Bipartisan Policy Center

Logical Election Policy

—

REPORT AND
RECOMMENDATIONS
OF BPC'S TASK FORCE
ON ELECTIONS

January 2020

TASK FORCE MEMBERS

The Bipartisan Policy Center sought to create the Task Force on Elections with a diversity of perspectives. Members were selected for a variety of reasons to aid in this goal; among them are the partisan preferences of the jurisdictions they serve, the region of the country in which they live, and their perspective on election administration from either the state or local level.

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Introduction

Election policy in the United States is set at the local, state, and federal levels with intersecting, overlapping, and sometimes contradictory mandates. It is a unique system among the world's democracies that allows for different methods of registering and voting across the states in ways meant to best fit the local electorate. As a result, states vary in how they count, reconcile, audit, and certify vote totals, and in the priorities they set for reporting results publicly.

In the midst of the diversity in how states and localities conduct elections, there have been recent trends and advances in election administration that, if implemented successfully in all jurisdictions, could improve the voting experience for all Americans. The purpose of this report is to highlight these trends and advances and to suggest practical ways forward in implementing them.

The Bipartisan Policy Center Task Force on Elections, which produced this report, consisted of a diverse collection of state and local election administrators from across the nation. It was convened by BPC, based on the idea that the voice of the public servants who implement election laws—election officials—is often overlooked when state legislatures and Congress consider election reform. The loudest voices are often reform groups, which influence legislators with passionate and public appeals about the necessity of their favored reform to the health of American democracy. For these reforms to succeed, however, an additional voice is needed, which adds to how the intricacies of election law interact with real constraints.

Importantly, we do not consider the successful passage of legislation as

synonymous with the successful implementation of policy. Too often policymakers fail to consider the myriad administrative hurdles of implementation and the impacts on other areas of the election ecosystem. Many hurdles and impacts could be mitigated by looking to experts in their own backyards: election administrators.

Election administrators are charged with administering election laws fairly and without bias of any type. They may have personal preferences about how election laws should be implemented, and those preferences may even have their source in partisan values, but their job is to ensure equal access to a secure and sound electoral system. Local election administrators must balance the intricacies of election law with practical constraints, such as aging technology, facilities they do not control, and limited budgets.

This report from the BPC Task Force on Elections offers the group's reasoned, debated, and agreed upon vision of an ecosystem of election reforms that will improve the voting experience. It considers the reality that many changes to election policy require modifications upstream or downstream in the process. These reforms can be adopted across the country to varying degrees and with slight modifications to fit a state's laws and political culture.

The members of the BPC Task Force on Elections endorse the entire package of reforms contained herein. While some task force members may have hesitations about particular recommendations, the package was designed to be internally consistent; a task force member's endorsement of this report pertains to the entire package.

BPC will use this package of recommendations to educate policymakers at every level of government when they are considering reforms like those contained in the report. This report should become a resource for election administrators that serves as evidence that workable bipartisan election reforms do exist. It is not our intent to criticize states that do not yet have election processes that reflect our recommendations. Instead, our hope is the recommendations clearly outline the path to better policy and highlight other factors policymakers must consider when crafting reforms to avoid unintended consequences.

Recent Election Reform

There has been rapid evolution in the national voting process, election technology, and other procedures impacting the voting experience since the passage of the Help America Vote Act of 2002, or HAVA.[1] States modernized their voter registration processes to include online voter registration and, in some cases, to allow for a more automatic process consistent with the National Voter Registration Act of 1993. The butterfly ballots and lever voting machines of the 20th century are gone. Modern digital scanners are replacing antiquated optical scanners, and ballot-marking devices are providing a paper-based alternative to paperless direct-recording electronic devices. Rigid restrictions on absentee voting have given way to no-excuse absentee voting and universal vote-by-mail. Vote counting and auditing policies, aimed at providing an extra layer of confidence in the results, are among the most high-profile reforms over the past few election cycles.

These changes mean election administration has become much more complicated and sophisticated. It has also become more politicized. At the same time, the profession of election administrator has professionalized to the point where a jurisdiction's chief election official must now be an operations manager, communications professional, and IT and security expert.

With extensive changes to federal and state election laws came a proliferation of groups and individuals focused on advancing their preferred changes to the policies and procedures governing how Americans vote. In many cases these groups are singularly focused on legitimate and viable policy reforms, along the lines recommended by the BPC Task Force on Elections. However, in their zeal to advocate for their preferred policies, many of the thornier complexities are

often not fully considered. In these cases, involving election officials actively in the reform process would improve the policy's outcome.

The field of election administration benefitted from the work done by the 2013-14 Presidential Commission on Election Administration, or PCEA. The recommendations made by the PCEA and the accompanying best practices were praised widely by elected officials, administrators, and groups from across the political spectrum. Many recommendations have been implemented, by practice, regulation, or law, to the improve the voting process. But the election reform world has also rushed past many of the issues that were in the PCEA's sights.

WE ARE CONCERNED THAT EVER-INCREASING POLARIZATION AROUND THE VOTING PROCESS MAY EVENTUALLY LEAD TO A CRISIS IN CONFIDENCE ABOUT THE LEGITIMACY OF AMERICAN ELECTIONS. INSTEAD OF RATIONAL, BIPARTISAN POLICY ADVANCING ACROSS THE COUNTRY, WE FEAR A DAY IN THE NOT-TOO-DISTANT FUTURE WHERE THERE IS "RED" AND "BLUE" ELECTION POLICY BASED ON WHICH PARTY CONTROLS THE LEVERS OF POWER IN EACH STATE.

Election Ecosystem

Almost every reform creates ripples elsewhere in the election ecosystem. For example, consider the implications of a policy change that is more permissive of voting by mail where ballots are distributed by mail to all registered voters. Implementing such a system requires a state to do more than simply mandating that local officials mail a ballot to every registered voter.

Vote-by-mail requires highly accurate voter registration rolls, or many ballots will be sent to old addresses and returned as undeliverable. It is costly to send ballots to old addresses. To maintain more accurate voter rolls, state policymakers that prefer more voting by mail should also consider joining the ERIC program (recommendation 4) and bolster efforts to share new voter registration status with the previous jurisdiction of registration (recommendation 4a). To account for the fact that voter verification through mechanisms such as signature matching will become more important, policymakers should seek to collect additional points of voter information, such as scans of multiple signatures, to help minimize the rejection of legitimate mail ballots (recommendation 3).

Similarly, an increase in voting by mail changes how administrators process the vote for counting. As the number of vote-by-mail ballots increases, more time must be spent to verify eligibility, open envelopes, sort ballots into precincts, etc. All of these processes take time and may necessitate change to the timeline for when administrators can begin to process and count incoming ballots (recommendation 16). In the opinion of this task force, advocating for the expansion of voting by mail without considering changes to policy and

administrative practice, risks creating problems that outweigh the value of the favored reform.

Voting by mail is only one such example of reform that could impact the larger election ecosystem. Others include proposals to make the polling place more efficient, requiring certain types of audits, or speeding up election night unofficial reporting. Any one of these policy changes requires an evaluation of numerous other policies and practices that may seem at first blush to be irrelevant.

BPC Task Force on Elections

The Bipartisan Policy Center established its elections program in 2013 as an extension of the BPC Commission on Political Reform. As part of the elections program, BPC hosted the continuing work of the Presidential Commission on Election Administration (PCEA) after it submitted its final report to the President of the United States in January 2014.

The new BPC Task Force on Elections set out to explore aspects of the voting process from voter registration through certification and auditing of results. Our goal was to generate bipartisan policy recommendations that improve the voting experience.

The Task Force was structured around three working groups, each focused on one of three main topics: voter registration, casting a ballot, and counting the vote. BPC used initial meetings of Task Force working groups to identify discrete areas ripe for bipartisan agreement and to then discuss, deliberate, and develop workable recommendations for the attention of all 21 Task Force members.

The members of the Task Force met three times in person in 2019. We first gathered in Miami in April, followed by Chicago in July, and Las Vegas in October. The group conducted several calls between meetings. These meetings and calls yielded the recommendations outlined in this report.

The value in the recommendations of the BPC Task Force on Elections is in their nuance. They may not always appear different from recommendations made by other groups, individuals, or policymakers. However, this group agonized over

the very real barriers of implementation and sought to build workable policy that, if adopted, would benefit voters in every state. We encourage the reader to focus as much on the discussion of each recommendation as on the text of the recommendations themselves.

Voter Registration

The BPC Task Force on Elections focused on how to improve the ways voters are registered, including the availability of registration options, the verification of voter eligibility, and the maintenance of voter rolls to keep them accurate.

A properly functioning election system requires an accurate and secure list of eligible voters. Yet crafting and maintaining the voter registration rolls is not simple. The federal National Voter Registration Act of 1993, or NVRA, sets baseline registration requirements for states, though most states have moved beyond the NVRA, modernizing the process by adding online components and making the system more automated.

The trend toward using technology to improve voter registration is clear, but it comes with new risks and complications, including the need to protect the rolls from domestic or foreign interference. The promise of technology has also made voter rolls themselves more complex. Election administrators in many jurisdictions now require live connections to state databases to ensure the integrity of the voting process during early voting or for Election Day vote centers. For automatic voter registration (AVR), links between the voter registration rolls and other state agencies' databases, including the state driver's license authority, must be secure.

United States citizens performing an NVRA-covered transaction with a state's department of motor vehicles or other social service agencies should be seamlessly registered to vote or have their registration updated as a function of that transaction unless they opt out at the point of service.

The National Voter Registration Act of 1993 requires that most states make voter registration available at state departments of motor vehicles (DMV) and social service agencies.[2] This was revolutionary for most states at the time. While the law has been in place for more than 25 years, some state DMVs and social service agencies are failing to consistently provide this service.[3]

To be compliant with the NVRA, states must proactively offer voter registration or the ability to update voter registration for any individual completing a "covered transaction" at the DMV; that is, "applications, renewals, and change of address transactions regarding any personal identification document issued by a state motor vehicle authority."

The NVRA applies to 44 states and the District of Columbia.[4] States that had Election Day registration at the time the law was enacted are exempt from provisions of the law. The BPC Task Force on Elections understands that NVRA-exempt states may not be able to implement this recommendation because their DMVs and social service agencies usually do not currently perform voter registration services and are not required to do so.

This Task Force recommends that state DMV and other social service agencies provide voter registration services before the transaction is finalized, unless the customer declines. If the eligible citizen does not proactively opt out of the voter registration process at the point of service, they would be (automatically) registered to vote in the state.

In some states, this reform is called automatic voter registration (AVR), though we are not explicitly using that terminology in this report. While voters' information is proactively collected within an automatic voter registration process, election administrators or the agency collecting the data must verify all the information before any voter is added to the voter registration rolls.

These eligibility checks may include citizenship, age, residency, and identification. Conducting these checks takes time. For example, voters disqualified due to felony convictions are not automatically added to the list, nor are voters who have not yet reached the minimum legal voting age.[5]

The task force recommendation contains one important nuance. Currently, in many states an unregistered citizen performing a covered transaction as defined by the NVRA is added to the voter rolls only if the citizen agrees to be registered upon being asked about their interest in registering to vote. This is "opt-in" voter registration. The Task Force recommends an "opt-out" process, by which the eligible citizen is registered unless she or he expresses the desire *not* to be registered.

The NVRA was created in a paper-based world, which has become somewhat outdated in 2020. In fact, this recommendation is made in the hope of finally implementing the full spirit of the NVRA through what many consider to be an automatic process. With paper-based registration—even at the DMV—it can be difficult to keep rolls accurate, resulting in unnecessary inefficiencies in the voting process downstream.

THESE CHANGES WILL RESULT IN REDUCED PAPERWORK, MORE ACCURATE REGISTRATION INFORMATION, AND CLEANER LISTS. IT WILL ALSO ENSURE THAT VOTERS STAY REGISTERED AS THEY MOVE AROUND THE STATE. ADDITIONALLY, IN STATES THAT HAVE IMPLEMENTED A FORM OF AVR, THERE HAS BEEN A CONSISTENT AND SUBSTANTIAL INCREASE IN THE NUMBER OF CITIZENS REGISTERING TO VOTE.[6]

A more automated, electronic process also yields the benefit of a digital audit trail to confirm each step in a voter registration application's journey, from the voter all the way through to verification and acceptance by the election administrator. This process enhances security and helps to resolve questions and disputes with voters about when they registered to vote or updated their voter registration information.

This task force is thus, endorsing what some consider to be the "front-end" model of automatic voter registration. A "back-end" model exists as well, whereby voters are not given the opportunity to opt out of voter registration at the point of service. With the back-end model, the citizen's information is transmitted to the election administrator, who offers the voter an opportunity an opt out by mail. However, the behind-the-scenes process presents significant obstacles that make it the BPC Task Force on Elections' less-preferred option.

First, a citizen transacting with a DMV or social service agency may have valid reasons for using one address for that transaction and another for voter registration. One common example is college students, who can register to vote

at their campus address or retain their existing voter registration at a parent's address. A student registering his or her car in a town where the student is in college could result in the student's voting address getting changed, if the voter-registration process is handled entirely behind the scenes.

A point-of-service process that alerts the customer that the covered transaction will be used to update or generate a voter registration and allows the customer to opt out of the voter registration change, will mitigate this type of error in automatic voter registration. Moreover, transactions at other social service agencies are sometimes based on entire households;[7] it is not always clear, without proactive engagement to determine whose, if any, voter registration information should be changed.

Second, a back-end automatic process at social service agencies often faces both technical and legal obstacles. For example, legacy systems may allow freeform fields for addresses that are not compatible with other state systems. Unless these legacy systems are redesigned, it will be nearly impossible to match voter registration and state agency information in real time, at the point of the transaction. And many social service agencies operate on long timeframes for data entry of transactions that do not work well for voter registration purposes. Without quick access to data, election administrators are unable to implement a successful back-end automatic voter registration program because it can take many weeks to receive and verify the voter information; all the while, a voter assumes they are registered. State legislatures in these cases would have to make statutory changes outside the election code to ensure the back-end AVR process could succeed.

The BPC Task Force on Elections saw additional benefits to the front-end process and fewer technical hurdles. First, when an opt-out is provided at the point of service, states can set the effective date of registration as the date of the transaction, even if the voter is not immediately entered into the voter registration database. This date is important, because it means that a voter would be registered if the covered transaction happened before the voter registration deadline, even if the eligibility confirmation occurs after the deadline. States that use a back-end process usually give voters 21 days to opt out of voter registration by returning a mailer before they are officially added to the voter registration rolls.[8]

Additionally, a front-end process reduces the chance for voter confusion in states with "closed" or "semi-closed" primaries; that is, primaries that are restricted to voters who have previously declared a party affiliation via registration. In these states, voters must affirmatively choose to be affiliated with a party. In front-end models, this selection can take place at the point of service. In back-end models, voters must return a mailer with their party preference. The data from back-end states indicates that only a small fraction of

new registrants return these party-preference mailers. As a consequence, many new voters lack party affiliation in their voter registration profile. This becomes an issue particularly in closed-primary states, where voters risk being turned away when they show up to vote in a primary. Such voters likely would have chosen a party affiliation and therefore would have been eligible to vote in the primary under the front-end process.[9]

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RECOMMENDATION 1A:

States that have implemented back-end automatic voter registration processes should clarify for citizens any blackout periods between the covered transaction and the voter being added to the registration rolls and proactively provide information concerning alternative ways to register or update their registration on or before Election Day.

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Most states close their voter roles for new registrations a few weeks before an election. The period between this closing date and Election Day is the "blackout period" for new registrations during which individuals who register will not be eligible for the upcoming election.

In states with a back-end AVR process, new voters who initiate their registration via a covered transaction shortly before the voter registration closing date risk not being registered for the upcoming election. This extended blackout period is because individuals going through a back-end AVR process are not typically added to the voter registration rolls until the end of a determined period, typically 21 days, during which the election administrator mails a notice allowing the voter to opt out of registration.[10]

This blackout period during which a potential registrant can opt out is important. It is a window where a voter that interacted with a government services agency has reason to believe they were "automatically" registered to vote when in fact they are not yet on the rolls. When a transaction occurs within 21 days of a voter registration deadline for a given election, the voter will not be added to the registration rolls until after the election, effectively disenfranchising an otherwise eligible individual who may have had other options to register to vote in the state (i.e. – online, on paper, or at the election administrator's office in person). When citizens are able to opt out at the point of service, there is no need for an extended blackout period, as administrators do not need to wait for the voter to return a mail notice.

The BPC Task Force on Elections believes the benefits of a front-end system— fewer errors in registration intent, no blackout period, up-front party affiliation,

and more—outweigh those of back-end systems. Mainly, front-end systems are better-suited to get more people on the rolls than back-end systems. If states intend to implement a back-end process, they must communicate effectively with potential registrants about the extended administrative blackout period that a back-end process requires. Voters should be informed of alternative options for registration before registration deadlines, such as online voter portals, so voters intending to cast a ballot in an upcoming election can participate.

RECOMMENDATION 2:

States should set voter registration deadlines to the fewest days necessary to prepare for the election to provide constituents a reasonable opportunity to register to vote.

A modern voter registration system should aim to allow all eligible voters to participate on Election Day if they are qualified under federal and state laws. Voter registration deadlines provide states with minimum windows to determine voter eligibility and to deploy resources to conduct the election. In many states, voter registration deadlines were set before voter registration rolls were computerized.

Voter registration deadlines up to a month prior to Election Day are too onerous on voters.[11] They can be minimized, while still recognizing the need for election administrators, especially those in predominantly vote-by-mail states, to have as accurate a voter list as possible. Moreover, shorter registration deadlines have been shown to increase the number of eligible citizens registered to vote.[12]

Currently, 26 states have voter registration deadlines between 18 and 30 days prior to Election Day. Technological improvements in processing voter registration applications have reached the point where these older, early registration deadlines may be less necessary than in the past. Many states have begun shortening the time between the close of registration and Election Day: four states have a registration deadline between 1 and 15 days, while 19 states and the District of Columbia have Same Day and Election Day Registration.[13]

Technological improvements in processing voter registration applications coming through the DMV, social service agencies, and online have reduced the burden on election administrators,

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who still review all applications for eligibility prior to adding the citizen to the voter registration rolls. There will always be a "crunch time" in the two weeks prior to Election Day, but the rise of electronic systems has made it easier for administrators to confirm voter information more quickly.

An increasing number of states now provide some level of voter registration very close to or on Election Day.[14] While these options provide maximum convenience to the voter, they do raise administrative challenges for the election administrator, especially when it comes to eligibility verification and resource deployment.

For states considering moving voter registration deadlines closer to or on Election Day, one option is to allow voter registration exclusively at the office of the local election administrator or duly designated satellite locations. This would be short of processing new registrations at all individual polling places or early voting sites, many of which are not equipped with access to databases to confirm eligibility. Newly-registered voters within this window would be verified on-the-spot by the election administrator using real-time access to state databases. While the Task Force acknowledges this may not be the most accessible option for all voters, this failsafe option for late-in-the-process voter registration on Election Day should balance policymakers' access and integrity concerns.

RECOMMENDATION 3:

States should request additional points of contact, such as a voter's email address or cell phone number, during the voter registration process. These points of contact should not be publicly disclosable.

Election administrators may need to contact voters during the election process. Reasons include instances where a voter's signature on a vote-by-mail ballot envelope cannot be successfully verified or when a provisional ballot requires a voter to provide additional information for adjudication. In these instances, the administrator and voter must be in contact quickly or the voter's ballot may not count. That is why the BPC Task Force on Elections recommends states request, but not require, additional points of contact from their voters during registration.

The use of postal mail for communication with voters on tight deadlines can fail to serve the goal of maximizing the participation of all eligible voters. Current USPS service standards for election mail specify a delivery window of approximately three-to-five days.[15] To expedite critical communication with

voters, election administrators need access to additional contact information such as email addresses and cell phone numbers. In addition to allowing for faster communication, this contact information often remains unchanged for voters across many years, even while they may move multiple times during the same window.

However, it has also become clear Americans are wary of sharing their contact information, especially when it may be disclosable to candidates, political parties, or the public at large.[16] Therefore, collecting this additional contact information may be ineffective unless states also change state public records disclosure statutes to protect this information from disclosure. Election administrators need the voters' best contact information to do their jobs on the voters' behalf; voters are far less likely to provide it without this corresponding change.

RECOMMENDATION 4:

States should join the Electronic Registration Information Center (ERIC) program for effective list maintenance.

List maintenance encompasses both full and easy access to the rolls for voters, as well as robust eligibility verification to ensure the lists are clean and current. Prioritizing either side of list maintenance undermines full confidence that the voting process is fair.

Americans live in a highly mobile society. Estimates vary, but approximately 15 percent of Americans one-year of age and older move each year.[17] Often, the last thing they are considering during a move is voter registration status, particularly if that move was intrastate and may not have required a stop at the DMV. Knowing where voters live is essential for the smooth administration of elections. Population counts of precincts are important statistics for making sure enough ballots are printed where Election Day voting predominates. States that mail ballots to all registered voters must know where to mail those ballots. In all cases, voters should be given the ballot associated with where they live.

Although federal law guides the list maintenance process generally, implementation among states can vary. States check eligibility against their own DMV records, the Social Security Administration death master list, the National Change of Address database, and state-based court databases.[18]

Until recently, there was no secure and accurate way for states to share their voter registration and other data across state lines to check for potentially eligible voters now residing in their states or to identify voters who may have lost eligibility to vote by moving to a different state. That changed with the

creation of the Electronic Registration Information Center, or ERIC, which is a nonprofit run by its member states. ERIC member states can securely share data, such as voter registration rolls and driver's license lists to identify interstate movers—both those who should be removed from their former states and those who might be added to the rolls of their new states.

These participating states pay fees for membership and yearly administration of the program, but those fees are often less than they would have to pay to perform list matching on their own. Moreover, the improvements to state voter registration rolls due to ERIC membership results in cost savings in many other areas of election administration.[19]

ERIC is a success of intergovernmental coordination; it exists completely without involvement or appropriation from the federal government. The BPC Task Force on Elections strongly recommends that all states join this effective program.

RECOMMENDATION 4A:

States need a uniform way to systematically and securely share previous registration information to expedite a voter's removal from their previous jurisdiction in compliance with the National Voter Registration Act.

States must keep voter rolls accurate, which means regularized list maintenance is essential. One way to improve lists is through full adoption of ERIC. But states already ask for previous jurisdiction of registration when a voter newly registers to vote.[20, 21, 22, 23] The system breaks down when the information from the new jurisdiction of residence does not get back to the previous jurisdiction of residence to remove the registrant who has moved (in accordance to federal requirements).

The United States Election Assistance Commission (EAC) has compiled a complete database of local election administrators. The agency must maintain the list to communicate with local officials on a biennial basis to complete the Election Administration and Voting Survey. State and local election administrators should be able to access this information to perform the essential list maintenance function of notifying the previous jurisdiction of new residence. While the notification may not be sufficient under state laws to immediately remove a voter from the previous state of residence's voter registration database, it can begin the list maintenance process to verify that the voter is no longer eligible.

While the BPC Task Force on Elections did not settle on the best method

for sharing this information—it could be done by every local jurisdiction or handled at the state level—all task force members agreed that the voter's data must be kept secure. Considering efforts to interfere with voter registration rolls in 2016, any process that transfers voter registration data between states must prioritize security.

RECOMMENDATION 5:

States should implement an online voter registration system that facilitates registration in an accessible and secure manner.

In many ways, any debate about the efficacy of offering online voter registration (OVR) has been settled: voters expect to be able to register online. However, many policymakers fail to recognize the extensive benefits OVR offers for keeping voter rolls secure and accurate.

Online voter registration is more accurate for the voter and the administrator. When a potential registrant enters their data electronically themselves, it is far more likely to be entered accurately, compared to relying on clerks to enter data from a paper form, which is often hand-written and illegible.

State OVR systems are generally built to interact with state DMVs. Voters choosing to register online must already appear in state DMV records. This requirement adds an additional layer of verification of the voter's eligibility.

Voters can use state OVR systems at their convenience, rather than interacting with the registration process during a covered NVRA transaction or during a third-party registration drive. OVR provides the voter with all the resources needed to get themselves registered to vote quickly.

However, not all states have made the OVR process fully electronic. Some states, for instance, use an online webpage to gather data that is used to produce a paper document that the voter must then print, sign, and mail. This is not a true online process; it offers few of the voter convenience features of true OVR and is administratively inefficient. There are some systems that require a voter's signature if one is not already on file; PDFs can be viable backups.

Casting a Ballot

The ways many Americans cast their votes look different today than 15 years ago. The voting process has evolved to meet the needs of the modern electorate. Some jurisdictions have chosen to greatly expand the options available to voters prior to Election Day, compared to what was available historically. While more options mean more convenience for voters, these policies are not without costs.

The BPC Task Force on Elections analyzed how voters cast—or want to cast—their votes in a modern, American voting system. This set of recommendations yields prescriptions that will better serve the voters and that are implementable by election administrators. These topics include increasing voting by mail, early in-person voting, and improving polling place management.

RECOMMENDATION 6:

Voters should have the ability to receive a ballot by mail without being required to provide an excuse.

Voters should have multiple options when choosing how to vote. In fact, voters in most states have the option of voting in-person on Election Day, during an early voting period, or casting a mail ballot.[24]

There are benefits for voters who use vote-by-mail options to cast their ballot. One is convenience. Voters who receive their ballots through the mail have several options for returning their marked ballots. They do not have to physically appear at a prescribed location on Election Day, and this flexibility mitigates some barriers to voting.[25] The data has shown voting by mail is associated with higher turnout in some elections, typically those that do not include federal candidates.[26]

Voting by mail also provides benefits for election administration, as well. Jurisdictions with a significant percentage of in-person, Election Day voters would see a decrease in demand for resources at the polling place when more voters cast ballots by mail or at ballot drop boxes. That means fewer voters waiting in line on Election Day, if service levels are maintained at the precincts. BPC research has shown that millions of voters are still likely experiencing waits of longer than 30 minutes to vote on Election Day; this is an inconvenience that voters casting ballots by mail do not have to endure.[27]

States should consider how they expand vote-by-mail options. The BPC Task Force on Elections believes the transition should be incremental. A good starting point is to allow no-excuse voting by mail. The next step is allowing voters to sign up to receive mail ballots for every election, permanently. After gaining experience with permanent vote-by-mail lists, states are in a good position to consider a complete vote-by-mail system. The focus, though, should remain on providing access and convenience to voters while doing so in a way local election administrators can handle successfully.

Policymakers should remember that vote-by-mail ballots come with implementation hurdles. First, states that have already expanded voting by mail have had to invest in new technology or contracts for the processing of those ballots—both to send blank ballots to voters and to verify and count the returned ballots. The timeline to process the increase in vote-by-mail ballots will need to change. For jurisdictions not used to dealing with large numbers of vote-by-mail ballots, there will be a learning curve for election administrators.

Second, it is important to consider how early vote-by-mail ballots should be distributed to voters. Election administrators must also consider how to communicate return deadlines. Currently, some states require election administrators to mail outgoing vote-by-mail ballots to voters as late as the weekend before Election Day. Certainly, such a deadline sets up the voter for failure. In almost all cases, a voter would not have enough time to receive, mark, and return a ballot mailed by a local election administrator that late in the election cycle, even in states that accept ballots postmarked on Election Day. Current United States Postal Service delivery standards for election mail reflect a three to five-day delivery window each way for the ballot.[28]

Finally, voting by mail does add some risk into the election administration

process because ballots are outside the direct control of election administrators. Policymakers with a preference for vote by mail should consider enacting and enforcing laws to prevent and detect fraudulent activity.

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RECOMMENDATION 7:

States should allow voters to sign up to receive a ballot by mail for multiple elections with one application.

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States can choose to implement standing vote-by-mail lists along a continuum of options. In some jurisdictions, administrators refer to the "permanent absentee voting list." The terminology differs state to state and the meaning also varies.

In some states, the "permanent list" requires election administrators to mail one-time vote-by-mail applications to voters who must return the application before receiving a vote-by-mail ballot for a single election. Other states allow voters to sign up on the permanent list to receive a vote-by-mail ballot for all elections during a certain time period, usually one calendar year. Other states have maintained permanent lists that exist in perpetuity until a voter's registration status changes.[29] The BPC Task Force on Elections endorses a policy that allows voters to automatically receive a ballot by mail without excessive renewal applications.

There are administrative pros and cons to establishing a permanent vote-by-mail list. First, it eliminates the need for a voter to reapply for a vote-by-mail ballot ahead of each election, which will decrease the administrative processing for election administrators. It also means fewer vote-by-mail applications the election jurisdiction needs to send to voters—another cost savings. Moreover, states will be better able to align resources as they have more confidence about the total population of voters who may appear in person.

Second, a permanent vote-by-mail list lessens the possibility that a voter would forget to request their vote-by-mail ballot with enough time to receive, mark, and return it ahead of an upcoming election. The voters on a permanent vote-by-mail list would receive their ballots automatically, likely earlier in the domestic vote-by-mail process than if they must send in a one-time vote by mail application for each election. A larger window for voting by mail could push voters to return their ballots earlier in the process, which leaves more time for processing that can identify deficiencies in the ballot envelope, for verification, and allow for more curing of signature issues. It would also allow jurisdictions to process a higher proportion of the vote before Election Day, easing the after-voting crunch on counting, auditing, and certifying the outcome.

However, there are also administrative burdens associated with permanent vote-by-mail lists. First, voters may apply to receive vote-by-mail ballots only to decide to cast their ballot during early voting or on Election Day. This results in jurisdictions sending ballots to voters that will go unused, resulting in a cost issue.

The issue of cost is a valid concern when states transition to facilitating voting by mail. That is why the Task Force endorses, for states with permanent vote-by-mail lists in perpetuity, a trigger for removal of voters from the permanent vote-by-mail list for certain reasons.[30] Triggers could include showing up to vote in person or failing to vote for a certain number of election cycles. To be clear, removal from the permanent vote-by-mail list does not "purge" the voter from the voter rolls. Rather, it simply requires the voter to submit a new application to receive a vote-by-mail ballot. Without submitting a new application, a voter can still vote in person. The trigger allows states to maintain vote-by-mail for voters who are actually using it without committing limited resources to sending numerous unused ballots.

Over time, the BPC Task Force on Elections believes jurisdictions may be able to slowly reallocate resources to the voting methods their electorates prefer, which may mean fewer polling places or decreased early in-person voting where voting by mail is the clear preference. That could eventually save money.

Additionally, while some states have created advanced ways of tracking vote-by-mail ballots with the ability to cancel and reissue them quickly, other states have less efficient processes that may result in voters casting more provisional ballots at polling places, which need to be adjudicated after Election Day.[31] The back-end processing of ballots being returned by mail will also change as volumes of vote-by-mail ballots increase, and the complexity of running elections becomes more difficult when there are multiple methods of casting a ballot.

One final consideration for states implementing permanent vote-by-mail lists relates to their portability during voters' intrastate moves. Just as voters expect their voter registrations to be portable during intrastate moves, the BPC Task Force on Elections recommends that a voter's status on a permanent vote by mail list be maintained when they update their voter registration information within a state. Voters who add themselves to permanent vote-by-mail lists will become accustomed to casting their ballots that way. Transactions with the DMV or other voter registration updates should not break the connection to a permanent vote by mail list.

RECOMMENDATION 8:

States should expand the options for the return of vote-by-mail ballots to include secure drop boxes.

Vote-by-mail offers many conveniences for voters. However, a significant portion of voters who vote by mail also wait until late in the voting process to mark and return their ballots. Voters risk missing return deadlines in states where ballots need to be returned by close of polls on Election Day. Policymakers should provide voters with an alternative return option for vote-by-mail ballots to mitigate concerns over returning ballots late in the process via mail and because voters report greater confidence their vote will be counted as intended when returned through alternative means.[32] Regardless of the policy, election administrators should be encouraging individuals voting by mail to be cognizant of return deadlines.[33]

The BPC Elections Task Force endorses secure ballot drop boxes that ensure no one can access ballots except for designated election staff as an alternative for vote-by-mail ballot return. These drop boxes can be made available throughout jurisdictions at designated locations, depending on their size. Certainly, smaller jurisdictions may be able to offer one centrally located drop box. Jurisdictions with large populations can distribute drop boxes so they are widely available throughout the area.

Policymakers may consider an incremental scale for deploying ballot drop boxes, beginning with boxes exclusively at government buildings, and then expanding to other convenient locations within the jurisdiction. The BPC Task Force on Elections defers to local election administrators who know their electorates best to select locations. Moreover, policymakers should consider statutes that equate mischief or tampering with ballot drop boxes to that of tampering with the mail, in order to provide similar legal protections against ballot manipulation or fraud.

Another issue for policymakers to consider, as they expand vote-by-mail options, is how to handle vote-by-mail ballots that are dropped off in a neighboring jurisdiction within the same state. Some states allow voters to return vote-by-mail ballots in drop boxes outside of the city or county where they reside. Voters are often unaware of jurisdictional boundaries with respect to voting, and many cross these lines for work or other activities. With more widespread availability of drop boxes, it is likely that voters will deposit their ballot in a ballot drop box in the incorrect jurisdiction, and policymakers need to consider how to deal with these ballots.

RECOMMENDATION 9:

Voters with disabilities who choose to use the vote-by-mail process should have the option to receive a ballot electronically in a format with which the voter can interact and return without assistance.

Voters with disabilities have the right to vote with equal opportunity to all voters in their states, either in person, early, or through a vote-by-mail process. The vote-by-mail process—which is traditionally done with paper ballots—must be truly accessible to all.

States have developed electronic systems to make vote-by-mail ballots available electronically to overseas citizens. These systems have been in place since 2009 and have helped to significantly reduce the transmission time of outgoing ballots to voters. In some states, voters have the option to electronically return the ballot or even to interact with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) process by phone application.[34, 35, 36, 37]

The BPC Task Force on Elections envisions building upon this baseline of what is available today for military voters by creating vote-by-mail ballots that are accessible to voters with disabilities. These voters should be able to use their own assistive technologies to mark their ballots and return them.

RECOMMENDATION 10:

Voters should have the option of voting early and in-person for a period of at least seven days in advance of a federal election.

The BPC Task Force on Elections endorses the expansion of early voting, a convenience option for voters that allows them to cast a regular ballot in the same manner as they would at a traditional polling place on Election Day. Early in-person voting does not require a voter to complete the absentee or vote-by-mail application in order to participate. Early voting sites are traditionally located at local election administrators' offices or designated satellite sites throughout the jurisdiction that resemble traditional polling places, but often larger.

Early voting allows voters to mark and cast their ballots in a secure environment with the same protections offered to voters on Election Day at polling places. Ballots are handled only within the early voting location and

immediately secured. This method of voting does not require a ballot to leave the control of the election administrator, and voters do not have to return the ballot through the mail or in drop boxes.

The convenience for the voter is based on having a set number of days other than traditional Election Day to participate in the voting process. Counterintuitively, some research—including by the BPC/MIT Polling Place Lines Study—has shown that voters are more content waiting in longer lines during early voting than they are on Election Day.[38]

While there are clear benefits to states enacting early voting, the BPC Task Force on Elections also recognizes that very lengthy early voting periods may have diminishing returns and can be very costly. Satellite early voting sites need to be secured and rented for many days and staffing the sites is not easy. For example, when early voting was implemented in New York City in 2019, election administrators paid up to $2,800 for every poll worker who worked the entire early voting period.[39] It was a huge commitment of resources that administrators deemed necessary to successfully staff the early voting locations, but not all jurisdictions can afford this expense relative to other pressing needs.

> **Early voting allows voters to mark and cast their ballots in a secure environment with the same protections offered to voters on Election Day at polling places.**

States that have implemented such wide early voting windows—sometimes starting more than four weeks prior to Election Day—may consider amending their policies to align the early voting period with when early voting is used by voters. Election administration resources are very limited and spending on voting options with low usage may not be a net benefit when the resources can be allocated in more efficient ways.

Jurisdictions should also have the flexibility to explore the expansion of mobile early voting sites to serve remote or small pockets of voters during a subset of days within a state's overall early voting period. This reform may require policymakers to consider allowing for some early voting sites that are not open for the entire early voting period, which has been a point of contention for some policymakers.

However, mobile early voting in jurisdictions like Clark County, Nevada has been shown to provide convenience to voters who would otherwise be unable to access this option. There would be no way to maintain early voting sites in some areas of the county—which rivals the state of New Jersey in size—for the entire early voting period.

RECOMMENDATION 11:

States should set a minimum standard for the number of early voting sites.

The expansion of early voting sometimes runs into political concerns, especially in determining how many satellite sites to open. The placement of early voting locations is often at the discretion of local officials or overly limited by state law or both. The BPC Task Force on Elections believes that allowing local election administrators complete flexibility in making determinations about the number of early voting sites to use can also become problematic, where the decision to open additional early voting sites can become a political battle.

One option for states is to base the minimum standard for early voting sites on a formula. Using a formula that includes several inputs to determine the optimal number and location of early voting sites could help diminish political gamesmanship in determining how to implement this policy and make the whole decision more legitimate to all. The inputs used could include voting age population, election type, geography, availability of locations, ballot length, proportion of voters casting ballots through the vote-by-mail process, or any other inputs deemed relevant by the state.

States should continue searching for ways to ensure geographic variability in early voting locations. Some jurisdictions—like Orange County, California— have pioneered GPS modeling with heat maps showing which voters are choosing to cast ballots through early voting; while others are simply showing where the registered voters live throughout the jurisdiction. Keeping early voting sites near major retail centers is generally effective because those locations tend to be centrally located and near regular traffic patterns for a high percentage of residents.

RECOMMENDATION 11A:

Smaller, municipality-based election jurisdictions should be allowed to join together to offer shared, convenient early voting.

Early voting can be a significant burden for small jurisdictions, especially in states that administer elections below the county level. The BPC Task Force on Elections acknowledges that some of the jurisdictions in these states may initially struggle to implement a shared early voting site, especially when it

comes to providing voters with the correct ballot style and sharing costs and personnel across different budgets.

However, voters in smaller, municipality-based jurisdictions should have all the same options to cast their ballots as voters in large jurisdictions within the same state. Where helpful, smaller jurisdictions should be encouraged to find a convenient early voting site or sites that can be administered by multiple jurisdictions and used by all the jurisdictions' voters. This would provide a convenient option while mitigating burden on small jurisdiction election administrators.

RECOMMENDATION 12:

States should move toward acquiring voting systems that produce voter verifiable paper ballots. The voter verifiable ballot should be the ballot of record for any audit or recount.

There are two major types of voting systems used in American polling places: direct-recording electronic (DRE) and scanned paper. A new, hybrid technology, which combines the voter interface of a DRE with the scanning of paper ballots, is a ballot-marking device.

A DRE voting system tallies the votes on internal memory as voters cast their ballots on touchscreens. Some DREs contain a "voter verifiable paper audit trail" that may be usable in a recount. Others contain no paper backup, meaning the vote cannot be independently verified during an audit. Post-election checks of these DRE results merely constitute re-tabulating the data on memory cards.[40]

There has been national debate over the use of DREs since the Help America Vote Act of 2002 provided a cash infusion to states to upgrade their voting systems. DREs became a popular mode of voting in many jurisdictions across the country. One reason is that HAVA required accessible voting technology in each precinct, which at the time meant at least one DRE. Some states choose to use DREs for all voters rather than deploying a paper-based system and a DRE. Another purpose is that DREs offered a similar architecture to mechanical lever machines, only in electronic format.

However, in recent years, concerns have emerged about many DREs' lack of a voter verifiable paper back-up that can be audited. These are compounded by the fact that many of these machines have not been replaced since their original purchase in the early 2000s. Jurisdictions often purchase retired machines from other jurisdictions to harvest replacement parts, and operating

systems are no longer actively supported for some machines, leaving vendors to create patches on an as-needed basis, which means these systems can be more vulnerable to cyber threats.

Paper-based systems are generally composed of hand-marked paper ballots that are inserted into optical or digital scanners at the polling place. These scanners tally the vote in the polling place, but if there are discrepancies, the votes can be tallied by another scanner or by hand and eventually audited for accuracy.[41]

A more recent version of a paper-based system is a hybrid between a DRE and scanner that employs a touchscreen on which voters make their selections and produces a durable paper ballot for a separate tally. In these systems, the touchscreen device is not also performing the count.

Voting systems that produce an independent and voter-verifiable paper record provide greater confidence about election outcomes to voters and election administrators. Voter verifiable paper ballots can be counted by different vote counting technology or by hand—features not available on DRE voting systems. Paper can be independently audited to provide a statistical analysis about the accuracy of the vote count.

The BPC Task Force on Elections recognizes that although most DRE jurisdictions are already moving toward paper-based options, some jurisdictions have already invested so heavily in DRE systems, they are

committed for years. Election administrators in those jurisdictions may be comfortable with the capacity of their voting technology to record accurately and verify the vote. We encourage jurisdictions to consider ways to move toward paper-based systems employing durable paper records as their systems' expected service lives wind down.

Another consideration for policymakers is determining what can be used as the official ballot of record for counting and auditing purposes. In a paper-based system, the choice is clear to us. It is the voter verifiable paper ballot that serves as the ballot of record. In a DRE with a voter verifiable paper audit trail, a decision must be made to use that audit trail as the ballot of record for audits and recounts. And in a hybrid system where the voting machine can tabulate itself, and also produce a paper backup, election law should be clear about the ballot of record.

Finally, even in hand-marked paper ballot systems counted by in-precinct tabulators, choosing the ballot of record may not be clear cut in the future. Digital scanners employed by some paper-based systems can capture complete images of every ballot cast. There are promising potential uses for these digital ballot images, especially during citizen- and candidate-initiated recounts. Ballot images can be shared with the interested parties and the public, which can provide convincing evidence to either continue or end a recount or election challenge. The requester can review the entire population of ballots to determine whether a full recount is really warranted. The ballot images can result in a decrease in the frequency of recounts, which saves election administrators time and resources during the post-Election Day process. Policymakers will determine whether these images can be used for official audits or recounts in the future.

RECOMMENDATION 13:

Jurisdictions should implement electronic poll book check-in at all voting sites, supported by the states for smaller election jurisdictions.

Election administration benefits from the deployment of electronic poll books, or EPBs. First, they ease the implementation and administration of early voting and Election Day vote centers where voters can cast a ballot at any designated site in a jurisdiction. When voters have the option to cast ballots at numerous different locations—including during a period of early voting or in Election Day vote centers—all other locations need to know immediately that a voter has participated at one site.

Second, EPBs can speed up the check-in process by alleviating the need for a poll worker to locate the correct voter in a big roster of paper records.[42] States have begun implementing scannable options for check-in, such as on photo IDs like driver's licenses. The scanning of identification with an EPB also improves accuracy. This quick scan at check-in immediately identifies the correct voter. It means that a poll worker is less likely to check in and give credit for voting to the wrong voter—typically someone with the same or a similar name. When the wrong voter is checked in, it becomes much more difficult for the voter who was accidentally checked in to participate later in the day and undermines confidence in the election process. Moreover, checking in the wrong voter could lead to voters receiving an incorrect ballot style and casting votes on races for which they should not have a say.

Third, the use of EPBs facilitates last minute updates to the voter rolls both to include late voter registrants where voter registration deadlines end in the days leading up to and including Election Day and to include information on those voters who have already voted early or through vote by mail. Poll workers need this information to secure the process from any chance of double voting.

While many large jurisdictions have already incorporated EPBs at their voting locations, the reform can be cost prohibitive for smaller jurisdictions. Aside from financial assistance to purchase EPBs, moderate- and small-sized jurisdictions may need additional help to maintain a secure connection to the registration lists in states that require a connection throughout the voting process, especially during early voting and at vote centers.[43] In these cases, the BPC Task Force on Elections further recommends that states assist these smaller jurisdictions in accessing EPB technology.

RECOMMENDATION 14:

Jurisdictions should conduct data collection on election lines at all early voting and Election Day voting sites.

The U.S. voting experience is a constantly changing playing field. Voters can now cast ballots by mail, in person at early voting sites, and through apps available to members of the military.[44] Despite these recent developments, most voters nationwide still go to traditional polling places on Election Day.[45]

When turnout rises with no corresponding change in polling place capacity, voters become more likely to see long lines. Turnout during the 2018 midterm election was up 38% over 2014 and neared presidential election-level rates.[46] Big

increases in 2020 over 2016 will stretch additional polling places beyond their service limits.

The BPC/MIT Polling Place Line Study reports on the 2016[47] and 2018[48] elections provide evidence to policymakers that long lines can be studied—and brought under control—by using approaches and tools businesses have been employing for decades. Doing so starts with the collection of a small amount of vital information that measures line lengths during the voting process. It also requires jurisdictions to distribute polling place resources, especially check-in stations, based on expected arrivals.

The BPC Task Force on Elections endorses the collection of data for all jurisdictions in order to get a complete and accurate picture of polling place lines across the country. However, we also understand that very small jurisdictions may not experience long lines.

RECOMMENDATION 15:

Federal, state, and local policymakers must ensure that all polling places are physically accessible for voters with disabilities as required under the Americans with Disabilities Act of 1990 (ADA), and that they are able to interact with voting technology independently and privately in compliance with the Help America Vote Act.

Voters with disabilities must have the same options to vote either in person, early, or through a vote-by-mail process as any other voter. The in-person voting process at early voting sites and traditional polling places must also be physically accessible to voters with disabilities. States have made progress, but overall accessibility rates are far too low.

These requirements are not new; the ADA has been federal law for nearly 30 years. Yet, a recent report on the ADA accessibility of polling places showed that only 40% had an "accessible path of travel, defined as from parking to the voting station."[49] However, it is all-too-often the election administrator criticized for these deficiencies.

A recent report on the ADA accessibility of polling places showed that only 40% had an "accessible path of travel, defined as from parking to the voting station."[57]

Policymakers at the federal, state, and local level must make it a priority, backed by appropriations, to remedy inaccessible polling places. Election administrators simply do not control most of the sites available to them for voting purposes. They have limited options for locating polling places and early voting sites, and unless local and state legislators can work together to creatively expand the types of locations used for voting, election administrators will remain hamstrung in their ability to provide equal access to the polling place for voters with disabilities.

Counting the Vote

Elections are ultimately about who wins and who loses. The process by which states tally the votes and arrive at a final certification varies and reflects policy decisions based on political culture, voting method, and preference.

Voters expect an immediate accounting of the election results. Yet there are legitimate reasons why the official count takes several days to complete. For example, some states have long windows after Election Day to receive vote by mail ballots and to allow curing of signature issues after the close of polls.

In recent years, states have been expanding the auditing of election results, to bolster confidence in the legitimacy of the process. Even though technology can help speed up post-election auditing, these tasks still take time, thus expanding the window from Election Day to final canvass.

The BPC Task Force on Elections identified the following key recommendations for policymakers considering election reforms to counting, auditing, and certifying the vote.

Election administrators should be permitted to process vote-by-mail ballots beginning at least seven days prior to Election Day but must be prohibited from producing results.

The number of vote-by-mail ballots received by local election administrators increases with each cycle in states embracing this reform. However, despite these increases in the number of vote-by-mail ballots, some states still prohibit mail-ballot processing before Election Day, including prohibiting processing before the close of polls.

The BPC Task Force on Elections endorses allowing jurisdictions to process vote-by-mail ballots prior to Election Day. This would improve how the flow of vote-by-mail ballots is managed. It would also allow more time for the verification of the identity of vote-by-mail voters, including the curing of ballots that have problems associated with them. Earlier processing would also allow election officials to report unofficial tallies of vote-by-mail ballots more quickly on Election Day.

For the purposes of this recommendation, the Task Force considers processing of vote-by-mail ballots to include the following: verifying voter eligibility on the outer envelope, curing eligibility issues, sorting the ballots, opening the ballots, and preparing the ballots to go through tabulators.

What is clear is that processing vote-by-mail ballots is a huge undertaking for any jurisdiction, and it becomes a larger burden as states make vote-by-mail options more available. Without considering how the expansion of voting by mail affects the counting process, administrators can be left with conflicting requirements. They may be required to report all vote-by-mail tallies early in the canvassing timeline, sometimes as early as election night, while contending with more vote-by-mail ballots than they can reasonably process in one day. Requiring that the processing of vote-by-mail ballots only on Election Day is inefficient and time-consuming.

Just as early voting scanners and DREs tabulate in real-time during the early voting process, the technology that is used to process vote-by-mail ballots also tabulates results as ballots are processed. Vote counts produced during early voting are typically not available to election administrators until the close of polls Election Day, ensured by computer algorithms that restrict the sharing of vote counts prior to a certain date and time. The Task Force believes that this approach—allowing tabulation to occur prior to Election Day, but not be accessible until after—should also be used when processing vote-by-mail ballots. Real-time processing would reduce the administrative burden on

election officials on and after Election Day, thereby increasing the efficiency and speed of final vote tabulations.

RECOMMENDATION 17:

State election certification deadlines should be set no earlier than 14 days after a general election to provide time to complete pre-certification tasks.

States should allow extra time to get it right. While most elections end with a clear winner, there are benefits for election administrators and voter confidence to alter post-Election Day timelines to allow more time to count and verify the results.

The pressure on election officials—from the media and political candidates and parties—to quickly conclude the counting process by certifying results has led many states to implement extremely short timelines for post-election processes. These processes include canvassing, certifying, and auditing the vote. In some states, any recounts must also happen before the certification deadline.[50]

Short timelines have created a dangerous tension between speed and accuracy.

Short timelines have created a dangerous tension between speed and accuracy. In Florida, for instance, if a jurisdiction does not complete a recount before the certification date, the unofficial results reported previously will be certified instead.

The BPC Task Force on Elections believes that election administrators need enough time to complete all tasks in a manner consistent with widely accepted best practices. That means setting the certification deadline long enough after Election Day to complete all necessary tasks. Even this Task Force's recommended floor may not be enough in all states, depending on which tasks they need to complete prior to certification.[51]

RECOMMENDATION 18:

States should conduct pre-certification tabulation audits where all types of ballots are subject to review.

In recent years, greater attention has been directed at applying auditing methods to elections in order to provide confidence in the legitimacy of the process and the outcome.

There are several types of election audits and tests that can be conducted throughout the election process. For example, election administrators typically conduct logic and accuracy testing of their voting systems, defined in the Voluntary Voting Systems Guidelines glossary as "testing of the tabulator setups of a new election definition to ensure that the content correctly reflects the election being held (i.e., contests, candidates, number to be elected, ballot styles), and that all voting positions can be voted for the maximum number of eligible candidates and that results are accurately tabulated and reported."[52] Other audits focus on detecting inaccuracies in the vote tabulation. In these audits, some percentage of precincts or ballots are selected for auditing. The ballots are rescanned on different tabulators and compared against the initial results. These audits can provide some basis for confidence in the outcomes, even if they are only valid for the population of ballots audited.

> **It is clear to the Task Force that public confidence in election results requires auditing the election process.**

The BPC Task Force on Elections believes that policymakers should require administrators to conduct audits of the election process. The Task Force further recommends that audits be conducted prior to the certification of results, leaving time for established remedies should an audit find an irregularity. *In lieu* of a pre-certification audit, the Task Force also believes that policymakers could couple post-certification auditing requirements with flexibility to amend certifications if an audit produces a discrepancy.

As early as the 1960s, some states conducted *percentage audits*, which re-examine the ballots in a randomly chosen fixed percentage of precincts and compare them to the previously announced results. More recently, *tabulation audits* have been conducted. Tabulation audits ensure that the tabulation equipment counted and reported the vote accurately on the entire population of ballots cast, not only a random selection of precincts. To conduct these audits, though, election administrators must have a voter-verifiable paper record.

The risk-limiting audit, or RLA, is a type of tabulation audit. As defined by Democracy Fund's Jennifer Morrel in *Knowing It's Right*, "[a]n RLA is a post-election tabulation audit in which a random sample of voted ballots is manually examined for evidence that the originally reported outcome of the election is correct. If the originally reported outcome is incorrect, there is a pre-specified minimum chance that the audit will correct the result. The correction is made by performing a full manual tally. As its name suggests, an RLA limits the risk of certifying a contest with the wrong winner."[53]

Tabulation audits should include all types of ballots, including vote-by-mail, early, Election Day, and accepted provisional ballots. By including the entire universe of ballots in the audit, election administrators can provide the greatest possible assurance that tallying equipment functioned correctly. Even a tabulation audit like an RLA cannot confirm that all ballots were recorded 100% correctly; it is not a full recount. It is instead, a statistically sound way of providing confidence in the correct tabulation and reporting of the outcome. It does so in a manner consistent with the resource and time constraints election administrators face. Election administrators are piloting RLAs across the country and developing more efficient processes for both central- and precinct-count systems.

Any available type of audit comes with benefits and costs. For instance, while an RLA can include the entire population of ballots cast for accuracy, the statistically robust protocol for conducting an RLA is complicated even for content experts, and without civic education, these audits may lose some value in providing the public reasons for increased confidence. Conversely, while a percentage audit of an entire precinct is easier to explain, the results of the audit cannot be generalized to the entire population of ballots resulting in lower confidence in the accuracy of all tabulation.

It is clear to the Task Force that public confidence in election results requires auditing the election process. The Task Force did not endorse a specific method of audit, but it was united in belief that policymakers and administrators can foster a culture of auditing and testing that would improve confidence in the legitimacy of outcomes and the administration of elections. As part of this culture, election officials should extend auditing to registration databases, physical and cybersecurity procedures, ballot reconciliation protocols, and resource allocation tools.

RECOMMENDATION 19:

A post-election audit that finds significant discrepancies should lead to a process to correct the result, such as a recount.

If the goal of the audit is to catch discrepancies in the original tally and to ensure that the correct winner is called in a race, policymakers must establish a process by which an audit that reflects the possibility that the initial "winner" was incorrectly identified leads to a process to review and identify the nature of the inconsistency. If the error is due to the tabulation, then the audit should result in an expansion of the audit, including the possibility of a recount of all ballots cast.

For example, an RLA requires election administrators verify results on a certain number of specific ballots. A discrepancy revealed during this process would mean that the administrator would increase the number of ballots selected until a large enough statistical sample of all ballots has been reviewed to achieve the pre-determined risk limit. In other words, the administrators would keep pulling ballots until the confidence threshold is met and results can be confirmed. If escalating the audit reveals additional inconsistencies in the increased number of ballots checked, administrators should be able to begin a full recount.

The post-Election Day process includes many components that must be completed in a short period of time. Recommendation 17, which is that certification deadlines be set no sooner than 14 days after Election Day, is inspired largely by an understanding of what must be accomplished between Election Day and certification of the results. If serious irregularities are found during early stages of an audit process, election officials should have the flexibility to halt an audit before completion in favor of a full recount if one will be necessary to provide confidence in the outcome of the election. The timeline for completing recounts may extend past 14 days.

RECOMMENDATION 20:

States should allow sufficient time for voters to cure eligibility deficiencies in vote-by-mail-ballots, even if this period extends beyond Election Day.

Vote-by-mail ballots are typically marked and cast in an unsupervised environment and therefore require the identity of the voter be verified before the ballot can be counted. This verification is typically a comparison of the voter's signature on the vote-by-mail-ballot envelope with the signature on file.

Ballots are rejected when the voter's signature is either missing or cannot be successfully matched to a signature on file. However, nineteen states currently notify voters when there has been a deficiency in verifying their vote, offering a process through which the voter can cure the issue. (See Table 2 in the Appendix.) If the cure is successful, the vote-by-mail ballot is accepted for counting.

The BPC Task Force on Elections believes that all states should notify voters about verification issues and provide an opportunity to "cure" the deficiencies. The voter can cure verification issues in several ways: by coming into the election office's physical location in person; by submitting additional identifying documentation; or a signed affidavit verifying that the voter

was the one who signed the ballot envelope by mail or, in Colorado, in an application on your phone.[54] For vote-by-mail voters who return ballots early in the voting window, there may be enough time to cure eligibility issues before Election Day.

The BPC Task Force on Elections, in Recommendation 3, suggests that election administrators collect additional points of contact during the registration process. That recommendation, if implemented, allows states more ways to reach voters during the curing period to ensure their ballots are accepted for counting.

At the very least, all states accept vote-by-mail ballots if they are received by Election Day. (Some states accept ballots if they are postmarked by Election Day.) A large fraction of vote-by-mail ballots end up being received right as Election Day is approaching. If eligibility issues must be cured by Election Day, voters who cast these late-arriving ballots may have insufficient time to address issues, should they arise. The Task Force believes all voters, even those who return their ballots close to Election Day, should be given adequate time to address eligibility questions.

Voters who return their ballots by the deadline should have the same opportunity to cure their eligibility issues as voters who cast their vote earlier. To the Task Force, this means establishing a timeframe after Election Day to cure eligibility issues. Signature verification issues are one downstream consequence of expanding vote by mail. As more states adopt this convenience-based voting option, establishing protocols for proactively curing these eligibility issues will ensure more mail voters' ballots are counted.

RECOMMENDATION 21:

States should provide for a government-funded automatic recount that takes account of the margin between candidates and the number of votes cast.

It is imperative for confidence in election results that close elections be closely scrutinized to ensure that the correct winner is declared. To achieve this, close elections should be recounted as a matter of course. Although there is no consensus about how close an election should be before a recount is declared, there is a consensus on the Task Force that states should specify the degree of closeness that will trigger an automatic recount, funded by the government.

The number of states that provide for automatic recounts is surprisingly small—only 30 states provided for automatic recounts as of 2019, based on the vote margin between the two candidates receiving the highest number

of votes.[55] Forty-three states and the District of Columbia permit candidates or citizens to petition for a recount, but in most of these states, the petitioner is responsible for much of the expense of conducting the recount, unless the recount reverses the result of the election.[56]

Setting a policy for a government-funded automatic recount provides an additional public opportunity to ensure that ballots are counted accurately and can increase confidence in the outcome. Clear rules for triggering an automatic recount can resolve voter confusion and prevent accusations of election misconduct that can hurt voter confidence and call into question the integrity of the outcome. (There should, of course, also be a mechanism to call off an automatic recount where the losing candidate chooses not to pursue it.)

Currently, automatic recount margins across the U.S. vary between 0% (tie) and 1% of all votes cast, while the median recount threshold is 0.5%. The BPC Task Force on Elections believes vote tallying equipment is improving and highly accurate, therefore, setting a pre-determined margin for a recount of a quarter of a percent of total ballots or lower should be sufficient. (See Table 3 in the Appendix.).

Conclusion

All Americans must feel confident that the voting process is fair. The BPC Task Force on Elections sought to provide expert input of election administrators into the policy development discussion.

There are many groups doing excellent work to move the field forward and to improve the voting experience. The purpose of these recommendations has been to show that major election reform ideas often have a ripple effect, affecting other areas of election administration.

Incremental progress may not be as exciting as wholesale change, but in many cases, it may be the only type of reform manageable by election administrators who already must confront many challenges on limited budgets.

All voters would benefit from states adopting the package of recommendations in this report. We stand behind these recommendations and are ready to discuss them with policymakers across the country who seek to improve the voting experience.

Appendix

Table 1: Permanent Vote-by-Mail Policies Across States[57]							
State	Offers Permanent Vote-by-Mail	Permanent (Until Voter Voids)	Permanent with Consistent Voting Expectations	Permanent with Regular Action Required on the Voter's Part	Available to All Voters	Available to Select Populations	Source/ Additional Information
Alabama							
Alaska							
Arizona	●	●			●		Link
Arkansas							
California	●		●		●		Link
Colorado							
Connecticut	●			●			Link
Delaware	●	●				●	Link
District of Columbia	●		●		●		Link
Florida							
Georgia							
Guam							
Hawaii	●		●		●		Link
Idaho							
Illinois							
Indiana							
Iowa							
Kansas	●		●				Link
Kentucky							
Louisiana	●	●				●	Link
Maine							
Maryland							
Massachusetts	●			●			Link
Michigan	●	●			●		Link
Minnesota							
Mississippi	●	●				●	Link
Missouri	●			●			Link
Montana	●	●			●		Link
Nebraska							
Nevada	●	●				●	Link
New Hampshire							

State	Offers Permanent Vote-by-Mail	Permanent (Until Voter Voids)	Permanent with Consistent Voting Expectations	Permanent with Regular Action Required on the Voter's Part	Available to All Voters	Available to Select Populations	Source/ Additional Information
Table 1: Permanent Vote-by-Mail Policies Across States[57] (Continued)							
New Jersey	●	●			●		Link
New Mexico							
New York	●	●				●	Link
North Carolina							
North Dakota							
Ohio							
Oklahoma							
Oregon							
Pennsylvania	●	●					Link
Puerto Rico							
Rhode Island	●	●				●	Link
South Carolina							
South Dakota							
Tennessee	●	●				●	Link
Texas							
Utah	●	●			●		Link
Vermont							
Virginia							
Washington							
West Virginia	●	●				●	Link
Wisconsin	●	●				●	Link
Wyoming							

State	Has Curing Process	Number of Days After Election Day Curing Allowed	Relevant Laws
Table 2: Curing Laws Across States[58]			
Alabama	No formal curing process.	-	-
Alaska	No formal curing process.	-	-
Arizona[60]	Voter can cure inconsistent signatures by the 5th business day after federal elections and until by the 3rd business day after all others. Currently, ballots returned without a signature can be cured until 7:00pm on Election Day, though legislation prohibiting this practice is under consideration as of January 2020.	4 (mean of days allowed for federal and other elections)	ARS 16-550(A)
Arkansas	No formal curing process.	-	-
California	Voter has until 8 days after Election Day to address ballot deficiencies.	8	CA Elec Code § 3019
Colorado	Voter is notified within 3 days (2 if after Election Day) and has until 8 days after Election Day to address problems.	8	CRS 1-7.5-107.3
Connecticut	No formal curing process.	-	-
Delaware	No formal curing process.	-	-
District of Columbia	Allows curing through Election Day.	0	-
Florida	Allows curing through Election Day.	0	-
Georgia	Allows curing through Election Day.	0	HI Rev Stat § 15
Hawaii	Allows curing through Election Day.	0	-
Idaho	Voter is notified by mail within 2 days and has until 14 days after Election Day to address ballot deficiencies.	14	10 ILCS 5/19-8
Illinois	No formal curing process.	-	-
Indiana	Voter notified of ballot deficiency within 24 hours and then the voter has until the day before Election Day to address any concerns.	-1	-
Iowa	No formal curing process.	-	-
Kansas	No formal curing process.	-	-
Kentucky	No formal curing process.	-	-
Louisiana	No formal curing process.	-	-
Maine	No formal curing process.	-	-
Maryland	No formal curing process.	-	-
Massachusetts	The voter is contacted and may request a replacement ballot if time allows.	0	-
Michigan	Allows curing through Election Day.	0	MN Stat § 203B.121
Minnesota	No formal curing process.	-	-
Mississippi	No formal curing process.	-	-
Missouri	Allows curing through Election Day.	0	MT Code § 13-13-241; MT Code § 13-13-245
Montana	No formal curing process.	-	-

Table 2: Curing Laws Across States[58] (Continued)

State	Has Curing Process	Number of Days After Election Day Curing Allowed	Relevant Laws
Nebraska	No formal curing process.	-	-
Nevada	No formal curing process.	-	-
New Hampshire	No formal curing process.	-	-
New Jersey	No formal curing process.	-	-
New Mexico	No formal curing process.	-	-
New York	No formal curing process.	-	-
North Carolina	No formal curing process.	-	-
North Dakota	No formal process, but voter is generally notified before Election Day and given the chance to mend any problems.	-1	-
Ohio	Voter is mailed notice and has until 7 days after Election Day to address any issues.	7	Ohio Rev Code § 3509.06
Oklahoma	No formal curing process.	-	-
Oregon	Voter has until 14 days after Election Day to address ballot deficiencies.	14	ORS § 254.431
Pennsylvania	No formal curing process.	-	-
Rhode Island	Voter is mailed notice and has until 7 days after Election Day to address any issues.	7	-
South Carolina	No formal curing process.	-	-
South Dakota	No formal curing process.	-	-
Tennessee	No formal curing process.	-	-
Texas	No formal curing process.	-	-
Utah	Voters notified and have 7-14 days after Election Day to amend any problems.	7-14 days (before the official canvas)	UT Code § 20A-3-308(7)(a)-(c)
Vermont	No formal curing process.	-	-
Virginia	No formal curing process.	-	-
Washington	Voter has until 21 days after Election Day to address ballot deficiencies.	21	WAC 434-261-050
West Virginia	No formal curing process, however county clerks reach out to voters with ballot deficiencies 6 days prior to Election Day to address any issues.	-6 (6 days prior to Election Day)	-
Wisconsin	Allows curing through Election Day.	0	WIS. STAT. § 6.87(9)
Wyoming	No formal curing process.	-	-

Descriptive Statistics on Days of Curing Allowed (Election Day = 0)	
Mean	4.6
Mode	0
Median	0
Min	-6
Max	21

*Only states that allow curing are included in this analysis.

Table 3: Automatic Vote Recount Margins[59]				
State	**Percent Margin**	**Vote Margin**	**Comments**	**Relevant Laws**
Alabama	0.50%	-	Of total votes cast for the office or measure.	Ala. Code § 17-16-20
Alaska	0	-	Tie	Alaska Stat. §15.20.430
Arizona	0.10%	-	Cast for both candidates.	Ariz. Rev. Stat. § 16-661
	0.008%	-	If more than 25,000 votes cast	
	0.002%	-	If 25,000 votes or less cast	
Colorado	0.50%	-	Of votes received by top candidate or position.	Colo. Rev. Stat. § 1-10.5-101 et.seq.
Connecticut	0.50%	20	Not greater than 2,000.	Conn. Gen. Stat. §9-311a
Delaware	0.50%	1000	Statewide, whichever is less (per-centage or 1,000).	Del. Code tit. 15, §5702(e)
District of Columbia	1%	-	Of total votes cast for office.	D.C. Code § 1-1001.11
Florida	0.50%	-	Of total votes cast for office.	Fla. Stat. §102.141(7)
Michigan	-	2000	Statewide.	Mich. Comp. Laws §168.880a
Nebraska	1%	-	Of votes received by top candidate, if more than 500 votes cast.	Neb. Rev. Stat. §32-1119
	2%	-	Of votes received by top candidate, if fewer than 500 votes cast.	
New Mexico	0.25%	-	Of total votes cast (for federal or statewide office) or less than 1% of the total votes cast (for any state office).	N.M. Stat. Ann. § 1-14-24
North Dakota	1%	-	Of votes received by top candidate, primary elections.	N.D. Cent. Code §16.1-16-01
	0.50%	-	Of votes received by top candidate, general elections.	
	0.25%	-	Of total votes cast on ballot mea-sure.	
Ohio	0.25%	-	For statewide office.	Ohio Rev. Code Ann. § 3515.11
	0.50%	-	For non-statewide offices,	
Oregon	-	-	-	Or. Rev. Stat. §258.280
Pennsylvania	0.50%	-	For candidate who appears on every ballot statewide.	Pa. Cons. Stat., tit. 25, § 3154
South Carolina	1%	-	Of total votes cast for the office.	S.C. Code §7-17-280
South Dakota	0	-	Tie.	S.D. Codified Laws Ann. §12-21-16
Texas	0	-	Tie.	Tex. Elec. Code §216.001
Washington	0.50%	-	Less than 2,000 votes AND less than .5%.	Wash. Rev. Code §29A.64.021
Wyoming	1%	-	Of total vote count for that posi-tion.	Wyo. Stat. §22-16-109
Average	0.52%	1006.6667	-	-
Median	0.50%	1000.00	-	-

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9   Oregon Secretary of State, "Voting and Voter Registration." Available at: https://sos.oregon.gov/blue-book/Pages/state/elections/voting.aspx. According to the Oregon Secretary of State, because Oregon's primary is closed only those who have registered with a specific party may vote in that party's primary election. This requirement is complicated by the Oregon Motor Voter law (2016) which automatically registers voters at the DMV, but registers voters as nonaffiliated by default. In order to vote in a primary election, an Oregon voter would have to designate their political party choice in an OMV notification card that those automatically registered to vote at the DMV receive in the mail.

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