 Fla. St. U.L. Rev. 691. 2001.

elections, state or federal, would be transformed into a federal constitutional issue.”⁷ For this reason, it is important to observe the effects of election procedures that vary from state to state in order to discover whether they implicate the right to vote merely “in a colloquial sense” or whether these issues are significant enough to rise to a constitutional question.

Whether or not election disputes clearly involve constitutional issues, it is generally acknowledged that there must be some level of scrutiny for state and local election rules and procedures. Pildes chimes in again here, saying that “from the perspective of election law, state election-law decisions cannot be wholly free from constitutional oversight.”⁸ The presence of possible constitutional issues in election disputes is reflected in the number of election-related court cases that have been brought in recent years. Richard Hasen notes that “the rise in election litigation that this country witnessed after *Bush v. Gore* continues unabated.”⁹ Daniel Tokaji similarly says that “If the controversies in 2000 and 2004 are any indication, the mechanics of election administration will be the subject of continuing litigation in years to come.”¹⁰

Given the expected rise in election litigation, it is reasonable to expect future legal challenges to unequal election processes. The exact form that these challenges might take or their outcomes is unpredictable, but given the seeming inevitability of such legal claims, it is important for us to examine the potential effects of variable procedures both to determine the impact of these procedures on participation and outcomes and to discover if constitutional issues may be at stake.

⁷ “Judging ‘New Law’ in Election Disputes”

⁸ “Judging ‘New Law’ in Election Disputes”

⁹ “The Untimely Death of *Bush v. Gore*”

¹⁰ Tokaji, Daniel P. “The New Vote Denial: Where Election Reform Meets the Voting Rights Act.” South Carolina Law Review. 57 S.C. L. Rev. 689. Summer, 2006.

Research on the effects of certain election processes is lacking

Lack on research on the effects of voting procedures hinders any potential fixes to the problems in election administration. Hasen bemoans this fact, pointing out that “The debate over good election practices is taking place in the absence of good evidence,”¹¹ leading to election laws being passed for partisan gain rather than to address realistic problems. Perhaps nowhere is this shortfall of evidence more apparent than in the debate over voter identification laws. Very recently, a legal challenge to Indiana’s voter ID law, which requires all voters to show a government-issued photo ID at the polls before casting their vote, made it all the way to the Supreme Court. In a 6-3 decision in *Crawford v. Marion County Election Board*, the Court upheld Indiana’s law, judging that the state’s professed aim of preventing fraudulent voting was sufficient to outweigh any deterrent effect or potential disenfranchisement.¹²

The plaintiffs who challenged the law claimed that “the rules will absolutely prevent some otherwise eligible voters from casting a ballot that qualifies to be counted” and thus that Indiana’s voter ID law “is a form of outright disenfranchisement caused by the law.”¹³ They concluded that “because the state lacks adequate justification for imposing these burdens, [the ID rules] amount to an unwarranted barrier to the exercise of the franchise.”¹⁴ The State countered by first alleging that “the law’s deterrent effect is not very large, nor enough to trigger strict judicial scrutiny under prevailing constitutional standards,” then arguing that “whatever modest burdens are associated with the obligation to show the government-issues photo ID when voting at one’s polling place, these burdens are justified by the state’s need to protect against the risk of

¹¹ “The Untimely Death of *Bush v. Gore*”

¹² 000 U.S. 07-21 (2008)

¹³ Foley, Edward B. “*Crawford v. Marion County Election Board*: voter ID, 5-4? If so, so what? (Indiana’s voter identification case).” *Election Law Journal*. 7.1 (Winter 2008): 63.

¹⁴ Foley. “*Crawford v. Marion County Election Board*”

fraudulent voting.”¹⁵ Unfortunately, little statistical evidence supports the arguments on either side of this debate. Even though the plaintiffs claimed that the law would prevent eligible voters from casting a ballot, the fact remains that they “could identify no single individual who would be forced to case a provisional ballot—and whose provisional ballot would be rejected and thus would suffer outright disenfranchisement—as a result of the new voter ID law.”¹⁶ On the other side, even judges who sided with the state of Indiana were forced to acknowledge that “evidence is lacking that voter impersonation is a problem in need of legislative attention.”¹⁷

As exemplified by this case, at least on the subject of voter ID requirements, “there is a noticeable absence of evidence concerning both the costs and benefits of these laws.”¹⁸ The Caltech/MIT Voting Technology Project noted that “other than anecdotes and allegations of election fraud, there is little research on contemporary election fraud in the United States.”¹⁹ On the one hand, the U.S. Election Assistance Commission “so far has produced nothing to substantiate claims of anything more than a trivial amount of polling place fraud.”²⁰ On the other hand, data on the deterrent effect of ID laws “are also difficult to come by,” largely because it is hard to quantify how many people choose not to vote in the first place, much less to show how many of them chose not to vote because of ID requirements.²¹

We cannot be sure whether the outcome of the *Crawford* case would have been different if there had been more evidence on one side or the other; however, it is likely that, had the plaintiffs been able to identify voters who were either deterred from voting or disenfranchised altogether by the voter ID rules, the analysis of the constitutional issues at stake in the case

¹⁵ Foley. “Crawford v. Marion County Election Board”

¹⁶ Foley. “Crawford v. Marion County Election Board”

¹⁷ Foley. “Crawford v. Marion County Election Board”

¹⁸ Foley. “Crawford v. Marion County Election Board”

¹⁹ Caltech/MIT Voting Tech. Project, VTP Conference on Voter Authentication and Registration 14 (2006).

²⁰ Hasen. “The Untimely Death of Bush v. Gore”

²¹ Hasen. “The Untimely Death of Bush v. Gore”

would have been quite different. As it is, it appears that the state law was subjected only to a low level of scrutiny because of the lack on evidence on the plaintiffs' side. One analysis notes that "While absolutely preventing even one eligible citizen from casting a ballot that counts might well warrant strict scrutiny under the Supreme Court's precedents...it is not clear that a law that has the effect of discouraging only one person from voting, and still does not impose an insurmountable obstacle on even that individual, would call for strict scrutiny."²² Thus, the level of evidence available on both sides of cases such as this one would likely have an effect on what judicial standard is used to judge state election rules and procedures.

Since it is clear that there will eventually be challenges brought to election procedures that vary from state to state, it is increasingly important that we closely and carefully examine the effects of these procedures. As the *Crawford* example shows us, the absence of good evidence can cause a different outcome in these cases than if we had reliable evidence to back up each legal argument.

Questions may arise from variable election procedures

This current "absence of good evidence" about the effects of voting procedures may have the additional effect of calling into question the accuracy and legitimacy of our elections. It is undoubtedly essential in a country with a representative government such as ours that election results truly reflect the will of the people. Without such an assurance of accuracy and fidelity to the people's vote, elected officials would lack the legitimacy necessary to effectively govern their constituents. One danger of variable election laws (especially ones not supported by good evidence) is that if inequalities in election procedures either actually disenfranchise voters or

²² Foley. "Crawford v. Marion County Election Board"

merely create (or contribute to) feelings of disenfranchisement, they could potentially threaten the basis of our system of representative government.

Hasen observes that since *Bush v. Gore* was decided in 2000, “election administration has become more, rather than less, politicized.”²³ The fact that solid evidence on the effects of election procedures is lacking “[raises] the possibility that some laws...are being enacted for partisan advantage rather than to remedy any real problem.”²⁴ Hasen continues, saying that “As election law has become a political strategy, it threatens to further undermine public confidence in the electoral process” and that the partisan aspects of new elections laws “appear to be contributing to a troubling party and race divide in public confidence about the election process.”²⁵ These observations demonstrate the importance of studying various election procedures carefully to determine what, if any, impact those procedures might have on election participation and outcomes. Having solid facts and evidence on which to base any future election reforms appears to be essential to maintaining the legitimacy of elections. Without such evidence, public confidence in the voting process may continue to dwindle to the point of posing a real threat to the very foundation of our government.

²³ “The Untimely Death of Bush v. Gore”

²⁴ “The Untimely Death of Bush v. Gore”

²⁵ “The Untimely Death of Bush v. Gore”

WHICH PROCEDURES MIGHT MAKE A DIFFERENCE?

Election procedures vary drastically from one state to another. In several states, a photo ID is required or requested in order to vote; in others, voter ID requirements are much less stringent. Many states have “no-excuse” absentee balloting; other states require an excuse (e.g., being out of the state on Election Day). Many states provide early voting options to voters; others allow only Election-Day voting. Some states and localities use electronic voting machines, while others use optical scan ballots. A few states allow voters to register and cast a ballot on Election Day; most require potential voters to register days or weeks in advance of Election Day. Polling place hours vary from state-to-state, and sometimes even from precinct-to-precinct within a state. There are still more quirks in the voting system in some places—the state of Oregon, for example, conducts its voting entirely by mail. North Dakota, meanwhile, does not have voter registration.²⁶ Some of these variations and inconsistencies, when considered independently, may not have a huge impact on election outcomes. Others, however—such as a voter ID requirement—may be significant enough to affect both election participation and outcomes.

Voter ID Requirement

One election procedure that could have a significant impact on elections is the voter ID requirement. Some form of voter ID is required in all states, as the Help America Vote Act of 2002 (HAVA) requires that first-time voters must supply an acceptable form of identification prior to voting.²⁷ However, that ID requirement is much more strict in some states than it is in others. Indiana is one of several states that passed a law requiring a photo ID (specifically, a

²⁶ United States. Election Assistance Commission. State Voter Information Pages. 25 Oct. 2008
< <http://www.eac.gov/voter/states/voter-information-by-state>>

²⁷ Foley. “Crawford v. Marion County Election Board”

government-issued photo ID) in order to cast a vote in each election.²⁸ Many states, though, have not expanded upon the ID laws set down under HAVA. As has already been discussed in this paper, the evidence of whether more stringent ID laws such as Indiana’s act as a deterrent to voting or result in some people being disenfranchised altogether is scarce. But the potential for these laws acting as a deterrent or causing disenfranchisement is certainly present. As a result, the effects of these laws should be studied very carefully to ascertain what, if any, effect they might have on election participation and outcomes.

Voter Registration Deadlines

Voter registration deadlines, which often vary wildly from state to state, may also have a measurable impact on election participation and results. States that allow voters to both register and cast a ballot on Election Day make voting a sort of one-stop-shopping experience—voters need only show up on Election Day, and are not required to have mailed something in or made a trip to a government office beforehand in order to cast their ballot. As such, it is reasonable to assume that voter turnout would be higher in states that allow Election Day registration than in states that require pre-registration, because voting is at least slightly easier in the former. Therefore, it seems as though these differences in registration deadlines could affect who actually turns out to vote in different states, and the effect of that variable turnout on election outcomes may be significant enough to warrant further study.

Voting Technology

A third variable voting procedure that may also have an impact on election participation and outcomes is the voting technology that is used from state to state. Different voting technologies have been questioned in the past as to the relative accuracy of each. Punch-card ballots like the

²⁸ Foley. “Crawford v. Marion County Election Board”

ones used in Florida in 2000 have already been shown to cause confusion among voters and election officials, and can potentially misrepresent the voter's intention. Optical scan ballots have caused problems in the 2008 election cycle in the race for the U.S. Senate seat in Minnesota. Electronic voting machines are also a possible cause of trouble, since some do not have paper trails that could be used in a recount or to verify that someone's vote was properly registered. These various voting technologies may have different levels of accuracy and reliability, and thus may have disparate effects on vote counts and election outcomes. As a result, the issue of variable voting technology brings up several different concerns that warrant increased attention and study. However, since there is currently not a clear way to measure the difference between vote counts/election outcomes and actual votes cast, the possible effects of variable voting technologies is more difficult to study and will not be addressed in the following examination of evidence.

EXAMINING THE EVIDENCE: METHODOLOGY

The remainder of this paper is devoted to examining the evidence concerning variable election procedures, with a focus on voter ID requirements and voter registration deadlines. The goal is to discover what, if any, impact these variables may have on election participation and outcomes. If the evidence shows that one or more of these procedures has a significant impact on or correlation with election participation, it may lend credence to the calls made by some for standardization of election procedures across the country. Additionally, if these procedures have an effect on election participation, either by deterring some eligible voters from voting or by disenfranchising eligible voters, they may implicate the serious constitutional issues discussed earlier in this paper. To examine the potential effects of different voter ID laws and voter registration deadlines on election participation, data on voter turnout in the 2008 general election

was used.²⁹ The turnout percentages³⁰ were compared to the voter ID requirements³¹ and in-person voter registration deadlines³² in each state.

Initial Data Grouping

To begin, states were grouped in three ways³³; 1) based on restrictiveness of voter ID requirements; 2) based on registration deadlines; 3) based on voter ID requirements and voter registration deadlines combined.

Groups based on restrictiveness of voter ID requirements

First, the states were grouped into five groups (ID Group 1 to ID Group 5) according to their respective voter ID requirements, and the average turnout was calculated for the states in each group. The voter ID groups have been numbered in this way so that their numbers correspond to the restrictiveness of each ID requirement—in this system, the ‘1’ represents the least restrictive voter ID requirements, while the ‘5’ represents the most restrictive.

- **ID Group 1** is comprised of the states that have the most lax voter ID laws and includes 23 states and the District of Columbia. In these states, ID is only required of those first-time voters who did not show ID at the time they registered to vote, and either photo or non-photo ID can be presented. These states do not place any additional burden of

²⁹ McDonald, Michael. United States Election Project, 2009. 25 Feb. 2009.
<http://elections.gmu.edu/Turnout_2008G.html>.

³⁰ Both turnout as a percentage of the voting-eligible population (VEP) and the voting-age population (VAP) will be used. The difference between the two is that VEP turnout does not count ineligible voters a part of the population that the total number of ballots cast for the highest office is divided by. Those ineligible to vote and thus not included in the calculation of VEP turnout are mainly non-citizens and ineligible felons.

³¹ Pew Center on the States. Election Preview 2008. 20 Oct. 2008. 27 Feb. 2009
<<http://www.pewcenteronthestates.org/uploadedFiles/Election%20Preview%20FINAL.pdf>>.

³² United States. Election Assistance Commission. State Voter Information Pages. 25 Oct. 2008
<<http://www.eac.gov/voter/states/voter-information-by-state>>.

³³ Information on each state’s VEP and VAP turnout, voter ID group, and registration deadline group can be found in Table 5 at the back of this paper.

identification on voters above the requirements included in the Help America Vote Act of 2002 (HAVA).³⁴

- **ID Group 2** is comprised of the two states (Kansas and Pennsylvania) that require ID from all first-time voters, though that ID can be either photo or non-photo.
- **ID Group 3** is comprised of 18 states that require all voters to present some form of photo or non-photo ID when they show up at the polls.
- **ID Group 4** is comprised of four states that require ID of all voters, and request photo ID. In these states, if voters do not present the proper photo ID at the polls, they must sign an affidavit swearing to their identity before being offered a regular (non-provisional) ballot.
- **ID Group 5** is comprised of three states that require photo ID from all voters. Voters who do not present photo ID may only cast a provisional ballot, which must be validated at a later point. For example, as discussed in the first half of this paper, the only exception to the photo ID requirement in Indiana (an ID Group 5 state) is an indigency exception (for those voters who cannot afford to obtain a photo ID). To qualify for this exception, voters who do not show photo ID at the polls must go to a state office shortly after casting their vote to sign an affidavit swearing to their financial inability to obtain a government-issued photo ID.

Groups based on registration deadlines

The states were also similarly grouped according to their deadlines for registering to vote in person. The group numbers adhere to the same principle as the numbering for the voter ID groups, with four groups instead of five. Registration Group 1 has the least restrictive deadlines, whereas Registration Group 4 has the most restrictive.

³⁴ As such, these states may be referred to in future as having the minimum HAVA ID requirement.

- **Registration Group 1** is comprised of the ten states in which voters are allowed to register to vote on Election Day (or, in other words, zero days in advance of Election Day).
- **Registration Group 2** is comprised of three states that require voters to register between one and seven days in advance of Election Day.
- **Registration Group 3** is comprised of 16 states with registration deadlines that fall between eight and 27 days before Election Day.
- **Registration Group 4** is comprised of the 22 states that require voters to register at least four weeks (28 days) in advance of Election Day.³⁵

The fact that there were five clear standards of voter ID made it easy to divide the states into their respective voter ID groups. However, this was not the case with the voter registration groups. In-person voter registration deadlines for the 50 states and the District of Columbia range from zero days before Election Day to 31 days before, and there are 15 different registration deadlines that fall within these two extremes. Thus, it was more difficult to establish groups for

³⁵ There are several states whose registration dates are unclear or nonexistent, and thus do not fall definitively into one of these registration groups. The first such state is North Dakota, which does not have voter registration. Instead, precincts in North Dakota maintain a list of voters who have voted in previous elections, and if a voter is on that list, they are allowed to cast a ballot. Voters who are not on that list must either have their eligibility vouched for by a poll worker or will be asked to sign an affidavit swearing to their identity and eligibility. (State of North Dakota. Secretary of State. North Dakota...The Only State Without Voter Registration. Bismarck: State of North Dakota.) Given this setup, North Dakota will be classified as a Registration Group 1 state for the purposes of this analysis, as it is functionally similar to those states—that is, voters in both the Registration Group 1 states and in North Dakota do not need to have been registered prior to showing up to the polls on Election Day, thus North Dakota has the same pre-election day registration burden as the other “Group 1” states. The other states that have unclear registration rules and deadlines are North Carolina and Rhode Island. The Election Assistance Commission, which is the source for the registration deadlines for all the states, lists two separate in-person registration deadlines for both of these states. North Carolina’s registration deadline is listed as being either three or 25 days in advance of Election Day. Rhode Island’s registration deadline is listed as being either zero or 30 days in advance of Election Day. We do not have a compelling reason for believing one date or the other to be correct, so for the purposes of this analysis, we will simply be accepting the least restrictive of the two deadlines—three days in advance of Election Day for North Carolina (placing it in Registration Group 2), and zero days in advance for Rhode Island (placing it in Registration Group 1). However, there are also alternate tables (for both Table 2 and Table 3) at the end of this paper that account for these differences. In the data in those tables, North Dakota has been excluded from the calculations, and North Carolina and Rhode Island have been placed in the groups that correspond to their more restrictive possible registration deadlines (North Carolina would fall into Registration Group 3 and Rhode Island would fall into Registration Group 4). However, because all three states had fairly average turnout percentages in the 2008 general election, their inclusion or exclusion in the different groups made little difference in the calculations.

states based on their many and varied registration deadlines than it was to establish voter ID groups. However, a couple distinct groups initially emerged from the data. The first class of states that distinguished themselves from the others was the class made up of those states that allowed for same-day voter registration. Not only did these states provide the longest window for people to register to vote, but they also removed the two-part element to voting (first having to register in advance, then having to go to the polls). This second characteristic particularly distinguishes them from even those states that might have registration deadlines just one day in advance of Election Day, because those states still make voting a two-step process for first time voters. Thus, these same-day registration states were divided off into Registration Group 1. The second somewhat distinct group that emerged was composed of those states that required voters to register at least four weeks (28 days) in advance of Election Day. This group was the largest of the four, encompassing 21 states and the District of Columbia. Of the states remaining after separating out those two groups, a few had registration deadlines that were within a week of Election Day, while the rest had deadlines that fell between 11 and 27 days in advance of Election Day. Since this was the case, the final dividing line was drawn at seven days, putting states with registration deadlines that were within one week of Election Day in Registration Group 2 and the remaining states in Registration Group 3.

Groups based on voter ID and registration deadlines combined

Finally, two composite groups were created in which states were grouped according to both their voter ID requirements and their voter registration deadlines.

- **Composite Group 1** is comprised of those states that fall into both ID Group 1 and Registration Group 1—that is, those states that have only the minimum HAVA voter ID requirement and allow voters to register to vote on Election Day. Eight states fall into this

group: Idaho, Iowa, Maine, Minnesota, New Hampshire, Rhode Island, Wisconsin, and Wyoming.

- **Composite Group 2** is comprised of those states that fall into either ID Group 4 or ID Group 5 and into Registration Group 4—that is, those states that either request or require photo ID from all voters and require voters to register at least four weeks in advance of Election Day. Six states fall into this group—Florida, Georgia, Hawaii, Indiana, Louisiana, and Michigan.

Expected Results

What we expect to find is that turnout will be higher in states in which it is easier to vote than it is in states in which it is more difficult to vote.

In the case of voter ID, this means we would expect turnout to be higher in those states that have more lax voter ID requirements than in those states that have more strict requirements. Voting is likely easier in those states that accept both photo and non-photo ID or require ID only from first-time voters than it is in those states that require a photo ID from all voters, thus we would expect turnout to be higher in the first class of states than in the second class.

We expect to find a similar situation in states with less and more restrictive voter registration deadlines. In states with voter registration deadlines that fall closer to Election Day, potential first-time voters have a longer period of time in which to register to vote, likely increasing the chances that they will vote. Additionally, there are a few states in which voters are allowed to register on Election Day and cast their ballot. Not only do these states provide the longest possible window for voters to register, but they remove the two-step nature of voting—first-time voters do not need to register first and then show up to the polls in order to cast a vote, they need only show up to the polls. By contrast, states with earlier registration deadlines, first-

time voters have a somewhat smaller window in which to register to vote, and the two-step nature of voting is also present. Thus, since voting is easier for first-time voters in states with later registration deadlines (particularly in those states that allow for same-day registration), we might expect voter turnout to be higher in those states than it is in states with earlier registration deadlines.

We also expect to find similar results in the examination of the Composite Groups. In Composite Group 1 states, ID is only required of some first-time voters, and those who are not registered to vote when Election Day rolls around are still eligible to do so. (In 2008 in particular, this absence of a pre-registration requirement was perhaps a fairly significant element in turnout, as the historic nature of the presidential election likely brought many first-time voters to the polls.) All voters who were not first-timers were simply required to show up at their polling place on Election Day in order to cast a ballot. By contrast, in Composite Group 2 states, first-time voters needed to register at least 28 days before Election Day, and all voters were required to present a valid form of photo ID at the polls or sign an affidavit either on or after Election Day swearing to their identity or indigency. Thus, in all these states, at least two steps would be involved in voting—registering to voter (for first-time voters) and showing up to the polls. The necessity of obtaining an acceptable form of photo ID might add yet another step to the voting process for many potential voters. Given that it is likely easier to vote in Composite Group 1 states than it is in Composite Group 2 states, we expect average turnout to be higher in the former.

RESULTS

The average turnout for all the states that fall into each voter ID, voter registration, and composite group were calculated. This analysis will not attempt to show causation, as it is

impossible to determine, using the data we have, exactly why turnout is higher in Minnesota than it is in Indiana, for example. However, if there is some degree of correlation between different voter ID requirements or registration deadlines and voter turnout, that correlation could indicate that those differing requirements have an impact on election participation.

Voter Turnout based on Voter ID Requirements

Table 1 shows the average turnout [both as a percentage of the Voting Eligible Population (VEP) and Voting Age Population (VAP)] for states in each of the five different voter ID groups.

Table 1: Voter ID Requirements and Voter Turnout

Group	Average Voting Eligible Population (VEP) Turnout	Average Voting Age Population (VAP) Turnout
ID 1 (most lax voter ID laws)	64.20%	59.60%
ID 2	63.35%	60.30%
ID 3	62.91%	58.76%
ID 4	61.33%	58.10%
ID 5 (most strict voter ID laws; request or require photo ID at every election)	62.77%	56.80%

These results show that turnout tends to be slightly higher in states that have the least strict voter ID requirement than in states with more strict ID requirements. For instance, VEP turnout is on average 1.4% higher in states with the minimum HAVA ID requirement than it is in the states that require photo ID from all voters. This difference grows to 2.8% between ID Group 1 and ID Group 5 when considering the average VAP turnout. However, this difference is not significant enough to conclude that there is a strong correlation between stricter voter ID laws and lower voter turnout. A difference of just 1.4% or 2.8% could be the result of chance, and not

of a relationship between voter ID requirements and election participation. Potential reasons for not finding significant differences between these groups are discussed later.

Voter Turnout based on Voter Registration Deadlines

Table 2 shows the difference in average turnout between voter registration groups.

Table 2: Voter Registration Deadlines and Voter Turnout

Group	Average Voting Eligible Population (VEP) Turnout	Average Voting Age Population (VAP) Turnout
Registration 1 (most lax; allow voters to register on Election Day)	68.56%	65.63%
Registration 2	66.57%	62.83%
Registration 3	61.92%	56.71%
Registration 4 (most restrictive; voters are required to register at least 4 weeks in advance of Election Day)	61.70%	57.25%

These results show a more significant difference between voter groups based on how restrictive registration deadlines are than based on different voter ID requirements. For example, turnout is significantly higher for states in Registration Group 1 (those that allow voters to register on Election Day) than for states in Registration Group 4 (where voters are required to register at least four weeks in advance of Election Day). Average VEP turnout for states in Registration Group 1 is a full 6.86% higher than average VEP turnout for states in Registration Group 4. When looking at VAP turnout, the difference is even higher, as Registration Group 1 turnout is 8.38% higher than in Registration Group 4. Our suspicion at the outset was that turnout would be higher in those states that provide a longer window for voters to register to vote. Additionally, we expected turnout to be especially high in Registration Group 1 states, not only

because these states provide the longest registration window, but also because these states remove the two-part element from voting. The data here appear to confirm this suspicion.

Reasons for this difference in average turnout and its consequences are discussed later.

Voter Turnout based on the Combination of ID and Registration

Finally, Table 3 examines the difference in average turnout between Composite Group 1 and Composite Group 2. The average turnout numbers are as follows:

Table 3: Composite Groups and Voter Turnout

Group	Average Voting Eligible Population (VEP) Turnout	Average Voting Age Population (VAP) Turnout
Composite 1 (states with both the most lax ID requirement <i>and</i> day-of-election registration)	69.29%	65.90%
Composite 2 (states that require or request photo ID for each election <i>and</i> require voters to register at least 28 days before Election Day)	61.63%	56.67%

These results show that turnout is significantly higher in those states that have both the minimum ID requirement and allow voters to register on Election Day than it is in those states that require or request photo ID and require voters to register at least 28 days before Election Day. The difference in average VEP turnout between the two groups is 7.66%, and the difference in average VAP turnout is 9.23%. These results are not surprising; in the states in Composite Group 1, voting would likely be a much easier task than it would be in the states in Composite Group 2. Given that, it is not surprising that average turnout is much higher in the Composite Group 1 states than it is in Composite Group 2 states. Whether this difference in turnout is caused by a combination of different voter ID requirements and voter registration deadlines

cannot be definitively proven, but the degree of correlation shown here in the 2008 general election supports this contention. Potential impacts of this difference are discussed later.

DISCUSSION

While results did not show a significant correlation between voter ID laws and voter turnout in the 2008 general election (Table 1), the data did confirm some degree of correlation between voter registration deadlines and voter turnout (Table 2), and between the combination of voter ID requirements and registration deadlines and voter turnout (as shown in the analysis of the Composite Groups in Table 3). Analysis of this data leads to the following questions:

Why isn't the correlation between ID laws and turnout larger?

Some correlation between the strictness of voter ID requirements and voter turnout was expected. Based on the contention that voting was likely easier in those states that had more lax voter ID requirements, we expected turnout to be higher in those states. However though there was a slight difference in average turnout between ID Group 1 (states that require only the minimum level of identification, and only require it of some first-time voters) and ID Group 5 (states that require photo identification from all voters), this difference was fairly small and likely not significant. Possible reasons for this follow.

First, it should be noted that we have a very small population with which to work. The already small population of 50 states and one district being divided into five separate groups results in several groups containing just a handful of states (e.g., ID Group 2 contains only two states, ID Group 4 contains just four, and ID Group 5 contains only three). In these groups, if just one state had extremely high or extremely low turnout, it could disproportionately affect the group's average turnout numbers.

Another possible explanation is that we are only looking at aggregate data on voter turnout, not individual level demographic data. This is a particular problem in examining the potential effects of more restrictive voter ID laws such as those that require a government-issued form of photo identification, because those laws tend to have different degrees of impact on different segments of the population. For example, in the case of requiring a government-issued photo ID, such a requirement would likely have little to no deterrent effect on those who are affluent enough to own or lease a car, since a state driver's license is necessary to make use of that car. Since those voters already possess a driver's license, which is the most common accepted form of photo ID, the requirement that they show that ID at the polls would likely have very little (if any) impact on their overall turnout. However, the poor who do not own an automobile would be less likely to possess a driver's license than the more affluent population. For this group of people, the requirement that they show a government-issued photo ID could be a more significant deterrent to voting, as they may not want (or be able) to take the steps necessary to obtain the identification necessary for them to vote. Thus, it is possible that in ID Group 4 or ID Group 5 states, turnout could be decreased among these less affluent sections of the population as a result of more strict ID requirements, while turnout among the other sections of the population remained high. As a result, the voter ID requirement may not significantly affect the overall turnout in a state, but may have an impact on the makeup of the electorate, possibly skewing it more toward the wealthy. Thus, even though the more strict ID requirement may have deterred people from a certain segment of the population from voting and may have changed the makeup of the voter pool, this change might not be reflected in the state's overall turnout numbers.

Why might the correlation between registration deadlines and turnout be so high?

That there is such a significant difference in average turnout between states with earlier and later registration deadlines is somewhat surprising given that most voter registration deadlines apply only to first-time voters. For everyone who has voted in their state before, voter registration deadlines would seem to have no bearing on the ease or difficulty of voting. This might lead us to question why there seems to be such a high degree of correlation between registration deadlines and voter turnout.

One possible explanation is that while there are many potential obstacles to voting, one of the most significant is never having done it before. For people who have voted in the past, voting again is likely seen as no big deal—they know where to go, what to do, what to bring, etc. For first-time voters, however, it is possible that even the smallest of obstacles or concerns could deter them from voting, especially when you consider that one vote only very rarely makes a difference in the outcome of elections. Thus, we might expect turnout among first-time voters to be particularly affected by the ease of voting. This might explain why average turnout is much higher among states that allow for same-day registration than it is in states that require voters to register at least four weeks in advance, even though those deadlines only affect one portion of the electorate. Perhaps in acknowledgement of the significance of any obstacles to voting for first-timers, several efforts have been made in the past to make the process easier for these potential first-time voters. One such effort was made in 1993, when Congress passed the National Voter Registration Act (also known as the “Motor Voter Act”), which sought to make it easier for Americans to register to vote. The provisions of the Act required that in addition to registration opportunities already provided in each state, the states must give people the option of registering to vote when they apply for a driver’s license or driver’s license renewal, must

present people with the opportunity to register to vote at all offices that provide public assistance, and that the states must allow citizens the opportunity to register to vote by mail.³⁶ This increase in the opportunities provided to citizens to register to vote was likely an acknowledgement of the difficulties that accompany voting for the first time, and sought to lessen those difficulties in the area of voter registration. Thus, in those states that make it as easy as possible for potential first-time voters to register to vote by providing for same-day registration, it is hardly surprising that their average turnout is high when compared to those states which have more restrictive voter registration deadlines.

What if more states allowed for same-day voter registration?

Although we cannot prove that the voter registration deadlines in each state caused the levels of turnout that they did, and thus cannot definitely say that more people would vote in Registration Group 4 states if their voter registration deadlines were more lax, it is interesting to note that such an increase in vote totals would be possible with a change in registration deadlines. For example, Florida, Pennsylvania, and Texas³⁷ all require voters to register to vote at least 29 days in advance of Election Day (putting all three in Registration Group 4). As members of Registration Group 4, their expected level of VEP turnout would be 61.7%. However, if they had allowed voters to register on Election Day like “Registration Group 1” states, we would expect their turnout to be closer to the 68.6% turnout that Registration Group 1 states average. Table 4 presents the potential differences in total ballots cast that we might have seen had these three states had less restrictive voter registration deadlines (that is, if they had joined the Registration Group 1 states in allowing for same-day voter registration).

³⁶ U.S. Department of Justice, Civil Rights Division. http://www.usdoj.gov/crt/voting/nvra/activ_nvra.php.

³⁷ These three states were chosen because they have varying levels of turnout when compared to the “Registration Group 4” average. Florida’s VEP turnout (67.5%) was much higher than the “Registration Group 4” average turnout (61.7%); Pennsylvania’s VEP turnout (64.2%), is closer to the “Registration Group 4” average turnout; Texas’s VEP turnout (54.7%) was significantly lower than the average for “Registration Group 4.”

Column A represents the Total Voting Eligible Population in each of the three states. Column B is the number of Total Votes Cast for the Highest Office (the VEP turnout for each state would thus be calculated by dividing the number in Column B by the number in Column A). Column C represents the projected turnout in each state based on the average VEP turnout for Registration Group 4 states (.617 multiplied by the number in Column A). Column D represents the number of ballots cast that we would expect if each state was in Registration Group 1 and thus allowed for same-day voter registration (.686 multiplied by the number in Column A). Column E is the difference between the projected Registration Group 1 turnout (Column D) and the projected Registration Group 4 turnout (Column C). Finally, Column E is the difference between the projected Registration Group 1 turnout (Column D) and the actual turnout for each state (Column B).

Table 4: Actual and Projected Vote Totals for Select States

State	A Total voting eligible population	B Actual turnout for the 2008 presidential election (actual VEP turnout %)	C Projected turnout in each state based on average VEP in Registration Group 4 (61.7%)	D Projected turnout in each state based on average VEP in Registration Group 1 (68.6%)	E Potential increased in turnout based on average Registration Group 4 VEP turnout versus average Registration Group 1 VEP (Column D - C)	F Potential increased in turnout based on actual VEP turnout versus average Registration Group 1 VEP (Column D - B)
Florida	12,426,633	8,390,744 (67.5%)	7,667,232 (61.7%)	8,524,670 (68.6%)	857,438	133,926
Pennsylvania	9,363,381	6,012,692 (64.2%)	5,777,206 (61.7%)	6,423,279 (68.6%)	646,073	410,587
Texas	14,780,857	8,077,795 (54.7%)	9,119,788 (61.7%)	10,139,668 (68.6%)	1,019,880	2,061,873

As Table 4 shows, if each of these states (currently in Registration Group 4) were in Registration Group 1, the projected turnout for each state could potentially bring hundreds of thousands more voters to the polls. Our data show that the 6.9% difference in average VEP turnout between Registration Group 1 and Registration Group 4 (column E) translates to an additional 857,438 voters in Florida; 646,073 in Pennsylvania; and over a million (1,019,880) in Texas. In each of these states, this amounts to a difference of more than 10% of the total ballots cast for the highest office, which is a substantial block of voters, and one that could potentially swing the outcome of elections in those states. Even when compared to the actual vote totals in each state, the projected turnout based on the Registration Group 1 average would still be significantly greater than the actual turnout, as shown in Column F. In Florida, turnout would be 133,926 higher; in Pennsylvania, 410,587 higher; and in Texas, a phenomenal 2,061,873 votes higher. Again, we cannot prove that such an increase in votes would occur if these states changed their registration deadlines. However, the fact that it is *possible* that such a large number of voters may be being deterred from voting in these states because of more stringent voter registration requirements should give us pause—and certainly provides ample reason to question the potential effects of these differing registration requirements.

THE SIGNIFICANCE OF THE RESULTS

Though not the focus of this study, it could be argued that in a representative system of government such as the one that exists in the United States, greater election participation is a positive thing, as it increases the number of voices that are heard and helps ensure that elected officials are truly representative of their constituents. However, the goal of stricter voter ID laws is to minimize election fraud, which is also a legitimate goal. Registration deadlines are similarly aimed at protecting the integrity of elections by ensuring that all voters are qualified and eligible

to vote, another worthy goal. Whether increased participation in elections is a greater goal than minimizing election fraud and protecting the integrity of the electoral process is certainly debatable, but it must be the subject of another paper. The significance of differences in turnout between states with varying election laws lies in whether it is fair, or even constitutional, if those laws make it significantly easier to vote in one state than in another.

For example, a first-time voter in Minnesota who was not yet registered to vote need only show up at their polling place on Election Day with the minimal form of identification (in most cases, a utility bill showing the voter's name and current address would suffice) in order to cast a ballot. A first-time voter in Indiana, on the other hand, would need to either mail in their voter registration or make a trip to a state office to register in person at least 29 days in advance of Election Day in order to be eligible to vote. That voter must then present government-issued photo ID on Election Day in order to cast their ballot. In Minnesota, non-first-time voters would not be required to bring anything with them to their polling place on Election Day in order to vote—they merely have to show up to cast a ballot. In Indiana, those same voters would still be required to present the aforementioned government-issued photo ID in order to cast their ballot. Thus, for both first-time and experienced voters, it was easier and less burdensome to cast a ballot in Minnesota in this last election cycle than it was in Indiana. Whether this was the reason that Minnesota VEP turnout rate was nearly 20 percentage points higher than Indiana's turnout rate is not certain. However, such a large gap in turnout between these two states in particular and states with similar laws in general may indicate that the difference in ease of voting is a factor in the difference in voter turnout. If more strict laws in some states deter voters in those states from showing up at the polls, while those same voters would have a much easier time

voting in other states with less strict laws, those difference may implicate the constitutional issues discussed in the first half of this paper.

In striking down the use of punch-card ballots in some, but not all, California counties as violating the Equal Protection Clause of the 14th Amendment, the three-judge panel of the Ninth Circuit Court of Appeals reasoned that by using different voting technologies in different counties (with some being more reliable and thus more likely to register votes correctly), the effect was “to discriminate on the basis of geographic residence.”³⁸ Even though this case dealt with voting technology and focused on differences within a state, the general principle could still apply in the case of differing voter ID requirements and voter registration deadlines between states. The effect is generally the same in this study—discrimination on the basis of geographic residence—if these variable registration deadlines and ID requirements make it much easier to vote in one state than it is in another, especially if the difficulty of voting in some states actually deters some otherwise eligible voters from showing up to the polls.

³⁸ Sw. Voter Registration Educ. Project v. Shelley, 344 F.3d 882, 894-95 (9th Cir. 2003).

CONCLUSION

What we learned from the first part of this paper is that weighty constitutional issues are at stake when we consider the right to vote specifically, and perhaps the electoral process generally. As a consequence of the decentralized system of election administration in the United States, there are varying degrees of burden on that right to vote from state to state. In examining the relationships between different voter ID requirements and different voter registration deadlines and voter turnout in each state, we found that there is a fairly strong correlation between the restrictiveness of voter registration deadlines and voter turnout, so much so that hundreds of thousands of voters may have been deterred from voting in some states with more restrictive registration deadlines. While we were not able to find a similar correlation between voter ID requirements and voter turnout using the data at hand, that does not definitively show that those ID requirements do not have an effect on turnout. It is possible that the strictest ID requirements are deterring some people from voting, but that deterrent effect may exist for only a small portion of the population, and thus might not be reflected in a state's overall turnout numbers. Still, the high degree of correlation between voter registration deadlines and voter turnout may support the general theory that in states where it is easier to vote, more people will do so. When considering this theory and the results of our study in light of the constitutional issues present in voting questions, we as a society should ask whether it is fair or constitutional to have voting procedures that vary from state to state, and thus may have a differential deterrent effect on potential voters based solely on where those potential voters live. Should we not grapple with this question as a nation and allow equal access across all states?

ADDITIONAL TABLES

Table 5: Voter ID Group, Voter Registration Group, and Voter Turnout for All States

State	VEP Turnout	VAP Turnout	Voter ID Group	Voter Registration Group
Alabama	61.8%	59.1%	3	3
Alaska	68.3%	64.2%	3	4
Arizona	56.0%	47.4%	3	4
Arkansas	53.4%	50.3%	3	4
California	61.7%	49.4%	1	3
Colorado	69.8%	64.0%	3	4
Connecticut	67.2%	61.2%	3	2
Delaware	66.2%	61.6%	3	3
DC	60.7%	55.2%	1	4
Florida	67.5%	58.4%	5	4
Georgia	61.4%	54.7%	5	4
Hawaii	50.5%	45.1%	4	4
Idaho	63.3%	58.6%	1	1
Illinois	62.8%	56.7%	1	4
Indiana	59.4%	57.3%	5	4
Iowa	69.9%	67.0%	1	1
Kansas	62.5%	58.6%	2	3
Kentucky	57.9%	55.9%	3	4
Louisiana	62.1%	58.8%	4	4
Maine	71.4%	70.1%	1	1
Maryland	67.7%	61.1%	1	3
Massachusetts	66.2%	60.5%	1	3
Michigan	68.9%	65.7%	4	4
Minnesota	78.2%	73.2%	1	1
Mississippi	61.0%	59.2%	1	4
Missouri	68.1%	65.0%	3	4
Montana	66.3%	65.6%	3	1
Nebraska	62.6%	59.8%	1	3
Nevada	58.6%	49.9%	1	3
New Hampshire	71.3%	69.4%	1	1
New Jersey	66.2%	58.3%	1	3
New Mexico	60.3%	55.9%	3	4
New York	58.0%	50.4%	1	3
North Carolina	65.8%	61.4%	1	2 (3)
North Dakota	65.0%	63.5%	3	1 (None)
Ohio	66.7%	65.0%	3	4
Oklahoma	56.7%	53.3%	1	3

Oregon	67.8%	62.3%	1	3
Pennsylvania	64.2%	62.0%	2	4
Rhode Island	62.3%	57.2%	1	1 (4)
South Carolina	58.6%	55.9%	3	4
South Dakota	63.8%	62.8%	4	3
Tennessee	57.3%	54.7%	3	4
Texas	54.7%	45.6%	3	4
Utah	53.3%	50.0%	1	3
Vermont	66.7%	65.9%	1	2
Virginia	67.7%	62.4%	3	4
Washington	67.0%	60.3%	3	3
West Virginia	50.6%	49.9%	1	3
Wisconsin	72.5%	69.0%	1	1
Wyoming	65.4%	62.7%	1	1
United States	61.7%	56.8%		

Alternate Table 2: Voter Registration Deadlines and Voter Turnout³⁹

Group	Average VEP Turnout	Average VAP Turnout
Registration 1 (most lax; allow voters to register on Election Day)	69.79%	66.95%
Registration 2	66.95%	63.55%
Registration 3	62.15%	56.98%
Registration 4 (most restrictive; voters are required to register at least 4 weeks in advance of Election Day)	61.72%	57.24%

³⁹ This table differs from Table 2 in the following ways: 1) North Dakota has been excluded from the calculations; 2) North Carolina moved from Registration Group 2 to Registration Group 3; and 3) Rhode Island moved from Registration Group 1 to Registration Group 4. This change is explained more fully in Footnote 35.

Alternate Table 3: Composite Groups and Voter Turnout⁴⁰

Group	Average VEP Turnout	Average VAP Turnout
Composite 1 (states with both the most lax ID requirement and day-of-election registration)	70.29%	67.14%
Composite 2 (states that require or request photo ID for each election and require voters to register at least 28 days before Election Day)	61.63%	56.67%

⁴⁰ This table differs from Table 3 in that Rhode Island's more restrictive voter registration deadline (30 days in advance of Election Day) moved it out of Composite Group 1, and thus its turnout numbers were excluded from the calculation of the group averages