

LEARNING FROM ELECTION REFORMS

BEFORE AND AFTER THE
2020 PRESIDENTIAL ELECTION



Thessalia Merivaki,
Carter Center U.S. Election Advisor



THE
CARTER CENTER



Learning from Election Reforms Before and After the 2020 Presidential Election

Thessalia Merivaki, Carter Center U.S. Election Advisor

Summary

The 2020 presidential election illustrated that increasing access to voting can have a strong and positive impact on voter participation. Because of COVID-19, states adopted new policies, such as electronic absentee ballot request, absentee ballot cure process, prepaid postage on the absentee ballot envelope, and drop boxes, and amended existing policies, like the inclusion of COVID-19 as an excuse to vote by mail. A few states temporarily expanded access to in-person voting by allowing voters to cast their votes before Election Day and offering curbside voting. As such, in 2020, the state election landscape was overwhelmingly pro-voter access.

Many of these policies were implemented with financial assistance from the federal government as well as the private sector, strongly indicating that states have limited capacity, in terms of both human and financial resources, to reform election processes on a large scale. Very important, the reliance on private funds suggests that there are notable challenges in how election administration is funded across the United States and that there are opportunities for innovation when federal and state governments partner with the private sector, which benefits voters.

In the aftermath of the 2020 presidential election, state legislatures were called to reform their election processes, considering three options:

- Retain some, or all, of the temporary policies that were authorized to facilitate the conduct of elections during a pandemic.
- Return to the election policy status quo by letting the temporary policies expire.
- Adopt new policies that further expand/restrict access to voting.

Much attention has been paid to legislative reforms in 2021 that are perceived as having anti-voter access impacts, driven by unsubstantiated concerns about vulnerable election processes. While some states seem to be substantially increasing the burden on voters, other states follow a different path, adopting policies that expand access for voters and include prospective voters who have traditionally been excluded from the franchise (such as former felons).

The differences in state approaches to election policy are not new, but post-2020 they may magnify future disparities in voter participation, raising concerns about equal access to voting. In the absence of federal legislation to mandate uniform structures for voter access, it is likely that the courts will play an even more active role in determining the constitutionality of election laws, raising the bar for voters to prove that voting has become harder in their jurisdiction.

Among the persistent challenges in providing voters free and fair access to elections is reaching them with factual information about how elections work and connecting them with trusted sources for election information. The increase in mis/disinformation, especially on social media, has disrupted the information flow and allowed bad actors to penetrate voters' networks with false narratives, eroding trust in elections and instigating violent behavior online and offline.

The overall picture from 2020 and 2021 in terms of voter access is mixed, with some important lessons:

1. States, the federal government, and civil society all contributed to an overwhelmingly pro-voter election in 2020.
2. 2020: Pro-voter access, but NOT pro-voter registration.
3. Beyond 2020: Inequities in voter access persist even in the most pro-voter access environment.
4. Beyond 2020: Nationally, the 2021 state election reform landscape is neither pro-voter access nor anti-voter access.
5. Beyond 2020: Voter education is necessary to combat mis/disinformation.

Drawing from the five lessons learned in 2020 and 2021, this report provides an analysis of the state election reform landscape, evaluating policy based on how it facilitates access (pro-voter access) or restricts access (anti-voter access) for voters, and offers a reflection of the most persistent challenges for conducting elections, which can have significant impact on voter access and voter confidence.

The 2020 Election Reform Landscape Was Pro-Voter Access

COVID-19 created challenges across all the states, which had to make decisions around scheduling primary elections and offering adequate access to all voters while maintaining adequate health and security protocols. Sixteen states postponed their presidential primary elections through state legislative or executive action. The decision to postpone primary elections was controversial in some states, as in Wisconsin, where the governor's order to postpone was overruled by the Wisconsin Supreme Court. Wisconsin's primary election raised concerns about the ability of states to run elections while protecting the health of voters and election workers.¹

Evidence from primary elections in Wisconsin, Georgia, and other states strongly indicated that states had to reevaluate how they conducted elections to avoid long lines and voter confusion, as well as to minimize exposure to and spread of COVID-19.² The pressing challenge of shortages of poll workers, without whom in-person voting would be impossible, further increased the need for states to offer more options for voters to cast their votes.

The most obvious measures to reduce traffic in polling places and minimize exposure to COVID-19 was the expansion of absentee/mail voting, with early in-person voting coming second. According to the National Conference of State Legislatures, states vary in when/how voters can request an absentee ballot, whether they need to provide an excuse, and when they need to

¹ Phillips, Amber. April 6, 2020. "Wisconsin's decision to hold its primary is threatening to become a worst-case scenario for elections amid a pandemic." The Fix, Washington Post: <https://www.washingtonpost.com/politics/2020/04/03/wisconsins-decision-go-ahead-with-its-primary-is-glimpse-worst-case-scenario-elections-during-coronavirus/>

² Fessler, Pam. June 15, 2020. "Chaos in Primary Elections Raises Fears for November." Npr.org: <https://www.npr.org/2020/06/15/876474124/chaos-in-primary-elections-raises-fears-for-november>

return/deliver their absentee ballot.³ While all states offer mail voting in various forms (from all-mail elections to excuse mail voting), not all states offer in-person early voting. In addition, some states have experience with vote centers as substitutes for the traditional polling place setting, where voters do not have to turn out to an assigned location to vote. This variation in available voting methods created opportunities for states to experiment in 2020 with policies that expand access to voting, with an important caveat being the availability of funding to implement them. It also created challenges in implementing measures that states were resistant to adopting, particularly the expansion of absentee and early in-person voting.

I. The Response from the States

For the 2020 presidential election, 39 states enacted temporary measures to make requesting and delivering/returning a mail ballot easier for voters, and five authorized expansions of early in-person voting. As Table 1 shows, the most common measure was to automatically mail absentee applications to every registered voter (16 states) and expand absentee eligibility requirements (excuse) to accommodate voters' concerns about contracting COVID-19, or for voters who are at risk of contracting COVID-19 (12 states).⁴ Among the 10 states that automatically mailed absentee/mail-in ballots to all registered voters, seven began doing so in 2020.⁵

These temporary measures had a strong and positive impact on voter turnout, driven by increases in absentee/mail-in voting usage among both first-time and existing voters.⁶ Among the notable examples is absentee/mail-in voting in New Jersey, the District of Columbia, and Vermont, where absentee/mail-in voting usage shifted from 7%-17% in 2016 (7% in New Jersey, 12% in D.C., and 17% in Vermont) to 70%-86% in 2020 (70% in D.C., 72% in Vermont, and 86% in New Jersey). Across all the states, absentee/mail voting surged, but among the states where substantive absentee measures were enacted, voter turnout was significantly higher in 2020 compared to 2016.

³ National Conference of State Legislatures, "Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options": <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>

⁴ Ballotpedia, "Changes to absentee/mail-in voting procedures in response to the coronavirus (COVID-19) pandemic, 2020": https://ballotpedia.org/Changes_to_absentee/mail-in_voting_procedures_in_response_to_the_coronavirus_COVID-19_pandemic_2020

FiveThirtyEight, "What Absentee Voting Looked Like in All 50 States": <https://fivethirtyeight.com/features/what-absentee-voting-looked-like-in-all-50-states/>

⁵ According to FiveThirtyEight, Colorado, Washington, and Oregon, who conduct all-mail elections, automatically mail ballots to all registered voters. California, Washington D.C., Hawaii, New Jersey, Nevada, and Vermont temporarily enacted this measure in 2020: <https://fivethirtyeight.com/features/what-absentee-voting-looked-like-in-all-50-states/>

⁶ Barber, Benjamin. Dec. 3, 2020. "First-time voters played a decisive role in the 2020 elections." Facing South.org: <https://www.facingsouth.org/2020/12/first-time-voters-played-decisive-role-2020-elections>

Table 1. Absentee/Mail and Early-In Person (EIP) Temporary Measures for 2020

State	Absentee Changes for Nov. 3, 2020	Early In-Person (EIP) Changes in 2020?	Temporary Measures Expired?
Alabama	Absentee excuse suspended; curbside voting prohibited	--	Y
Alaska	Witness requirement suspended	--	Y
Arkansas	COVID-19 as a valid excuse for voting absentee		Y
Arizona		--	
California	Mail-in ballots to all registered voters	--	N
Colorado	---	--	--
Connecticut	Automatic mail-in applications to all voters	--	Partially (COVID as excuse stays)
Delaware	Automatic mail-in applications to all voters	--	Y
District of Columbia	Mail-in ballots to all registered voters	--	Y
Florida	--	--	--
Georgia	--	--	--
Hawaii	Mail-in ballots to all registered voters	--	N
Idaho	--	--	--
Illinois	Automatic mail-in applications to all voters who cast ballots in 2018/2019/2020 primary		Y
Indiana	--	--	--
Iowa	Automatic mail-in applications to all voters	--	Y
Kansas	--	--	--
Kentucky	Absentee excuse suspended	Monday through Saturday beginning October 13, 2020	Y

State	Absentee Changes for Nov. 3, 2020	Early In-Person (EIP) Changes in 2020?	Temporary Measures Expired?
Louisiana	COVID-19 as a valid excuse for voting absentee	--	Y
Maine	Absentee request up to Election Day	--	Y
Maryland	Automatic mail-in applications to all voters		N
Massachusetts	Absentee excuse suspended		N
Michigan	Automatic mail-in applications to all voters		Y
Minnesota	Postmark deadline for the general election was extended to November 3, 2020; Witness requirements suspended		Partially; witness exemption applies
Mississippi	Postmark deadline extended to November 3, 2020 Receipt deadline extended to November 8, 2020 COVID-19 as a valid excuse for voting absentee		Unclear
Missouri	Absentee excuse suspended, subject to a notarization requirement Notary requirement suspended for COVID-19 impacted voters		Y
Montana	Automatic mail-in applications to all voters	Executive Order to "expand" EIP	Y
Nebraska	Automatic mail-in applications to all voters	--	Y
Nevada	Mail-in ballots to all registered voters	--	N
New Hampshire	COVID-19 as a valid excuse for voting absentee	--	Y

State	Absentee Changes for Nov. 3, 2020	Early In-Person (EIP) Changes in 2020?	Temporary Measures Expired?
New Jersey	Mail-in ballots to all registered voters Postmark extended to November 9, 2020 Receipt deadline for ballots without postmarks set as November 5, 2020.	--	Y
New Mexico	Automatic mail-in applications to all voters	--	Y
New York	COVID-19 as a valid excuse for voting absentee Online portal launched for absentee ballot requests Absentee return drop boxes available for Ballot curing provisions expanded	--	N
North Carolina	One witness signature in lieu of two Mail-in ballot receipt deadline extended on November 12, for ballots postmarked on or before Election Day	--	Partially; No witness requirement on the absentee form
North Dakota	--	--	--
Ohio	Election officials required to accept absentee ballot applications submitted via fax or email	--	Y
Oklahoma	Ballot notarization requirement COVID-19 as a valid excuse for voting absentee	--	Y
Oregon	--	--	--

State	Absentee Changes for Nov. 3, 2020	Early In-Person (EIP) Changes in 2020?	Temporary Measures Expired?
Pennsylvania	Prepaid return postage Postmark deadline November 3 Receipt deadline extended to November 6, 2020 Drop boxes authorized	--	Y
Rhode Island	Automatic mail-in applications to all voters Witness/notary requirements suspended	--	Y
South Carolina	Automatic mail-in applications to all voters Prepaid postage provided for all returned ballots	October 5, 2020, and end November 2, 2020.	Y
South Dakota	--	--	--
Tennessee	--	--	--
Texas	COVID-19 as a valid excuse for voting absentee Policy requiring that first-time voters vote in person suspended.	Early voting period extended by six days to open on October 13, 2020	Y
Utah	Mail-in ballots to all registered voters Signature mismatch cure process Absentee/mail-in return locations limited to one per county.	Counties were authorized to provide some form of in- person Election Day and early voting	N
Vermont	Mail-in ballots to all registered voters	--	--
Virginia	Automatic mail-in applications to all voters	--	Y

State	Absentee Changes for Nov. 3, 2020	Early In-Person (EIP) Changes in 2020?	Temporary Measures Expired?
Washington	Witness requirement suspended Use of drop-boxes and prepaid absentee/mail-in ballot return postage	--	Unclear
West Virginia	COVID-19 as a valid excuse for voting absentee Online absentee/mail-in ballot request portal available	--	N
Wisconsin	Mail-in ballot applications sent automatically to most voters	--	Y
Wyoming	--	--	--

Sources: National Conference of State Legislatures; The Stanford-MIT Healthy Elections Project; FiveThirtyEight; Ballotpedia.

II. The Response from the Federal Government and Civil Society

Evidence from the primary election season strongly suggested that state legislative action would not sufficiently address many of the challenges election officials were facing to conduct in-person elections in a safe manner, as well as expanding access through mail-in voting. In response to pressure from states and election officials, Congress adopted the Coronavirus Aid, Relief and Economic Security (CARES) Act, which allocated over \$470 million of emergency funds to the states to prepare for the Nov. 3, 2020, election.⁷ Private funds were also made available through competitive grants from civil society, with the most nationally recognized organizations being Facebook, the Center for Tech and Civic Life (CTCL), and the Schwarzenegger Institute at the University of Southern California.⁸ Over \$1 billion was awarded to thousands of local jurisdictions, which requested these funds for specific purposes, in contrast to the CARE Act’s less restrictive requirement on how the federal funds could be distributed.

Overall, federal and private fund spending across the states followed predictable patterns, in that they were used to implement health and security measures for in-person voting: protective equipment, equipment to sanitize polling places and voting machines, recruiting poll workers, and staffing polling places. Analysis of local election jurisdiction expenditures shows that the availability of these funds allowed election officials to be more flexible with prioritizing how to

⁷ U.S. Election Assistance Commission, 2020 CARES Act Grants: <https://www.eac.gov/payments-and-grants/2020-cares-act-grants>

⁸ Hing, Geoff. Dec. 7, 2020. “How private money helped save the election.” APMreports.org: <https://www.apmreports.org/story/2020/12/07/private-grant-money-chan-zuckerburg-election>

allocate their resources beyond protective gear and poll worker staffing. For instance, rising concerns about absentee/mail ballots not arriving on time to be counted due to United States Postal Service delays⁹, many states used CARES Act and private funds to expand the number of drop boxes across local jurisdictions.

Spending patterns across the states also underscore that the CARES Act did not provide sufficient funds to address many election administration challenges, and that some local jurisdictions required additional resources and thus benefited from the availability of private funds. To illustrate, Georgia implemented a 9-1 match program to use the CARES Act funds for drop boxes, according to its financial and progress report to the Election Assistance Commission.¹⁰ Over 40 counties in Georgia received private grants. Among the 10 Georgia counties that were awarded grants from the Schwarzenegger Institute (Douglas, Muscogee, Chatham, Gwinnett, Lamar, Taliaferro, Early, Clayton, Lee, Randolph), Lamar County explicitly requested funds to double the number of drop boxes from one to two.

The Center for Tech and Civil Life reported that over 800 of its grantees used funds to expand access to drop boxes in the November 2020 election.¹¹ The ability to use drop boxes in some jurisdictions was entirely dependent on additional funds, as in some cases the cost of installing them exceeded a county's annual election budget. Drop boxes became a popular response to delivering a mail-in vote across the states, but it also invited significant controversy. In two states, Texas and Ohio, the use of drop boxes was limited to only one per county (Table 2), which raised concerns about the ability of voters to use them, especially in large jurisdictions.

⁹ Naylor, Brian. October 31, 2020. "Delays still plague mail deliveries as Election Day nears." NPR.org: <https://www.npr.org/2020/10/31/929826650/delays-still-plague-mail-deliveries-as-election-day-nears>

¹⁰ U.S. Election Assistance Commission, GA 2020 CARES Financial and Progress Reports: <https://www.eac.gov/sites/default/files/paymentgrants/cares/CARES%20FFR/GA%202020%20CARES%20Financial%20and%20Progress%20Report.pdf>

¹¹ The Center for Tech and Civil Life. November 13, 2020. "A First Look at the CTCL Grant Program Impact.": <https://www.techandcivillife.org/grant-update-november/>

Table 2. Implementation of Absentee/Mail-in Ballot Drop Boxes in 2020¹²

Drop Boxes in 2020		Drop Boxes Prohibited
Alabama	Michigan	Missouri
Alaska	Minnesota	New Hampshire (for after hours)
Arkansas	Montana	South Carolina
Arizona	Nebraska	Tennessee
California	Nevada	
Colorado	New Jersey	One Drop Box Per County Policy
Connecticut	New Mexico	Ohio
Delaware	New York	Texas
District of Columbia	North Dakota	
Florida	Oregon	
Georgia	Pennsylvania	
Hawaii	Rhode Island	
Idaho	South Dakota	
Illinois	Utah	
Iowa	Vermont	
Kansas	Virginia	
Kentucky	Washington	
Louisiana	Wisconsin	
Maine	Wyoming	
Maryland		
Massachusetts		

Similar controversies about accessibility involved the use of curbside voting, even though it is a policy used in many states to accommodate voters with disabilities; many states expanded their curbside voting policy for voters to cast their votes using this method. Alabama explicitly forbade it, with Secretary of State John Merrill declaring that the inclusion of more polling places and poll workers sufficed as additional measures for Nov. 3, 2020.¹³

An important lesson from 2020 is that the collaboration between states and the federal government, as well as the private sector, can be a positive driver for election innovation, a positive voter experience, and high voter participation. Despite the success stories in those local jurisdictions that secured private funding, however, there is cause for concern about the ability of election officials to maintain the same level of access for voters. The lack of consistent federal

¹² The Stanford-MIT Healthy Elections Project, Ballot Drop Boxes in the 2020 Elections: https://healthyelections.org/sites/default/files/2021-06/Ballot_Drop_Boxes.pdf

¹³ Bravin, Jess. October 21, 2020. "Supreme Court Reinstates Alabama's Ban on Curbside Voting." The Wall Street Journal: <https://www.wsj.com/articles/supreme-court-reinstates-alabamas-ban-on-curbside-voting-11603337129>

funding for elections and the increase in state election policy to prohibit financial support from the private sector can negatively impact the administration of elections in the future.

Despite the Pro-Voter Access Environment, 2020 Did Not Expand Access to Voter Registration

Although the expansion of early in-person and mail-in policies undoubtedly brought elections closer to voters and contributed to the overall increase in turnout, they did not address other processes, particularly voter registration. Since Arizona's adoption of Online Voter Registration in 2002, 41 states and Washington, D.C., allow eligible voters to use an electronic portal to register to vote and update their voter registration information.¹⁴ Electronic registration is one of the most popular voter registration policies with significant benefits for voters, as it is accessible and minimizes the risk of errors. It is also cost-efficient for states and election administrators.¹⁵

The availability of online voter registration in 2020 was instrumental for voters, as opportunities for in-person interaction between voters and local election officials, as well as grassroots organizations, was limited.¹⁶ Over 28.2% of all voter registrations were submitted electronically in 2020, compared to 21.5% in 2018, as reported by the U.S. Election Assistance Commission.¹⁷ This increase can also be explained by the expansion of the policy across the states, as Minnesota, New Jersey, and Oklahoma voters were able to register online in 2020. The U.S. Election Assistance Commission reports that all online voter registration states experienced increases in electronic registrations in 2020 compared to 2018, except for Iowa and Connecticut. These patterns strongly suggest that this voter registration option is beneficial for voters.

According to the Center for Election Innovation and Research, COVID-19 slowed down voter registration gains even among states with electronic registration, especially in the spring of 2020, when many states implemented lockdowns.¹⁸ In effect, 32.2% of all voter registration activity was driven by new voters, compared to 37.3% in 2016, which seems to validate that 2020 was a challenging year for voter registration despite the record in voter turnout.¹⁹

Among the states where electronic registration is not available, prospective voters had limited options for registration, as local election offices were closed for several weeks in 2020, and civic organizations temporarily halted their on-the-ground activities. As Table 3 shows, voters in non-electronic voter registration states registered to vote in-person, either by visiting a local election office or a local Department of Motor Vehicles office in 2020. Compared to 2018, in-person voter registration activity decreased in those states, with the exception of Mississippi. These

¹⁴ National Conference for State Legislatures, Online Voter Registration: <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>

¹⁵ Pew Trusts. May 13, 2015. Online Voter Registration: <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/05/online-voter-registration>

¹⁶ Merivaki Thessalia and Mara Suttman-Lea. Nov. 4, 2021. "How Do Local Election Officials Reach New Voters?" MIT Election Data and Science Lab: <https://medium.com/mit-election-lab/how-do-local-election-officials-reach-new-voters-f788d97aac29>

¹⁷ U.S. Election Assistance Commission, Election Administration and Voting Surveys: <https://www.eac.gov/research-and-data/studies-and-reports>

¹⁸ Center for Election Innovation and Research: New Voter Registrations in 2020: <https://electioninnovation.org/new-voter-registrations-in-2020/>

¹⁹ U.S. Election Assistance Commission, Election Administration and Voting Surveys: <https://www.eac.gov/research-and-data/studies-and-reports>

patterns suggest that lack of access to voter registration can be a significant barrier to participation, particularly in non-online voter registration states.

Table 3. Voter Registration Activity in Non-Online Voter Registration States in 2020

State	Election/Same Day Registration	Majority of Registration activity in 2020 by Source:	Majority of Registration activity in 2018 by Source:
Arkansas	N	DMV (39%); In-person (19%)	DMV (54%); In-person (18%)
Maine**	Y	In-person (72.6%); DMV (4.9%)	In-person (75.3%); DMV (11%)
Mississippi	N	DMV (36.3%); In-person (30.4%)	DMV (25%); In-person (9.6%)
Montana	Y* (Early voting only)	In-person (24%); DMV (23%)	DMV (32.3%); In-person (25.3%)
New Hampshire (NVRA exempt)	Y	In-person (93%)	In-person (99.8%)
North Carolina	Y (Early voting only)	DMV (31%); In-person (14.3%)	DMV (47.3%); In-person (21.5%)
South Dakota	N	DMV (46%); In-person (23.2%)	DMV (53.8%); In-person (25.4%)
Texas	N	DMV (39.7%); In-person (11.2%)	DMV (47.3%); In-person (26.11%)
Wyoming (NVRA exempt)	Y	In-person (95.1%)	In-person (98.4%)

*Montana repealed election day registration in 2021.

**Maine is expected to implement automatic voter registration in 2022.

Research finds that election/same day registration was an important policy that contributed to increases in voter participation in 2020.²⁰ Election/same day registration allows voters to register to vote the same day they turn out to vote. Although states facilitated access to voting by expanding mail-in voting, many voters preferred to vote in person and therefore benefited from the existence of the policy. Wyoming, which is exempt from the National Voter Registration Act (NVRA), saw half of its voter registration activity taking place through election day/same day registration.

²⁰ Persily, Nathaniel, and Charles Stewart III. "The Miracle and Tragedy of the 2020 US Election." *Journal of Democracy* 32.2 (2021): 159-178.

Inequities in Voter Access Existed in 2020 Even When Pro-Voter Access Policies Were Implemented

It is expected that when barriers to participation are removed or minimized, voter registration and turnout increase.²¹ One of the biggest challenges, however, is ensuring that all Americans have equitable access, even when pro-voter access policies are implemented. In 2020, despite the expansion of mail-in and in-person voting options across the states, voters experienced challenges in navigating election policy changes and casting a ballot that would count as valid.

I. In-Person Voting

One of the most common indicators of potential inequities in voter access is how long voters wait in line to vote. According to the Election Performance Index, the average wait time across the states is 20 minutes, and wait times exceeding 30 are considered problematic and indicative of potential problems with managing elections.²² There are systematic differences across the states in how long voters waited to cast an in-person vote in 2018, but research finds significant variation among local jurisdictions within each state. In Georgia's presidential primary elections in June of 2020, voters waited for over an hour in some of the most populated counties, such as Cobb and DeKalb counties.²³ In some precincts, the first check-in of voters also was delayed by 40 minutes, as in the case of New Life Church polling place in Bryan County. In Chatham County, some precincts opened over an hour past 7 a.m. because poll workers had trouble managing the county's new voting equipment, which was used for the first time.²⁴

Evidence from Georgia's primary and general election insofar as which voters were more likely to wait in line confirms research that jurisdictions where nonwhite voters reside are more likely to experience such problems with long wait times and late check-ins.²⁵ When voters wait in line for long, they are more likely to get discouraged and leave without casting a vote. Research shows that because long lines are more prevalent in local jurisdictions that serve nonwhite voters, they are disproportionately affected, perpetuating inequities in participation.

In 2020, a challenge for election officials was to staff polling places with poll workers, as was operating enough polling places to service voters. Inadequate staffing results in higher voter-to-polling place and voter-to-poll worker ratios, both of which can increase wait times and create negative experiences for voters who must wait in line and then are rushed to vote once they check in.

²¹ Schraufnagel, Scot, Michael J. Pomante II, and Quan Li. "Cost of Voting in the American States: 2020." *Election Law Journal: Rules, Politics, and Policy* 19.4 (2020): 503-509.

²² The Elections Performance Index, MIT: <https://elections.mit.edu/#/data/indicators?view=indicator-profile&indicator=WTV&year=2018>

²³ Fowler, Stephen. July 17, 2020. "Here's What The Data Shows About Polling Places, Lines in Georgia's Primary." Gpb.org: <https://www.gpb.org/news/2020/07/17/heres-what-the-data-shows-about-polling-places-lines-in-georgias-primary>

²⁴ Combs, Jessica. June 10, 2020. "Voters describe Georgia's primary as a disappointment." Wvsab.com: <https://www.wsav.com/news/your-local-election-hq/chatham-co-polling-locations-encounter-problems-leading-to-delays/>

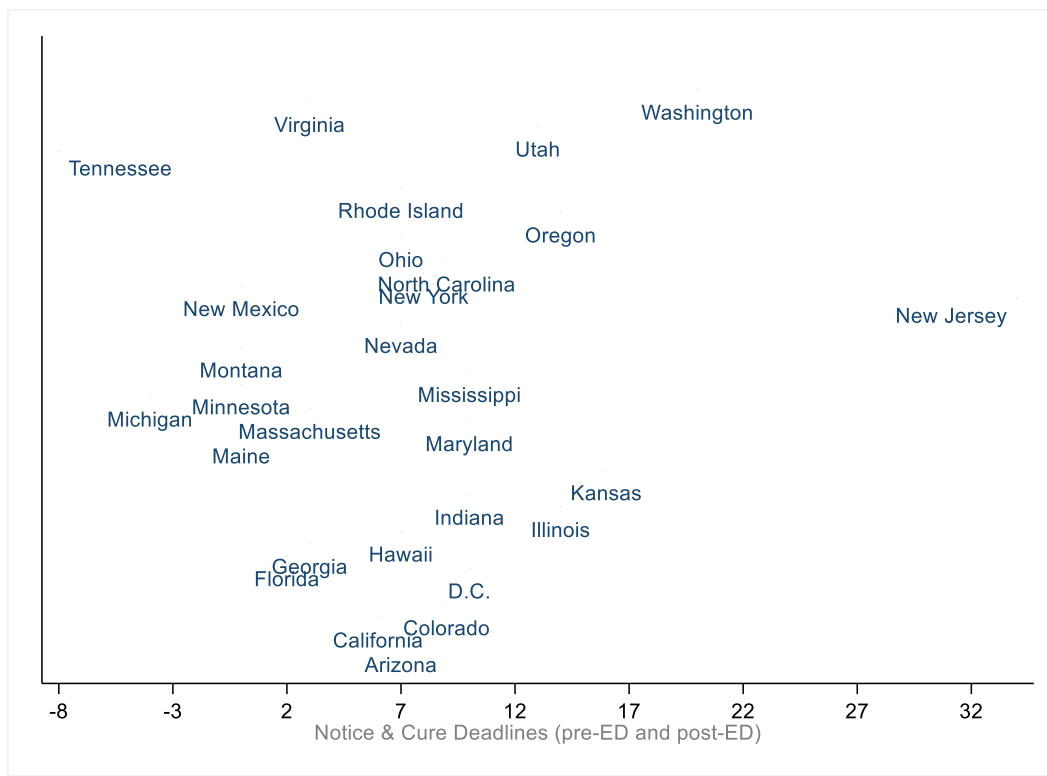
²⁵ Lamb, Matt. 2021. "Who Leaves the Line, Anyway? A Study of Who Leaves Polling Place Lines, and Why." *Election Law Journal*: <https://www.liebertpub.com/doi/abs/10.1089/elj.2020.0686>

II. Mail-in Voting

Regarding voting by mail, research on mail ballot rejections finds that young and nonwhite voters, especially Black, Hispanic, and Asian voters, have their mail votes disproportionately rejected compared to white voters. Because these electoral groups are more likely to be first-time voters, they may be more prone to errors when voting by mail, due to their unfamiliarity with the election process.²⁶ This strongly suggests that some election policies that may be convenient for voters overall can be burdensome for specific voters, creating inequities in voter access.

For the 2020 presidential election, states allowed voters an option to correct errors with their mail ballot, such as a missing or mismatched signature. States, however varied notably in allowing for this “cure” option and how long a voter had to correct such errors. As Figure 1 shows, among the states that offered a cure option, some imposed a higher burden on voters to correct errors before Nov. 3, while others extended the cure deadline for days or even weeks after election day.

Figure 1. Mail-in Ballot Cure Deadlines in the 2020 Presidential Election



Note: X axis shows the number of days before, on and after Election Day (ED) when election officials can contact voters to cure their ballots.

A comparison of the mail-in absentee rejection rates from the 2020 primary election, when the cure option was as widely available as it was in November 2020, and the rejection rates from the 2020 presidential election strongly suggests that the cure option significantly decreased the

²⁶ Shino, Enrijera, Mara Suttman-Lea and Daniel A. Smith. 2021. “In Georgia, vote by mail isn’t working for many new young, Black, Hispanic and Asian voters. USApp American Politics and Policy Blog: http://eprints.lse.ac.uk/110692/1/usappblog_2021_04_19_in_georgia_vote_by_mail_isnt_working_for_many.pdf

overall mail-in ballot rejection rates across the states.²⁷ That said, according to the U.S. Election Assistance Commission, there does not seem to be a relationship between how long a state allowed for a voter to “cure” their ballot and a state’s rejection rates. New Jersey, for example, which implemented the most permissible cure deadline, reported rejecting 1.2% (49,812) of ballots, while Tennessee, which had the most restrictive deadline, reported rejecting 1% (2,090). Illinois reported rejecting 1.7% (33,853) of all mail-in ballots that were returned, and Mississippi reported rejecting 2.3% (5,563). Non-cure states, however, had higher rejection rates overall, as in the case of Arkansas (6.4%, or 7,561) and New Mexico (5%, or 17,008).

Finally, voters residing overseas (UOCAVA) also had challenges getting their mail-in ballots accepted across the states, even though the majority of UOCAVA voters were able to access mail-in voting by receiving their ballot via email, as well as returning their mail vote later than on election day in some states. Despite the overall high mail-in ballot return rates by UOCAVA voters in 2020, rejection rates varied dramatically, from over 3.5% in Arkansas, Delaware, Louisiana, Virginia, South Dakota, Pennsylvania, New York, and Wisconsin, to less than 0.5% in Arizona, Mississippi, Utah, West Virginia, Montana, Indiana, Kansas, and others. These disparities in mail-in rejection rates within and outside the United States point to persistent challenges with servicing all voters and allowing them the opportunity to cast a valid vote, even though pro-voter access policies are in place.

Beyond 2020: The 2021 Election Reform Landscape and Voter Access

After the 2020 presidential election, state legislatures signaled that reforming election processes would be a top priority to safeguard elections and reduce the opportunity for fraud. As the National Conference of State Legislatures reports, many of the absentee voting policies deliberated in 2021 were temporarily enacted due to COVID-19. State legislatures, therefore, would have to decide whether they would retain them or let them expire.²⁸ In 2021, over 2,500 election policies have been considered in state legislatures, many of which aim to change multiple election processes, from voter registration, in-person, and mail voting to oversight of poll watchers and local election officials. As of Dec. 5, 2021, 275 of these legislative proposals had been enacted across the states, 27 had been vetoed, and 1,128 had failed to proceed through the legislative process.²⁹

²⁷ Rakich, Nathaniel. February 17, 2021. “Why So Few Absentee Ballots Were Rejected in 2020.” FiveThirtyEight: <https://fivethirtyeight.com/features/why-so-few-absentee-ballots-were-rejected-in-2020/>

²⁸ Zoch, Amanda. January 11, 2021. “2020 Legislative Action on Elections.” NCSL.org: <https://www.ncsl.org/research/elections-and-campaigns/2020-legislative-action-on-elections-magazine2021.aspx>

²⁹ According to the Voting Rights Lab tracker, a proposal has failed when it meets the following criteria: “It is voted down in a committee or on the floor; It does not meet a deadline to progress out of its initial committee(s) or chamber of origin and it is not eligible for carryover; It is not passed by the legislature prior to adjournment and is not eligible for carryover; It is vetoed and it fails an override vote or the vote is not held prior to the override deadline: <https://tracker.votingrightslab.org/how-to-use-this-tracker> .

In states with biennium or two-year sessions, bills introduced in the first year of the biennium that are still active upon adjournment are carried-over into the second year of the session. For example, all bills in Georgia that were still active at adjournment remain alive in their current stage (introduced, passed first chamber, etc.) and can be acted upon when the legislature reconvenes in 2022. In states that hold annual-only sessions, for example Colorado, there is no carry over and all active bills fail on adjournment.

Much emphasis has been placed on the anti-voter impact of many election law changes that were enacted in 2021, with voting rights organizations and the federal government raising concerns and filing lawsuits about policies that can disproportionately impact racial/ethnic minorities and voters with disabilities.³⁰ The high legislative activity around several election processes has raised alarms about the United States backsliding as a democracy.³¹ Given that 2020 demonstrated the positive impact of expansive policies on voter participation, some states amended their laws to further expand access, starting with absentee voting and early in-person voting. Prior to evaluating the 2021 state legislative landscape, therefore, and before labeling any election policy as “anti-voter access,” a closer look needs to be taken at how much the temporary policies deviated from the state election law landscape prior to COVID-19, and how 2021 compares.

I. Modifying Absentee/Mail-In and In-Person Voting in 2021

The 2021 state legislative session has been heavily criticized for revising processes based on unfounded concerns about rampant voter fraud in the mail voting process. Policies with potential anti-voter impact include Alabama’s law that changes the mailed absentee ballot receipt deadline from five days prior to election day to seven days prior and eliminates the postmark requirement, thus only counting mail ballots that arrive by election day (AL H 538). Whereas the election day deadline is common across the states, the policy is considered anti-voter access because it limits voters’ time frame to return their mail votes in future elections. Iowa amended its early in-person voting policy by reducing the number of early voting days from 29 to 20 (IA S 413). It is not clear how these policies address voter fraud, given that the same security protocols would apply when processing ballots that arrive after election day, or to check the eligibility of voters who turn out to vote early in person.

Georgia’s and Florida’s amendments to absentee/mail-in voting attracted national attention because additional steps were added to the process of requesting and casting an absentee/mail vote. Both states added the requirement that voters include their personal information (ID, driver’s license, or Social Security number) on their application and the absentee ballot (GA S 202 and FL S 90). Georgia also repealed the availability of online absentee/mail-in ballot requests, raising more concerns about the anti-voter access tone of its election legislation agenda in 2021.³²

Idaho amended its absentee replacement ballot policy and now prohibits local election officials from issuing a replacement ballot unless a voter received one due to an administrative error (ID S 1064). Texas, which imposes eligibility requirements for voters to qualify for an absentee (excuse), amended its requirements so that lack of transportation, sickness that does not render a

³⁰ U.S. Department of Justice. June 25, 2021. “Justice Department Files Lawsuit Against the State of Georgia to Stop Racially Discriminatory Provisions of New Voting Law”: <https://www.justice.gov/opa/pr/justice-department-files-lawsuit-against-state-georgia-stop-racially-discriminatory>

³¹ Sundaresan, Mano. Dec. 1, 2021. “Democracy is declining in the U.S. but it’s not all bad news, a report finds.” Npr.org: <https://www.npr.org/2021/12/01/1059896434/united-states-backsliding-democracy-donald-trump-january-6-capitol-attack>

³² Niese, Mark. Oct. 28, 2021. “Georgia election rule eliminates easy online absentee application.” The Atlanta Journal-Constitution: <https://www.ajc.com/politics/georgia-election-rule-eliminates-easy-online-absentee-application/ECFKJQX6FJABPH6ZF6TRHBL6M/>

voter in need of assistance at the polls, and working during voting hours do not qualify as valid excuses to vote absentee (TX H 3920).

According to the Brennan Center for Justice, 29 states amended provisions about absentee/mail-in voting.³³ Fourteen states adopted restrictions on mail-in voting, such as narrowing the application period (seven) and deadline to deliver a mail ballot (two), limiting assistance in returning one's mail ballot (eight), imposing stricter signature requirements (four), and changing the process and deadlines for requesting and receiving their absentee ballots (five).

Among the states that expanded access to mail-in voting (15), several retained the temporary measures that were adopted for the 2020 elections. California is one of the states whose temporary measure of automatically mailing voters an absentee/mail-in ballot became a permanent policy. Kentucky retained its suspension of absentee/mail-in eligibility requirement (excuse) by establishing in-person absentee voting without excuse.³⁴ Virginia amended its signature verification process, suspending strict witness requirements for elections held during emergencies, as well as requiring that voters who cast absentee/mail-in ballots be offered the opportunity to cure their ballots. Whereas Virginia let its temporary measure of automatically mailing absentee ballots expire, it enacted a series of policies to minimize the number of mail-in ballots rejected because of mismatched signatures, lack of witness signature, or an unsealed outer envelope.

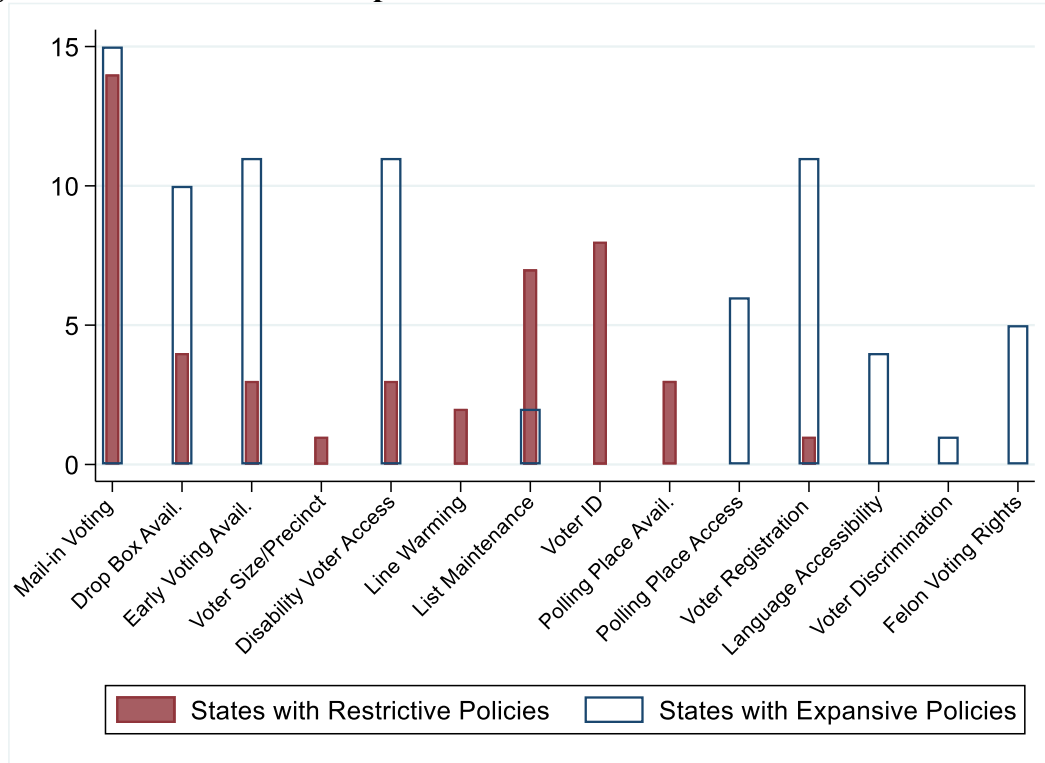
Focusing explicitly on election policies that affect how Americans can cast their ballots and their voter experience, Figure 1 plots the number of restrictive and expansive policies that have been enacted thus far across the states.³⁵ The figure is consistent with reports that states focused heavily on regulating the absentee/mail-in voting process. At the same time, more states increased access to in-person early and election day voting by expanding early in-person voting, increasing the number of polling places, allowing for former felons and people in jail to vote, and adopting additional policies to protect underrepresented voters, such as language minorities and voters with disabilities.

³³ Brennan Center for Justice. Voting Laws Roundup: October 2021: https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-october-2021#footnoteref2_y7lbtit

³⁴ In-person absentee voting is different from early in-person voting. In the latter, voters cast a vote using the voting technology available in polling places on election day, whereas in the former, voters vote on paper by completing a ballot and signing the absentee envelope.

³⁵ Source: Brennan Center for Justice: https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-october-2021#footnoteref2_y7lbtit

Figure 1. Number of States that Enacted Restrictive and Expansive Policies to Regulate Voting Methods and the Voter Experience in 2021



Source: Brennan Center for Justice

Restrictions on voting targeted practices that are generally considered pro-voter access, especially the availability and allocation of drop boxes, small voter-to-precinct ratio, and line warming. As Figure 1 shows, restrictive policies place caps on drop boxes and prohibit line warming (see Florida and Georgia). Seven states adopted voter list maintenance policies that voting rights organizations consider restrictive and risk increasing erroneous removals of eligible voters (purges). Many of these policies impose mandates to state and local election officials with respect to removing deceased voters during off-year elections. Concerns about the anti-voter access impact of these policies may stem from past evidence that voters have been removed erroneously because they were thought to be deceased but were not.³⁶

In 2021, at least nine states eased access to voter registration. Connecticut adopted a bill that will enact automatic voter registration and voter registration in high schools (CT S 1202). Nevada and Hawaii also adopted automatic voter registration (NV A 432; HI HB 159). On top of automatic voter registration, Hawaii will enact same-day voter registration (HI SB 548). As of March of 2021, Virginia allows 16-year-olds to pre-register to vote, thus facilitating access to voter registration among young first-time voters.

Despite the pro-voter access tone in the area of voter registration in 2021, a few states increased the burden to prospective registrants. One state (Montana) eliminated same-day registration,

³⁶ Goodwyn, Wade. Sept. 16, 2012. "Many Texans Bereaved Over 'Dead' Voter Purge," npr.org: <https://www.npr.org/2012/09/16/161145248/many-texans-bereaved-over-dead-voter-purge>

citing concerns that the policy resulted in long wait times at the polls and increased the burden for election administrators on election day.³⁷ Iowa changed its voter registration deadline from 10 to 15 days prior to election day (IA S 413). Research shows that voter registration activity peaks close to voter registration deadlines, and that same-day registration positively impacts voter registration and voter turnout.³⁸ In fact, in 2020, election day registration states experienced higher voter turnout than non-election day registration states.³⁹

A breakdown of the number of restrictive and expansive policies enacted in 2021 by states offers an interesting picture as to the overall pro-voter-access or anti-voter-access tone in election policy changes. As Figure 2 shows, most states enacted only restrictive policies, or expansive policies, based on the policies tracked by the Brennan Center for Justice. A few states enacted laws that reform several election processes, adopting restrictions and expansions. For instance, Kentucky restricted mail-in voting by shortening the absentee/mail-in ballot request period, restricted the ability of voters to get assistance in returning their ballots, and adopted measures that risk erroneous removals of voters from voter records. At the same time, Kentucky expanded early voting, eliminated absentee eligibility (excuse) and adopted a cure process, increased the number of drop boxes, and adopted additional protections for voters with disabilities.

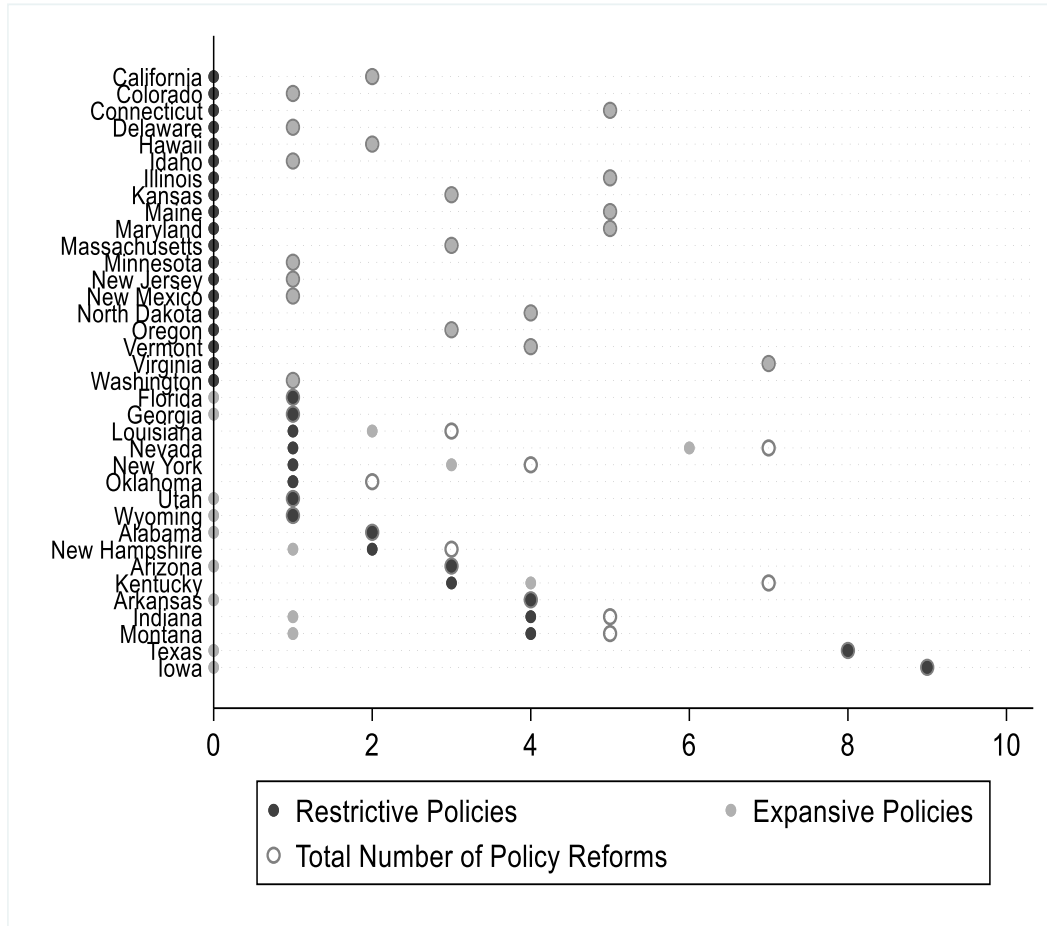
The two outliers in Figure 2 are Texas and Iowa, where restrictive policies were enacted across most of the policy items that regulate access to voting and the voter experience (as shown in Figure 1). Virginia is also an outlier, in that it revised most of these policies by loosening prior restrictions. Virginia is the only state that adopted two laws (S.B. 1395 and H.B. 1890) that establish a state policy explicitly prohibiting voter discrimination.

³⁷ Mayer, Audrey. March 11, 2021. "Montana House passes bill aiming to end same day voter registration." kulr8.com: https://www.kulr8.com/news/montana-house-passes-bill-aiming-to-end-same-day-voter-registration/article_8fcc8a00-82c7-11eb-a9a3-370398f7d1a6.html

³⁸ Merivaki, Thessalia. *The Administration of Voter Registration: Expanding the Electorate Across and Within the States*. Springer Nature, 2021.

³⁹ See Persily and Stewart III.

Figure 2. Number of Restrictive and Expansive Policies in 2021 Across the States



Source: Brennan Center for Justice

II. Beyond Absentee/Mail-In and In-Person Voting: Revising Election Processes in 2021

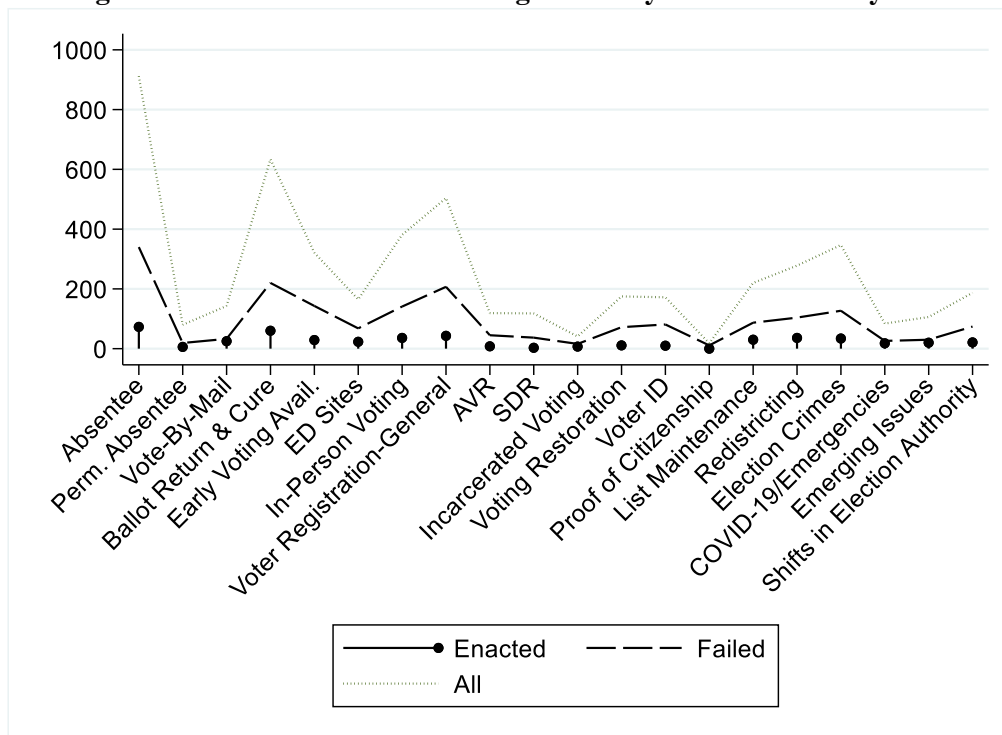
Aside from the Brennan Center for Justice, many organizations have made efforts to track state election reforms in 2021: the National Conference of State Legislatures, Ballotpedia, BillTrack.com, and the Voting Rights Lab (VRL), among others. The VRL database is among the most comprehensive, as it includes a detailed breakdown of all state legislative proposals across 11 election issue areas, which include topics outside of the voting process itself but that affect access to voting, the voter experience, and quality of representation.⁴⁰ The use of multiple data sources allows for both thematic and state-level comparisons to more thoroughly evaluate state legislative efforts to revise election policies in 2021.

As Figure 3 shows, 938 legislative proposals were submitted in 2021 to regulate the absentee voting process. The second dominant election issue was ballot return and cure (652), followed by the process of voter registration (512), such as allowing for youth pre-registration (Alaska), or removing personal information for certain categories of registered voters, such as their phone number. The in-person voting process and election crimes were also categories with a high

⁴⁰ Voting Rights Lab, Issue Areas: <https://tracker.votingrightslab.org/issue-areas>

number of proposals (387 and 360 respectively). According to the Voting Rights Lab, the in-person voting category includes legislation that regulates the administration of provisional ballots, the recruitment of poll workers, the allocation of voters per precinct, and the availability of language assistance. As reported by the Brennan Center for Justice, four states explicitly amended their state election laws to increase language accessibility (Colorado, Oregon, Virginia, and Vermont). Colorado, for example, establishes a multilingual ballot hotline to service citizens who do not speak English well.⁴¹ Vermont requires the secretary of state to collaborate with localities and other stakeholders on how to improve access for non-English-speaking voters.⁴²

Figure 3. Breakdown of Election Legislation by Status and Policy Issue



Source: Voting Rights Lab Tracker

The proposals that fall into the Voting Rights Lab’s election crime category involve penalties for “election-related conduct, as well as legislation aimed at preventing interference by election officials or third parties with the voting or ballot-counting process.”⁴³ Arkansas amended its state election code to define a “rebuttable presumption of intent to defraud” as possessing more than four absentee ballots.⁴⁴ Arkansas also explicitly penalizes anyone who violates its electioneering

⁴¹ CO H 1011: https://custom.statenet.com/public/resources.cgi?id=ID:bill:CO2021000H1011&cuiq=cebcefa4-252a-5dcb-aeb1-7fc87d570de0&client_md=4d5021610ae3e87f2cc2021c5ff377ac&mode=current_text

⁴² VT S 15: https://custom.statenet.com/public/resources.cgi?id=ID:bill:VT2021000S15&cuiq=cebcefa4-252a-5dcb-aeb1-7fc87d570de0&client_md=cbd59aaa315c06e2666ca99d2f2e35f7&mode=current_text

⁴³ The Voting Rights Lab, Election Crimes: <https://tracker.votingrightslab.org/issues/21ElctnCrms>

⁴⁴ AR H 1715: https://custom.statenet.com/public/resources.cgi?id=ID:bill:AR2021000H1715&cuiq=cebcefa4-252a-5dcb-aeb1-7fc87d570de0&client_md=c4dbfd43bf05b98a06d12436245eac67&mode=current_text

policy (100 feet from the polling place entrance) by creating a new misdemeanor offense.⁴⁵ Arizona places additional constraints on election officials by making a felony offense an intentional violation of the state’s policy on delivering mail ballots without the voter’s request.⁴⁶

The volume of legislative proposals indicates that in 2021 states were highly engaged in election changes, from voting processes and redistricting to issues that had not been salient in previous election years, such as the use of private grants to fund election administration, or initiatives to enact voting rights legislation to prohibit discrimination at the polls (emerging issues). As the Brennan Center for Justice reports (Figure 1), Virginia enacted a state voting rights act prohibiting discrimination at the polls, which is an example of what the Voting Rights Lab categorizes as an emerging issue. The Voting Rights Lab expands the Brennan Center’s analysis by cataloguing policies regulating the use of private funding. Thus far, 11 states (Arizona, Arkansas, Georgia, Florida, Idaho, Indiana, Michigan (resolution), North Dakota, Ohio, Tennessee, Texas, and Pennsylvania) explicitly prohibit local election officials from applying for and receiving private funds for elections.

States were also active in shifting the allocation of executive and administrative authority over elections, such as removing emergency powers from state election officials (shifts in election authority). These policies strongly underscore the interest among state legislators to exert more oversight, and potentially control, over the election process. Kansas, for example, eliminates the secretary of state’s authority to extend the mail-in voting postmark deadlines, which was among the temporary measures adopted by some states in 2020. Starting on April 30, 2021, the Montana governor is no longer permitted to suspend any election statute during emergencies without consulting with the state legislature.

Other examples in this category include Illinois’ delegation of rulemaking for the address confidentiality program away from the attorney general to the state board of elections. Indiana allows county election boards, rather than the state election commission, to authorize the use of absentee/mail-in voting in emergencies. These policies shift the responsibility over elections from one authority to another but do not involve interventions from the state legislature, which raised concerns about partisanship interfering with election processes.

The efforts by state legislatures to shift election authority from state election officials, as in the case of Georgia Secretary of State Brad Raffensperger and Arizona Secretary of State Katie Hobbs, have raised concerns about the ability of state legislatures to overturn election results. In Arizona, the state legislature proposed to overrule the state’s election results certification with majority rule. Other states, such as Texas, have attempted to adopt similar policies, which thus far have not succeeded.⁴⁷

⁴⁵ AR S 486: https://custom.statenet.com/public/resources.cgi?id=ID:bill:AR2021000S486&cuiq=cebcefa4-252a-5dcb-aeb1-7fc87d570de0&client_md=9abd45ec40d1a1c1f6e035b7be03db9b&mode=current_text

⁴⁶ AZ H 2905: https://custom.statenet.com/public/resources.cgi?id=ID:bill:AZ2021000H2905&cuiq=cebcefa4-252a-5dcb-aeb1-7fc87d570de0&client_md=e52f86b97811a938b7c5b3e2ab8639d9&mode=current_text

⁴⁷ Blake, Aaron. October 14, 2021. “How Republicans seek to make it easier to challenge – and even overturn – election results.” The Washington Post: <https://www.washingtonpost.com/politics/2021/10/14/how-republicans-look-to-make-it-easier-to-challenge-even-overturn-election-results/>

Overall, the tone of the 2021 state election law landscape is mixed; many states improved access, security, and the conduct of elections, while some took several steps backward, adding more steps in the voting process, and thus increasing barriers to participation. These diverse directions are not necessarily new, as states have always experimented with election policies. However, given the notable pro-voter environment and high turnout in 2020, such policies mark a notable departure from demonstrable evidence that when voters have options in the voting process, they will take them and will participate. Whereas focusing on states that place high restrictions on voting is important, it is equally important to highlight efforts to increase access to voting. It is also important to underscore that many efforts to significantly overhaul how elections are run and who is responsible for overseeing elections were unsuccessful.

Can Voter Education Restore Confidence in Elections?

The 2020 election illustrated the negative impact of election mis/disinformation on voter participation and attitudes about election integrity. A substantial number of Americans believe the election was stolen, despite the lack of credible evidence suggesting so.⁴⁸ Voters were repeatedly exposed to false narratives about how elections work, which offered distorted interpretations of standardized election procedures, such as counting mail-in ballots that arrive after election day or verifying the signatures on absentee/mail-in ballots.

As the Carter Center reports, foreign and domestic actors have penetrated social media and implanted erroneous narratives about how elections work.⁴⁹ This has placed the election community on high alert, because it makes the work of election officials difficult and erodes citizen trust in democratic institutions.⁵⁰ More important, it can empower individuals to express their misguided grievances through aggression both online and offline. Efforts to identify and combat misinformation are of paramount importance because they have implications about how elected officials discuss and deliberate on election policy, how candidates campaign for office, and how voters perceive the legitimacy of elections and the accuracy of election results.⁵¹

Lack of adequate and accurate information about how elections work, and how voters can remedy issues that arise in any step of the election process, are important drivers for low participation. Complex election structures and frequent changes in election policy create challenges for prospective and existing voters, many of whom do not navigate it successfully, and as a result are not able to cast a ballot, or else cast one that is later invalidated. The 2020 election underscored that the same factors contribute to the capability of bad-faith actors to penetrate the election information flow and flood it with mis/disinformation. As a result, voters are exposed to false narratives about elections and electoral outcomes, which have direct

⁴⁸ Durkee, Allison. April 5, 2021. "More Than Half of Republicans Believe Voter Fraud Claims and Most Still Support Trump, Poll Finds," Forbes: <https://www.forbes.com/sites/alisondurkee/2021/04/05/more-than-half-of-republicans-believe-voter-fraud-claims-and-most-still-support-trump-poll-finds/?sh=195ec5261b3f>

⁴⁹ The Carter Center, "The Big Lie and Big Tech: Misinformation Repeat Offenders and Social Media in the 2020 U.S. Elections.": https://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/the-big-lie-and-big-tech.pdf

⁵⁰ Stewards of Democracy Initiative webinar. Oct. 28, 2021: <https://evic.reed.edu/events/recording-now-available-from-evic-second-sdi-webinar/>

⁵¹ Pew Charitable Trusts. Nov. 11, 2021. "Election Officials Have Another Year to Fight Disinformation.": <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/11/11/election-officials-have-another-year-to-fight-disinformation>

consequences on individual behavior, from low propensity to vote to high propensity to express violence online and offline.⁵²

Several actors are involved in voter education and outreach, including state and local election officials, political parties and candidate campaigns, news organizations, and civil society. Such efforts aim to help distribute accurate information about election processes on an ongoing basis. However, as the 2016 and 2020 elections showed, restoring the flow of accurate information and eliminating the distribution and proliferation of mis/disinformation is no easy task. Research suggests that content moderation practices in social media platforms can help mitigate the spread of conspiratorial narratives⁵³, suggesting that the private sector can take meaningful steps to safeguard the ability of voters to seek and consume accurate information.

Voter education can play a significant role in restoring trust between election officials and voters. It can also help voters distinguish between false narratives and factual election-related information. According to the United Nations, election management bodies should be responsible for educating voters about elections, as well as their rights and responsibilities as voters.⁵⁴ In the United States, over 6,000 local election officials are responsible for running elections and informing every eligible voter about elections. Local election officials view voter education as a key responsibility, but despite having several tools at their disposal, they often lack the resources or expertise to use them. Existing literature shows that election officials use various tools to educate voters throughout the election cycle, from posting advertisements in local newspapers and running TV and radio ads, to conducting visits to community partners, to using social media. Whereas political campaigns and civil society engage in voter education too, it is often local election officials who step in to “set the record straight” and remind voters that their local election official is their trusted source of information.⁵⁵ Research on voter education and outreach shows that such efforts yield positive outcomes on voter behavior, such as expanding the pool of registered voters and increasing the rates of accepted mail ballots.⁵⁶ These findings have significant implications about the instrumental role local election officials can play in minimizing information gaps among all voters, as well as underrepresented communities, such as first-time voters, youth, and racial and ethnic minorities.

⁵² Cooper, Jonathan. Oct. 26, 2021. “Officials describe threats following 2020 election.” AP News: <https://apnews.com/article/donald-trump-business-arizona-state-elections-senate-elections-b0b60e45247760601552a3984af0414d>

⁵³ Harvard Kennedy School Misinformation Review. The Spread of COVID-19 conspiracy theories on social media and the effects of content moderation:

<https://pdfs.semanticscholar.org/9cbb/e218ed66f13cb9c588351b99cc4ab7f5015b.pdf>

⁵⁴ United Nations, Chapter 5. Voter and Civic Education:

<https://www.un.org/womenwatch/osagi/wps/publication/Chapter5.htm>

⁵⁵ Detman, Gary and Chuck Weber. April 13th 2020. “Watch out for misleading voter information in your mailbox.” Cbs12.com: <https://cbs12.com/news/local/watch-out-for-misleading-voter-information-in-your-mailbox>

⁵⁶ Merivaki, Thessalia. “Educating Voters Online: Local Election Officials’ use of Social Media During the 2020 Presidential Election.” American Political Science Association Annual Meeting, Seattle, WA (with Mara Suttman-Lea). 2021.

Moving Forward: The Stakes for Voter Access and Election Integrity

It is unclear whether states will resume their efforts to revise election processes at the same rate as in 2021. With the federal government deadlocked on adopting voting rights reforms, the legislative debates over voter access and integrity are likely to continue at the state legislative level. It is concerning that there is an increase in candidates for secretary of state who publicly support the “Big Lie,” potentially giving state legislatures a green light to amend procedures in such a way that can disadvantage voters and allow for bad-faith election outcome challenges.⁵⁷ Public opinion polls show a dramatic difference across partisan lines with regard to the legitimacy of the 2020 election outcome, and willingness among Republicans to punish candidates who denounce the Capitol riot of Jan. 6, 2021.⁵⁸ These findings may send important signals to Republican-dominated state legislatures, both in terms of framing election policy decisions around “integrity” and further restricting access to voting.

In these battles, the voters are left, in some ways, to fend for themselves, particularly given limitations on the ability of the U.S. Department of Justice to ensure that states do not infringe upon voters’ rights. It is also challenging for civil society to challenge states’ policies in court, especially as redistricting reform is currently dominating the political debate. The more the “Big Lie” circulates in the public domain, however, and is adopted by political candidates, the more it will become a mainstream claim, and thus harder to remove from the political discourse. This disadvantages voters because it will make it hard for them to trust the accuracy and reliability of information shared by their candidates or elected officials.

Local election officials, who remain at the fault lines of these election battles, are also losing, because trust in their role as administrators of elections is diminishing, while threats against their personal safety increase. In the absence of federal and/or state action to protect local election officials and implement consequences for those who harass them, it is likely that experienced local election administrators will opt to retire or resign, leaving significant gaps for inexperienced candidates who may also support the “Big Lie” to fill their positions. Another challenge for local election officials is to stop the misinformation flow, especially if the public has lost trust in them.

Despite evidence that voter access may be jeopardized in the future, there is also evidence that political candidates, activists, and civil society become more committed to advocating for pro-democracy and pro-voter access reforms by engaging national and state leaders in policy discussions, as well as investing in local-level efforts to inform and mobilize voters. These ground-level dynamics cannot be ignored because they have the potential to transform the election reform debates, especially after the 2022 midterms, when the political landscape at the federal level may look very different.

⁵⁷ Reid, Tim, Nathan Layne and Jason Lange. Sept. 22, 2021. “Special Report: Backers of Trump’s false fraud claims seek to control next elections.” Reuters: <https://www.reuters.com/world/us/backers-trumps-false-fraud-claims-seek-control-next-us-elections-2021-09-22/>

⁵⁸ University of Massachusetts Amherst, Dec. 28, 2021. Toplines and Crosstabs December 2021 National Poll: Presidential Election & Jan 6th Insurrection at the US Capitol: <https://polsci.umass.edu/toplines-and-crosstabs-december-2021-national-poll-presidential-election-jan-6th-insurrection-us> ; <https://polsci.umass.edu/sites/default/files/Rep%20Said%20Biden%20Legit%20Graph.pdf>