

# *BLUEPRINT FOR A* **STRONGER DEMOCRACY**

BEST PRACTICES AND POLICY PROPOSALS FOR NORTH CAROLINA TO IMPROVE  
VOTING, COMBAT CORRUPTION, AND PROMOTE GOOD GOVERNMENT



**SPRING 2023**

INSTITUTE FOR SOUTHERN STUDIES  
IN PARTNERSHIP WITH N.C. VOTERS FOR CLEAN ELECTIONS



WITH CONTRIBUTIONS FROM

Brennan Center for Justice  
Campaign Legal Center  
Common Cause North Carolina  
Democracy North Carolina  
Disability Rights North Carolina  
Fix the Court  
Forward Justice

League of Women Voters of North Carolina  
North Carolina Asian Americans Together  
North Carolina Black Alliance  
North Carolina Budget & Tax Center  
Southern Coalition for Social Justice  
Voters' Right to Know

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Founded in 1970, the Institute for Southern Studies is a nonprofit media, research and education center based in Durham, North Carolina. The Institute publishes the online magazine Facing South ([facingouth.org](http://facingouth.org)).

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Founded in 1999, North Carolina Voters for Clean Elections is a coalition of organizations dedicated to improving the vitality of North Carolina elections and defending the independence of the executive, judicial, and legislative branches from special interest influence ([www.ncvce.org](http://www.ncvce.org)).

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TABLE OF CONTENTS

INTRODUCTION..... 4

SECTION I: IMPROVE VOTER REGISTRATION AND LIST MAINTENANCE..... 5

    Election-Day Voter Registration..... 5

    Online Voter Registration ..... 7

    Automatic Voter Registration ..... 9

    Voter Registration List Maintenance ..... 12

    Displaced Voters..... 14

SECTION II: ENSURE VOTING ACCESS AND PROTECT VOTING RIGHTS ..... 15

    Student Access ..... 15

    Voters with Felony Records ..... 17

    Election Day Holiday ..... 19

    Voter Intimidation ..... 23

    Voter Challenges ..... 28

    Literacy Test for Voting ..... 30

    Language Access..... 31

    Mail Voting ..... 33

SECTION III: STRENGTHEN ELECTION INFRASTRUCTURE ..... 33

    Election Funding ..... 33

    Election Officials..... 36

    Election Administration ..... 38

    Public Access & Trust In Elections ..... 39

SECTION IV: DEFEND AGAINST ELECTION SUBVERSION ..... 41

    Fair Elections ..... 43

    Contested Elections ..... 44

    Election Disinformation ..... 46

    Election Audits ..... 47

SECTION V: PROMOTE FAIR REDISTRICTING AND EQUAL REPRESENTATION..... 49

    Fair Maps..... 49

    Popular Vote State Compact..... 51

SECTION VI: HEIGHTEN TRANSPARENCY AND COMBAT CORRUPTION ..... 53

    Disclosure Laws and Good Government..... 53

    Coordination Laws..... 55

    Voters’ Right to Know – Money Behind Elections ..... 57

    Voter-Owned Elections..... 59

    Overturn *Citizens United* ..... 61

    Citizen Legislature Reform..... 63

SECTION VII: ENSURE FAIR AND IMPARTIAL COURTS ..... 65

    Nonpartisan Judicial Elections ..... 65

    Judicial Ethics Reform ..... 66

    Judicial Nominating System ..... 69

    Judicial Disclosure ..... 71

ENDNOTES..... 75

# INTRODUCTION

Democracy and the freedom to vote are in grave danger. In recent years, the COVID pandemic, new voting restrictions, rampant disinformation, threats to voters and election officials, and even violent attempts to overturn election results have caused people across North Carolina and the country to view the state of our democracy with fear and alarm.

Despite these threats, people across North Carolina have risen up to defend and expand our democracy. In 2020, record numbers of voters turned out for the presidential election, while state leaders — often working across party lines — partnered to ensure voting ran smoothly. In 2018 and 2022, election officials, voting advocates, and community leaders collaborated to ensure elections were safe and secure, allowing turnout to reach its highest levels in almost three decades.

North Carolina has a proud history of expanding voting access, improving elections, and strengthening democratic institutions. Two decades ago, lawmakers – with a degree of bipartisan support – implemented pioneering measures such as same-day voter registration during early voting, a robust early voting period, strong disclosure laws for election spending, and voter-owned public financing of council of state and judicial elections.

Today, our state is a cautionary tale of the threats facing our democracy. Popular programs our state once embraced, like voter-owned elections to curb Big Money, have been eliminated, and our state has been slow to adopt common-sense measures such as full online voter registration. Efforts to expand access, such as enfranchising North Carolinians involved in the criminal justice system, have advanced only through legal battles. Chronic underfunding of basic infrastructure has paired with growing threats of intimidation and subversion to make this a critical moment for our democratic institutions.

North Carolina can once again become a leader in strengthening democracy. The following report — a partnership with contributions from 15 leading state and national organizations — outlines a series of best practices to defend and expand our democratic institutions. These initiatives cover a broad range of issues, from improving voter registration systems to improving access to the ballot, combating corruption, and ensuring fair courts.

Most of the proposals in this report have been successfully used elsewhere — in Democratic and Republican states, often with bipartisan support — and have a proven track record. Others are forward-thinking ideas that, if carried out in our state, would re-establish North Carolina as a pro-democracy leader. According to polls, these measures enjoy broad public support across partisan and ideological lines.

This report is a collaborative effort, and not all of the individual authors will agree with the details of every policy recommendation. But together, they represent a broad and compelling set of options for lawmakers, advocates, and everyday North Carolinians to consider.

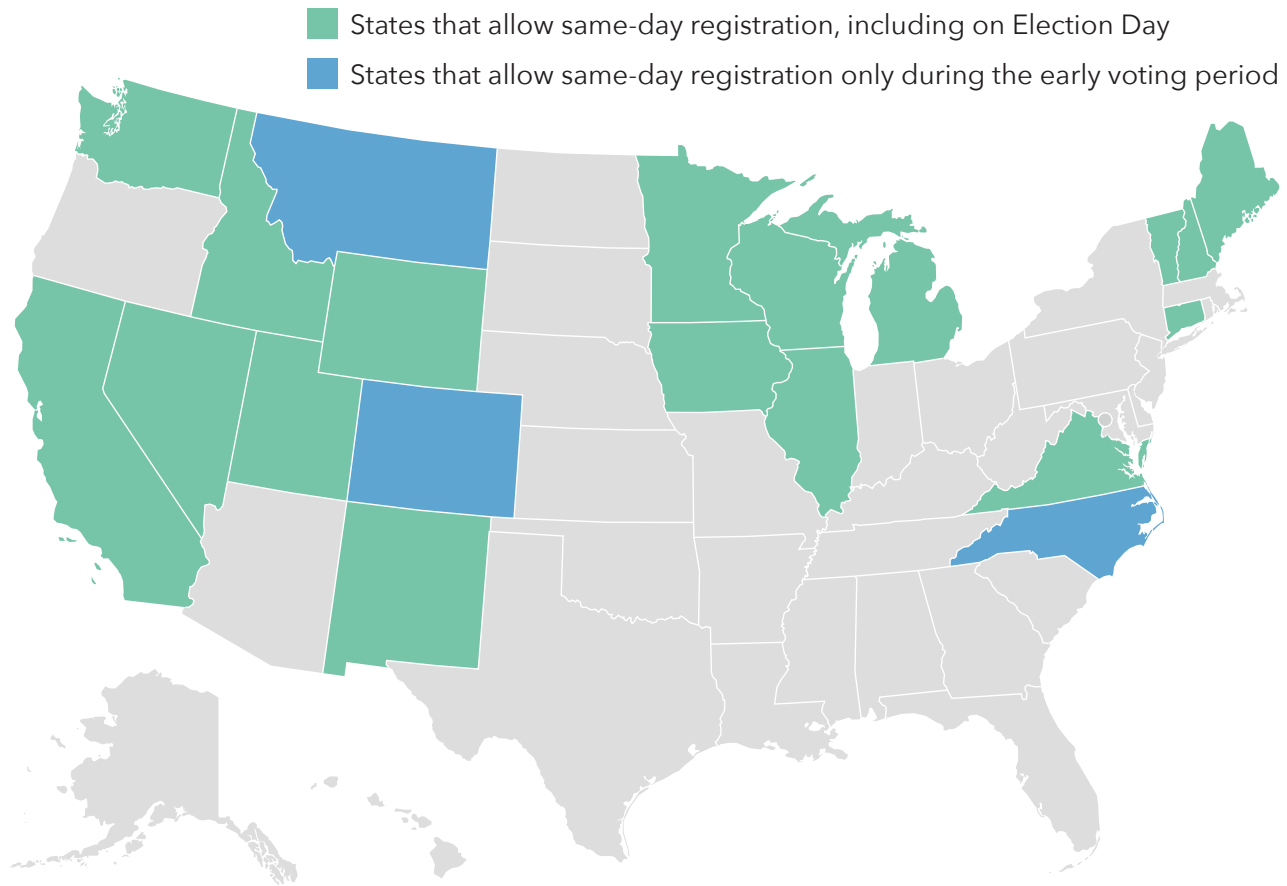
Democracy shouldn't be a partisan issue. Together, we can find workable solutions that bring us closer to the ideal of a state truly of, by, and for the people.

**– Benjamin Barber, Caroline Fry, Chris Kromm, and Melissa Price Kromm**

# SECTION I: IMPROVE VOTER REGISTRATION AND LIST MAINTENANCE

## IMPLEMENT ELECTION-DAY VOTER REGISTRATION

### States that Allow Same-Day Registration



MAP: Olivia Paschal & Ben Barber, Institute for Southern Studies, February 2023 • Source: National Conference of State Legislatures

## BACKGROUND

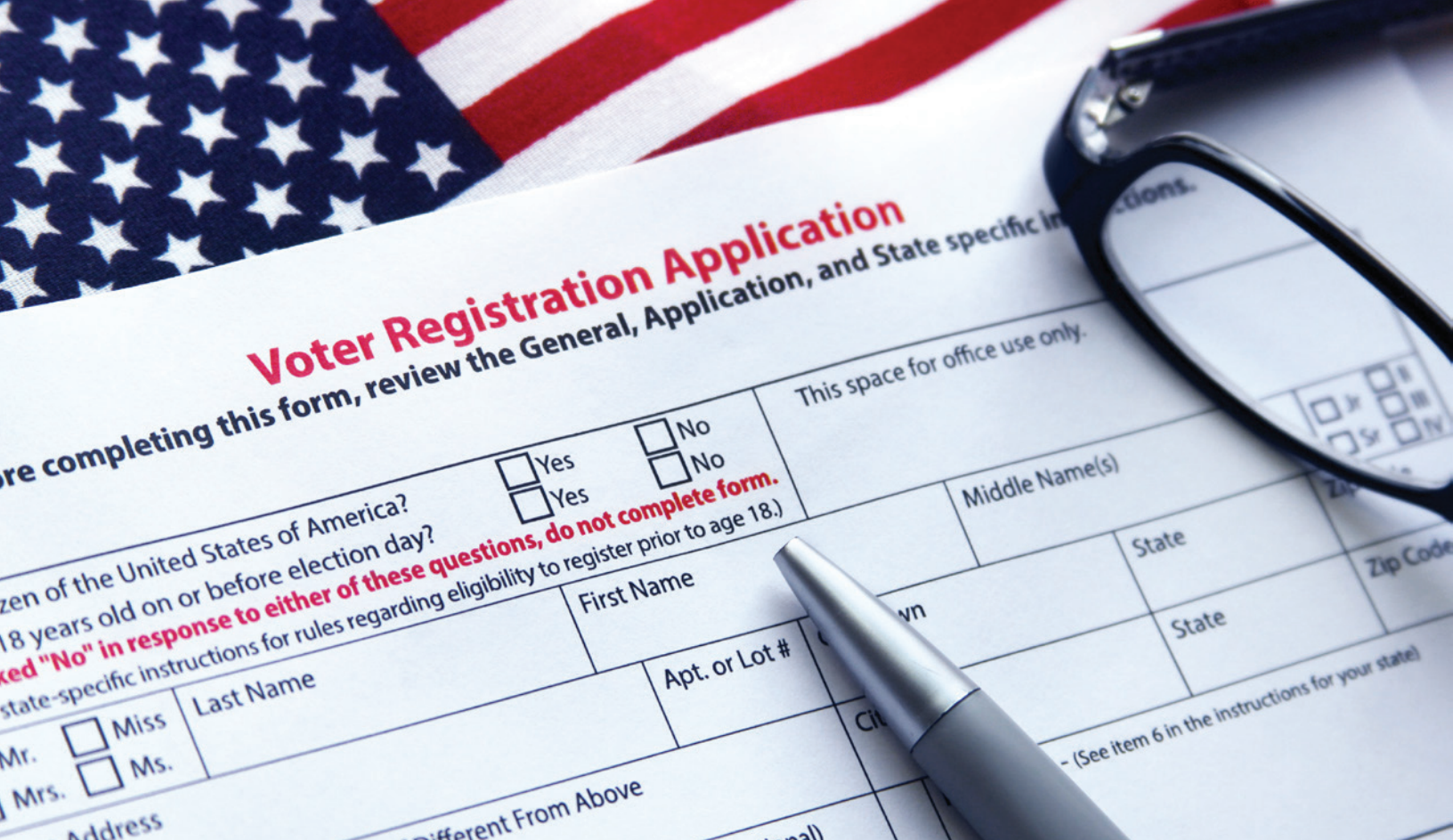
Every election cycle, millions of people are unable to participate in the electoral process because of a registration problem. Census data from 2020 found that 4.9 percent of registered voters nationally did not cast a ballot in the last presidential election because of a problem with their voter registration.<sup>1</sup> Many voters go to the polls on Election Day planning to cast their ballot, only to find out that their registration is no longer valid because they've recently moved or changed their name. Administrative errors can be a factor, too: In 2020, for example, 11,000 voters in North Carolina were mailed prefilled voter registration forms with incorrect information less than a month before the election, according to the North Carolina State Board of Elections.<sup>2</sup>

Voting advocates believe that allowing voters to register and vote at the same time on Election Day will ensure that every eligible voter who wants to participate can. North Carolina currently allows for same-day voter registration during the early voting period, a reform passed in 2007. Same-day registration has proved to be immensely popular with North Carolina voters: In 2020, more than 114,000 voters used same-day registration, with Democrats, Republicans, and unaffiliated voters using it almost equally.<sup>3</sup>

## RECOMMENDATIONS

Building on North Carolina's success with same-day registration during early voting, the state could expand voting access for all eligible voters by implementing same-day registration on Election Day, also known as Election Day Registration (EDR).





As of 2022, a total of 20 states plus the District of Columbia have enacted EDR, according to the National Conference of State Legislatures.<sup>4</sup> The experience of these states has shown that full EDR has many benefits:

- **Increases voter turnout.** States that allow EDR consistently lead the nation in voter participation. According to a report by Nonprofit VOTE and the U.S. Elections Project, eight of the 10 highest turnout states in 2020 had same-day registration. Average voter turnout was over 7 percentage points higher in states with EDR than in other states.<sup>5</sup>
- **Minimizes inaccurate voter rolls.** EDR gives voters a chance to fix problems with their voting eligibility due to moving, administrative errors, and other factors, just as same-day registration does during early voting in North Carolina. This will be especially useful to young voters, low-income voters, and voters of color, who tend to relocate more than other groups.
- **Reduces the need for provisional balloting.** Provisional ballots are offered to voters who believe they are registered, but whose names do not appear on the voter roll. Allowing eligible voters to register and vote on Election Day helps reduce the need for provisional ballots and saves election officials the time and expense of handling and confirming provisional votes.

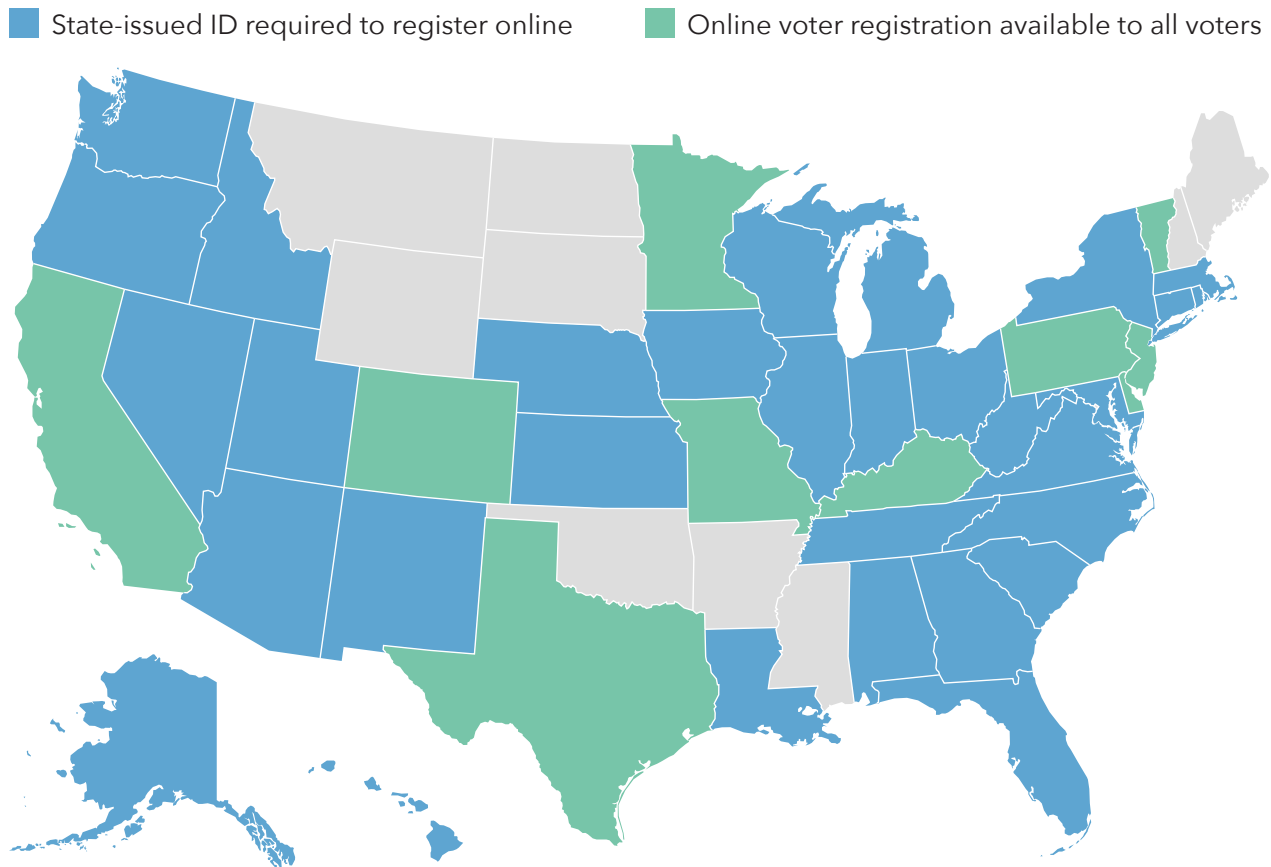
North Carolina's experience with same-day registration during early voting has shown that allowing eligible voters to register and vote at the same time can be done efficiently, and with proper safeguards to verify voter identity.

North Carolina has already made important strides in boosting voter participation by allowing same-day registration during the early voting period. Expanding this policy to include EDR would be both a practical and significant next step toward ensuring all eligible voters have a fair chance to take part in the democratic process.

– Benjamin Barber, *Institute for Southern Studies*

## IMPROVE ONLINE VOTER REGISTRATION

## States with Some Form of Online Voter Registration



MAP: Caroline Fry & Chris Kromm, Institute for Southern Studies, February 2023 • Source: State Election Officials

## BACKGROUND

In recent years, an increasing number of states across the South and nationwide have established Online Voter Registration (OVR) systems, which save money and paperwork, promote efficiency, and improve the accuracy of voter rolls. As of September 2022, a total of 42 states and D.C. offer OVR, according to the National Conference of State Legislatures; of those online registration states, 10 are in the South.<sup>1</sup>

Electronic registration mitigates many of the common issues that occur when registering to vote with paper registration, including data entry errors and missing information. OVR also reduces the financial burden on states by reducing the need for paper, printing, postage, and staff time. According to a 2015 report from the Pew Charitable Trusts, most states spent less than \$300,000 to establish OVR systems.<sup>2</sup> In 2020, the North Carolina State Board of Elections partnered with the state Department of Motor Vehicles to offer **limited** OVR services. Voters with a North Carolina driver's license or DMV-issued ID are able to participate in this system. That year alone, 71,576 North Carolinians registered to vote online for the first time. And as of November 2022, 179,734 new voters registered through this online portal.<sup>3</sup>

While successful, advocates noted that North Carolina's online registration experiment was limited because it was available only to those DMV customers with a state-issued driver's license or photo ID, which disproportionately affected students and people of color. While OVR has proved to be a popular and effective reform to improve election systems, experiences from other states have highlighted important issues to be aware of in implementing online registration programs. One of the major concerns of current OVR systems is that they are not accessible to all eligible voters. For example, many households — especially in rural areas — do not have

access to fast, reliable internet. Advocates have also noted that not all state online registration websites follow accessibility guidelines for internet users with disabilities. Additionally, not all state websites are available in multiple languages; Alabama's website, for example, is accessible only in English.<sup>4</sup>

Advocates have also brought attention to the fact that many states' online voter registration systems do not capture the same information that paper forms do. For instance, filling out the race, gender, and ethnicity sections on forms is not required to register to vote, but most people tend to fill out these boxes on paper forms, which helps keep track of voter demographic information. Voting rights organizations argue that this has an impact on voter outreach efforts and the ability to make sure that local and state governments are not enacting voting policies that have racial bias.

## RECOMMENDATIONS

North Carolina should expand on its limited but successful implementation of Online Voter Registration in 2020. Various measures could help expand the state's OVR process to ensure it is accessible and more effective, including:

1. Broaden OVR to make it available to everyone who wants to be able to register electronically without being limited to those who are DMV customers.
2. Ensure that the same information that is seen on paper registration forms is included in online registration, so that valuable demographic data can be captured.
3. Increase efficient data exchange between state election officials and DMV for the purpose of voter registration.
4. To ensure online voter registration can be fully implemented, legislation should remove the existing requirement for a "wet ink" signature for voter registration and allow an electronically captured image of the voter's signature to be considered a valid signature for registration purposes.
5. Establish OVR portals that are independent of DMV offices.
6. The OVR website should be accessible to all users with disabilities and available in multiple languages where appropriate.

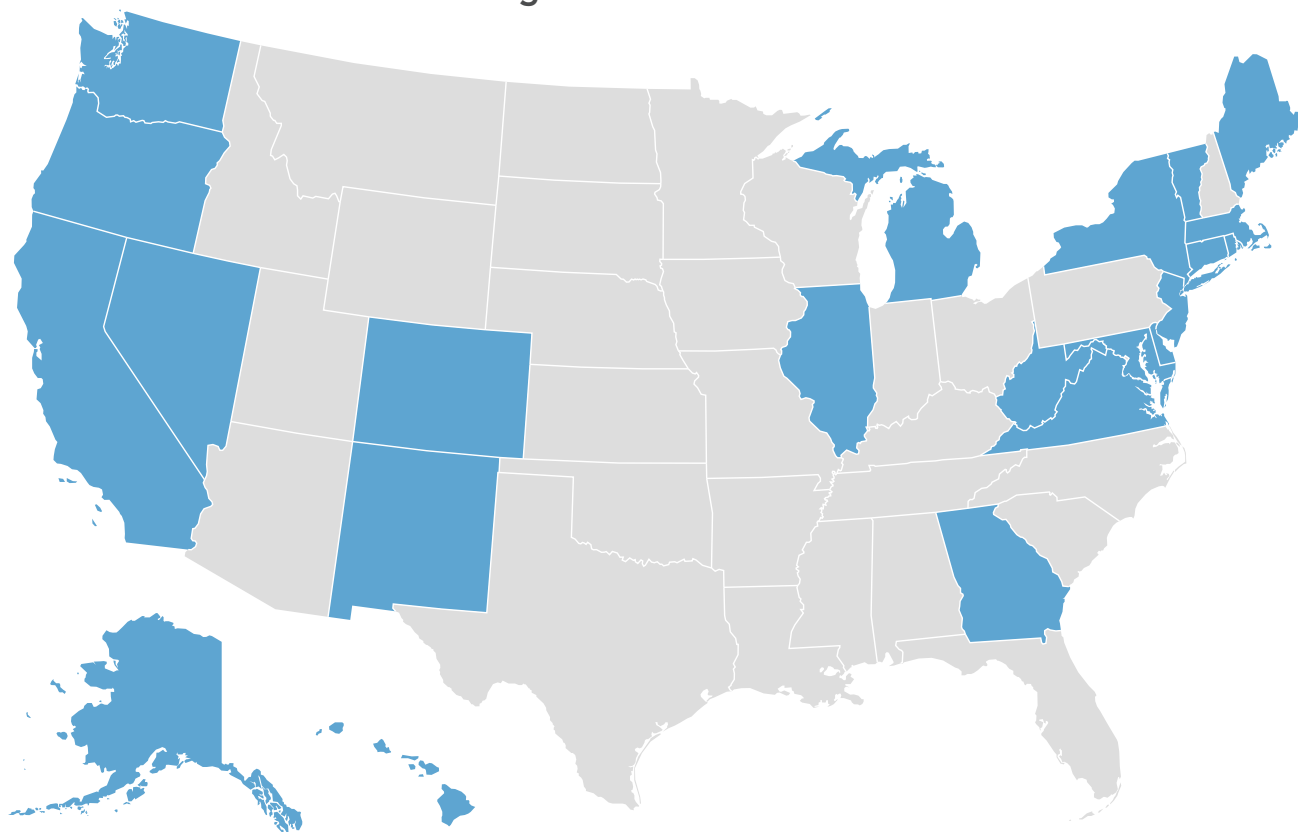
The COVID-19 pandemic revealed how critical it is to have online registration systems accessible to all eligible voters. North Carolina's use of OVR in 2020 and the years following shows that it can be a workable and cost-effective approach to voter registration. The state now has an opportunity to expand on the success of this program and ensure OVR is accessible to all who may want to use it.

*– Benjamin Barber, Institute for Southern Studies*



# IMPLEMENT AUTOMATIC VOTER REGISTRATION

## States with Automatic Voter Registration



MAP: Olivia Paschal, Institute for Southern Studies, February 2023 • Source: Ballotpedia / NCSL

## BACKGROUND

In addition to Election Day Registration and Online Voter Registration, a third approach to creating a more efficient, cost-effective, and accurate voter registration system is Automatic Voter Registration (AVR).

AVR has two main components. First, all eligible citizens are registered to vote automatically when they interact with a government agency, unless they decline. Second, their voter information is updated whenever they interact with government agencies, such as the Department of Motor Vehicles (DMV).

AVR has rapidly grown in popularity in recent years. Currently, 22 states and Washington, D.C., have enacted AVR,<sup>1</sup> with overwhelmingly positive results. Oregon, which in 2016 became the first state to enact AVR, saw a boost in voter turnout of 4.1 percent between 2012 and 2016,<sup>2</sup> and Georgia added more than 681,000 voters to their rolls in the three years after the state implemented AVR.<sup>3</sup> In Washington, D.C., voter turnout was actually higher among those who were automatically registered.<sup>4</sup>

A recent study indicated that front-end AVR systems produce on average a 2.9 percent increase in registration and a 1.1 percent increase in voter turnout, while back-end AVR systems produce on average an 8.1 percent increase in registration and a 3.3 percent increase in voter turnout.<sup>5</sup>

Increased voter participation and turnout is just one of the benefits of AVR. Other benefits to states include:

- **Saving money.** AVR leads to lower costs and increased efficiency, especially if registration is streamlined and electronic registration is replaced by paper-based systems.
- **More accurate voter rolls.** Records are automatically matched, and information-sharing eliminates the

possibility of election officials misreading handwritten information on paper voter registration forms.

- **Up-to-date records.** Voter records are kept current and contain fewer errors, as they are automatically updated whenever citizens change their information at the DMV or other government agencies. In Oregon, more than 265,000 inaccurate records were removed within the first six months of the AVR program.<sup>6</sup>

AVR also promotes election integrity by ensuring that only eligible voters are automatically registered. Most, if not all, AVR interactions will be with agencies that already verify residents' citizenship status, such as the DMV or the Department of Health and Human Services (DHHS). If citizenship status is unknown for any applicants, those voters would be required to affirm their citizenship before inclusion in the AVR process. A similar process would apply for residency and age requirements, which will ordinarily also be established through the agency interaction. Thus, only eligible voters will be included in the AVR pool.

## RECOMMENDATIONS

North Carolina would significantly benefit from joining the growing number of states that use AVR. In deciding on an AVR system, there are two primary considerations: which agencies will be part of AVR, and whether to use a "back-end" or "front-end" approach to registering voters.

### Covered AVR Agencies

The best AVR programs nationally use multiple agencies where citizens can register. In North Carolina, a good starting point would be to include at least the state DMV, which already registers many voters, and the DHHS, which administers Medicaid and SNAP services. The bill can also create a pathway for additional agencies to administer AVR so long as they meet certain requirements, including verification of citizenship status. Colorado has successfully used AVR through its Medicaid offices, which is similar to North Carolina's DHHS office.

### Models for Automatic Voter Registration

There are two primary forms of AVR: "back-end" AVR, and "front-end" AVR. The "back-end" model has the highest rate of proven success, ensures greater participation in the AVR process, and avoids user errors. In 2020, Colorado transitioned from a front-end AVR process to a back-end AVR process, a change that roughly doubled the rate at which unregistered DMV customers registered to vote.<sup>7</sup>

**Back-end AVR:** The "back-end" approach automatically begins the voter registration process for all eligible individuals interacting with the agency (after excluding those ineligible based on citizenship, age, or residence), and gives voters the opportunity to opt out via a mailer. Evidence shows that back-end AVR systems register a higher percentage of eligible voters and result in more accurate records than front-end AVR systems. Oregon, which implemented back-end AVR in 2015, has seen its electorate increase in size and become more diverse. Since implementing the system, Oregon moved from 31st in state rankings for its percentage of people of color registered to vote to the second highest rate in the country.<sup>8</sup> Moreover, back-end systems are designed to primarily rely on agency records rather than voter attestations to determine eligibility, and thus reduce user error.

**Front-end/Opt-in AVR:** The "front-end" approach gives eligible individuals the opportunity to opt out of being automatically registered to vote at the time of their agency transaction. In front-end AVR systems, the state largely relies on individuals' attestation that they are eligible to vote, unlike back-end AVR systems, where the state checks voters eligibility using information that the state already possesses. The front-end AVR system's reliance on an individuals' attestation that they are eligible to vote increases the chance for errors. Front-end AVR also adds a step to the registration process, which many individuals may skip for the sake of time. Back-end AVR avoids that problem.

### Protecting Abuse Survivors

In North Carolina, anyone can obtain a voter's registration record, including their address.<sup>9</sup> North Carolina's AVR implementation should include an option for survivors of domestic violence to keep their addresses private. North Carolina's voter database includes more personally identifiable information than any other state in the country, so the option to keep that information private should be integrated into the state's AVR process.<sup>10</sup>

The North Carolina Attorney General's Office already has an Address Confidentiality Program in place to keep abusers from discovering the addresses of survivors of sexual assault.<sup>11</sup> More than 990 people currently participate in the program.<sup>12</sup> Lawmakers could take steps to ensure that all of the voter registration information of anyone who participates in the Address Confidentiality Program, including their assigned voter precinct, remains confidential when they register to vote through the state's AVR system.

### **Limitation on Penalties for Automatically Registered Individuals**

Under North Carolina law, a person who is ineligible to register to vote but does so may be charged with a Class I felony.<sup>13</sup> If North Carolina adopts AVR, the law should make clear that a person who is ineligible to register will not face a criminal penalty if they are registered through the state's AVR system, unless they intentionally take voluntary action to register knowing they aren't eligible.

*– Danielle Lang and Lata Nott, Campaign Legal Center*

# VOTER REGISTRATION LIST MAINTENANCE: STOP ERRONEOUS VOTER PURGES

## BACKGROUND

In North Carolina, the State Board of Elections (NCSBE) and county boards of elections (CBOEs) maintain a complex database of every registered voter in the state. This list contained more than 7.4 million North Carolinians as of October 2022.<sup>1</sup> Like any database, the “voter rolls” must be constantly maintained. An accurate database ensures that voters can cast their ballot without problems, reduces administrative burden, and guards against election malfeasance.

Examples of this database maintenance — known commonly as “list maintenance” — include:

- A new voter registers for the first time
- A registered voter updates their information (such as address or party affiliation)
- A registered voter is removed (due to death, a felony conviction, or moving out of state)

Each year, thousands of North Carolinians are removed from the voter rolls. Many of these voters were removed because they failed to vote in four consecutive statewide elections and did not respond to a mailing from their CBOE asking to “confirm” their voter registration. These removals occur in the spring of every odd-numbered year. In 2021, North Carolina removed nearly 400,000 voters using this process.<sup>2</sup>

### Removing Eligible Voters via List Maintenance

The most serious problem with North Carolina’s list maintenance process is the removal of eligible voters from the voter rolls. These could be voters who did not vote in several elections and did not receive or respond to a confirmation mailing from their county, or voters who were incorrectly identified as being dead or convicted of a felony.

The NCSBE has not publicly released an analysis of the number of eligible voters who are removed from the voter rolls each year. However, an analysis by the Southern Coalition for Social Justice showed that at least 2,280 of the voters removed from the state’s voter rolls in 2019 attempted to vote in 2020 and were forced to cast a provisional ballot. This same analysis found that Black North Carolinians were removed at higher rates than white North Carolinians during the 2021 list maintenance process, when accounting for their share of the electorate.<sup>3</sup>

## RECOMMENDATIONS

While maintaining an accurate voter registration database is vital to election administration, this process must be transparent, accountable, and designed to ensure that eligible voters are not erroneously removed. The voter registration database must also be safeguarded against groups that wish to deliberately remove voters — particularly Black and brown voters — from the voter rolls.

1. **End the practice of using “failure to vote” as a trigger for removing voters.** North Carolina should not revoke a voter’s registration based solely on inactivity and the failure to respond to a mailer, as the risk of erroneous purges of eligible voters outweighs any benefits.
2. **End the removal of voters based on undeliverable mail.** In North Carolina, voters may be removed from the voter rolls if attempted mailings to their address are returned as “undeliverable.” However, undeliverable mail can result from U.S. Postal Service errors that have nothing to do with a voter’s eligibility.
3. **Ensure North Carolina’s enrollment and participation in the Electronic Registration Information Center (ERIC).** ERIC has been shown to help states both improve the accuracy of their voter registration lists and identify eligible but unregistered voters.<sup>4</sup> North Carolina’s list maintenance process should correspond to ERIC best practices and be in effect for the 2023 list maintenance process. While the state General Assembly appropriated funds to join ERIC in 2022, the future of this partnership remains uncertain.



4. **Require counties to proactively reach out to voters who are slated for removal via email and phone.** Currently, counties are required to contact “inactive” voters — who will be removed from the state’s voter registration list — only by mail. This should be amended to include phone and email, if the voter has this contact information on file.
5. **Create an online portal for voters to confirm their address.** Currently, voters who are slated for removal must return a postcard via mail to confirm their address. The NCSBE should create an online portal that allows voters to do this online — similar to their mail ballot request and tracking portals.
6. **Allow voters to respond to a confirmation mailing within 60 days.** At present, voters have only 30 days before they are tagged for removal.
7. **Require county election officials to match the Social Security number of a deceased individual to their voter registration before removal.** This is standard practice in other states and ensures that voters are not incorrectly matched and removed. However, North Carolina does not list this as a uniform requirement before removal.<sup>5</sup>
8. **Conduct research on the number of eligible voters who are removed from the voter rolls, and the racial disparities that exist in this process.** This analysis should be used to improve the list maintenance process in the future, particularly for Black and brown communities, where citizens are at a higher risk of being removed from voter rolls.<sup>6</sup>

– **Caroline Fry**, *Institute for Southern Studies*,  
with contributions from **Hilary Harris Klein**, *Southern Coalition for Social Justice*

# EXPAND REGISTRATION ACCESS AND ELIGIBILITY FOR DISPLACED VOTERS

## BACKGROUND

In North Carolina, there are two primary methods to register to vote: mailing the state elections board a completed registration application, or registering at the Department of Motor Vehicles, either in person or the online portal. The National Voter Registration Act also allows state agencies, like the Division of Social Services, to take applications for voter registration. Currently, North Carolina statute mandates that voter registration applications be available in public high schools and libraries. More than a dozen public assistance programs must also provide voter registration forms and transmit completed applications to the appropriate county board of elections office.<sup>1</sup>

However, North Carolina law does not address the systemic barriers of registering to vote faced by eligible voters who become displaced due to a natural disaster, environmental disaster, or pandemic. These barriers came into sharp relief during the 2020 COVID-19 pandemic, as well as Hurricane Matthew in 2016 and Hurricane Florence in 2018, both of which displaced tens of thousands of people and saw election officials and community groups scrambling to ensure residents were able to register and vote.<sup>2</sup>

## RECOMMENDATIONS

With disasters increasingly wreaking havoc in North Carolina — especially in Black, Latinx, and low-wealth communities in vulnerable areas like Eastern North Carolina — the state should take steps to ensure displaced people have access to registration and voting.

1. Expand the list of state agencies that offer and take voter registration applications to include agencies that directly interface with displaced North Carolina citizens. By targeting these agencies, the state can ensure that those who bear the burden of disasters and climate change will not be disenfranchised through no fault of their own. Agencies must take special care to ensure potentially vulnerable and disenfranchised populations such as returning citizens, people with disabilities, residents of long-term care facilities, and people in rural communities have full access to voter registration and voting opportunities.
2. Reform proof of residence requirements for eligible voters who are displaced. When eligible voters are displaced, they may not have the opportunity to return to their home county to vote due to safety concerns or lack of transportation. These voters may also lack the required proof of residency documents, such as a driver's license or utility bill showing the voter's name and address, to prove where they currently live. Proof of residency should not remove otherwise eligible voters from the political process. If an eligible voter does not have the required proof of residency documents, an option to sign an oath about their residency should suffice.

**– La'Meshia Whittington and Marcus Bass, North Carolina Black Alliance**

## SECTION II: ENSURE VOTING ACCESS AND PROTECT VOTING RIGHTS

### INCREASE STUDENT ACCESS TO VOTING

#### BACKGROUND

Between 2014 and 2018, student voter turnout doubled.<sup>1</sup> And in 2020 voter turnout among college students surged to a record high of 66 percent in the presidential election, according to a report from the Institute for Democracy and Higher Education.

Right now, young people are more interested than ever in politics. But this fundamental right is being threatened by policies that attempt to take away young people's right to vote. Despite increasing interest and turnout, young people are still the age demographic with the lowest rates of voting participation and engagement with the political process.<sup>2</sup>

The problem with low voter turnout and engagement among young people is not apathy, but rather a lack of access to information or physical polling locations.<sup>3</sup> Voting has become inaccessible for many students on college campuses, especially those in rural areas or those where the closest polling site is far from campus. Without transportation or money to pay for it, students are often forced to withhold their vote. Some students do not have time on Election Day to get to a polling site, further restricting them from voting.



IMAGE: North Carolina Central University

In response to startlingly low student voter rates, some universities have turned to their own resources and funding to provide early voting places on campuses and polling sites on Election Day. The University of North Carolina at Chapel Hill, for example, had its own polling site on campus for the 2020 primaries. While voting advocates highly encourage this approach, which has been successful in boosting turnout, there is no law in North Carolina that standardizes details for what polling stations on campuses should look like, how they should be funded, how many people they will serve, who will coordinate them, etc.<sup>4</sup>

The lack of ready access to voting sites at colleges and universities is especially problematic given the high density of voters on campuses. Nationally, excluding the three states that send all voters a mail ballot, 75 percent of polling sites in the United States serve fewer than 2,000 registered voters, while 48 percent serve fewer than 1,000.<sup>5</sup> Given that the average college in North Carolina has between 5,000 and 30,000 students, it seems of the utmost importance that those students have at least one polling site on campus. In fact, if North Carolina colleges were treated like the average community in the United States, they would have anywhere from two to 15 polling sites. But instead, some campuses don't even have one.

#### RECOMMENDATIONS

Other states have adopted or proposed legislation that specifically addresses the needs of student voters, and North Carolina should consider similar measures. In Maryland, for example, House Bill 245, the Student Empowerment Act, requires that the state's colleges and universities have a voting booth on campus for students to utilize. While the measure failed, a related piece of legislation — Senate Bill 283, the Student and Military Voter Empowerment Act — was successfully enacted on May 30, 2021. It requires that the local board "establish a separate precinct on campus or within one-half mile of the campus to specifically serve a public or private institution of higher education if the local board determines that at least 500 students, faculty, and staff who attend or work at the institution are registered voters in the precinct in which the institution is located."<sup>6</sup>

New York's Senate Bill 8005, enacted April 9, 2022, "...ensures that there is a polling place on every college campus with 300 or more registered voters. This legislation will make it easier for students to vote, particularly for college campuses that are divided into multiple districts."<sup>7</sup>

Additionally, Louisiana House Bill 423, passed and signed by Gov. John Bel Edwards on June 18, 2022, requires each school system and charter school in the state to provide an opportunity for high school seniors who are 17 or older to register to vote using school computers or on paper registration forms. While not pertaining to colleges and universities, this measure promotes civic engagement for young and upcoming voters.<sup>8</sup>

We are proposing a similar Student Empowerment Voting Act in North Carolina that would mandate that public colleges and universities with a student population of 4,500 or greater have a polling site on campus, and encourage local election boards to request the use of private colleges and universities campus with a student population over 4,500 or greater.

Given that public colleges and universities rely on funding from the government, it should not be hard to mandate that they have polling booths on campus. For private institutions, North Carolina could issue guidance recommending they similarly provide voting opportunities. While physical infrastructure likely exists to provide for voting sites, additional funding may be necessary for administrative support.

Providing on-campus voting access will prevent students from having to make a choice between attending class and voting, a dilemma they frequently face given that students don't typically get Election Day off from school.

Colleges and universities should also designate a student voting coordinator who will organize student voting efforts on campus and make opportunities for voting more accessible, whether by providing access to information or to a physical space to vote.

Taking steps now to encourage more student voting will not only ensure the voices of North Carolina students are heard, it will pay long-term dividends for the state. Encouraging people to vote at a young age helps them to develop the habit of voting and to become civically engaged citizens throughout their lives.

**– Nadia Innab and Anna Klingensmith, Duke Hart Leadership Program Students,  
with Student Advisor Melissa Price Kromm, North Carolina Voters for Clean Elections**



# RESTORE VOTING RIGHTS TO THOSE WITH FELONY RECORDS

## BACKGROUND

The right to vote is one of our most important civil rights because it secures, ensures, and preserves all of our other civil rights. However, for many citizens, that right to vote has been stripped simply because of a past felony conviction.

The disenfranchisement of people with felony records is rooted in inequality. In 1876, North Carolina amended its constitution to disenfranchise people with felony records as a backlash to the 14th and 15th Amendments to the U.S. Constitution, with the knowledge that this would disproportionately affect African American voters.<sup>1</sup>

Across the United States, millions of Americans are excluded from participating in the political process due to their criminal convictions and laws that disenfranchise voters with felony records. North Carolina is one of 17 states in which voting rights are restored upon the completion of one's sentence, including prison, parole, probation, and supervised release. As of 2020, approximately 2.27 percent of voting-age Americans and 1.13 percent of North Carolina residents were disenfranchised due to current or previous felony convictions.<sup>2</sup> African American North Carolinians, who represent 21 percent of the state's voting population, currently make up approximately 42 percent of those disenfranchised due to the laws that impact voters with felony records.

In North Carolina, voting rights restoration is "automatic" in name only. In order for a person to have their right to vote restored, they must first complete their entire sentence, which requires that they pay and avoid delinquency on all criminal fines, court fees, supervision fees, and restitution.<sup>3</sup> In 2020, a North Carolina court exempted people from having to pay all fines, fees, and restitution before they are able to regain their right to vote, in a case titled *CSI v. Moore*, arguing that conditioning the restoration of voting rights on monetary requirements amounts to wealth-based disenfranchisement.<sup>4</sup> People with felony records can be charged anywhere from \$40 to hundreds of dollars a month, and the base cost for a court date is \$198 with the potential to grow to more than \$10,000 in serious cases.<sup>5</sup> If they are unable to pay, they face a penalty fee for nonpayment, increasing their fees and lengthening their probation period.<sup>6</sup> Many people on probation are indigent and therefore will have a tough time paying any of their fines and fees.<sup>7</sup>

For thousands of people with felony records who have completed all other terms of their sentence, they remain on probation — and unable to vote — simply because they are low income. The American Civil Liberties Union describes this requirement as creating "two classes of returning citizens: a group wealthy enough to afford their voting rights and another group who cannot afford to vote."<sup>8</sup>

However, in 2022, this same North Carolina court expanded the injunction to re-enfranchise all individuals who are on probation, parole, or post-supervision release, finding that the state's felony disenfranchisement law (N.C.G.S. § 13-1) violated the North Carolina constitution's equal protection and free elections clauses. This case is currently on appeal to the North Carolina Supreme Court.



Dennis Gaddy, the founder of the Community Success Initiative, speaks at a 2019 press conference announcing the lawsuit to restore the voting rights of North Carolinians previously convicted of a felony. IMAGE: Forward Justice

Even after they have fully completed their sentence, many North Carolinians are unclear about whether or not they are eligible to vote. There is no explicit mandate that probation officers educate returning citizens about regaining their voting rights, and probation officers and the courts often neglect to inform returning citizens of the necessary steps to restore their voting rights.<sup>9</sup> As a result, many individuals with felony records have been prosecuted for voting while ineligible.<sup>10</sup>

Furthermore, North Carolina's voter prosecution statute is strict liability, meaning that a person can be prosecuted for voting while they are ineligible despite not having any intent to defraud the state of North Carolina. As currently drafted, North Carolina law [N.C.G.S. § 163-275(5)] states that if a person votes while they are ineligible due to a felony conviction, then they are guilty of a separate felony of illegal voting. A person's simple misunderstanding of their eligibility could lead them to being charged and convicted of a separate felony, and the vicious cycle of voter disenfranchisement begins anew. This policy also exacerbates racial inequality: A 2017 audit found that 441 people voted while they were ineligible due to a felony conviction, and 68% were Black.

## RECOMMENDATIONS

North Carolina has several options to expand voting rights for all of the state's citizens.

1. Don't prosecute honest mistakes. At a minimum, North Carolina should change state law so that those completing a sentence don't face felony convictions for simply lacking information or misunderstanding the state's confusing voting eligibility rules. In 2019, House Bill 819 was brought before the General Assembly to add the statement "with intent to commit a fraud" to N.C.G.S. § 163-275(5). Adding an intent standard, or mens rea requirement, would mandate that those who have voted or attempted to vote did so with a full understanding of the law.
2. If the Supreme Court overturns the trial court, the North Carolina legislature should statutorily mandate "bright-line" rights restoration upon release from incarceration. A clear way for North Carolina to improve on its current set of confusing eligibility rules and avoid the problem of wealth-based disenfranchisement is to adopt a "bright-line" rule stating that a person's right to vote is automatically restored once they leave a detention facility. In recent years, other states have passed similar bright-line rules. Nevada enacted Assembly Bill 431 in 2019 giving the right to vote to anyone who has been released from a detention facility, as did Colorado with House Bill 1266.<sup>11</sup>
3. Full re-enfranchisement regardless of incarceration status. The most expansive reform North Carolina lawmakers should consider is full re-enfranchisement for all citizens, regardless of their incarceration status. As the COVID-19 pandemic recently demonstrated, incarcerated individuals are acutely affected by decisions made by elected officials, and these citizens should have a voice in choosing the elected officials that create policies that affect them and their families. Currently, Maine and Vermont are the only two states that never disenfranchise people with felony records.

Additionally, the North Carolina legislature should also consider re-evaluating the residency requirements for individuals who are released from a detention facility and experience houselessness or are very transient as they seek housing. These voters should be able to affirm that they are citizens of the county in which they intend to vote, especially if they have not been out of jail or prison for at least 30 days and thus lack proof of residency. This affirmation should suffice for proving their residency.

**– Mitchell Brown, Southern Coalition for Social Justice**

# MAKE ELECTION DAY A HOLIDAY

## BACKGROUND

Voter turnout in the United States lags behind that of other democracies around the world. Nationally, 66.8 percent of voting-age U.S. citizens cast ballots in the last presidential election, a turnout rate that ranks 24th out of 35 industrialized nations.<sup>1</sup> Even with the record-setting turnout witnessed in 2020, the turnout rate of North Carolina's voting-eligible population stood at 71.5 percent, meaning that one out of four eligible citizens in the state didn't vote.<sup>2</sup>

In the U.S., Election Day takes place on the Tuesday after the first Monday in November, making it hard for many people to get to the ballot box. Even with the growth of early voting, registered voters have cited "being too busy or having a conflicting schedule" as one of the primary reasons they didn't cast their ballots, according to a Pew Research Center analysis of Census Bureau data.<sup>3</sup>

People who struggle to balance work, school, and other time-consuming obligations have a hard time getting to the polls to cast their ballot during the middle of the week. The pressure of voting during a workweek is especially burdensome for single parents, students, and citizens who work multiple jobs.

Many eligible voters don't participate in the electoral process simply because they don't have the free time to vote. In many places across the country people often have to wait hours in line at polling places to cast a ballot. In 2020 alone, the U.S. eliminated nearly 21,000 election polling sites, which contributed to long lines and longer wait times.<sup>4</sup>

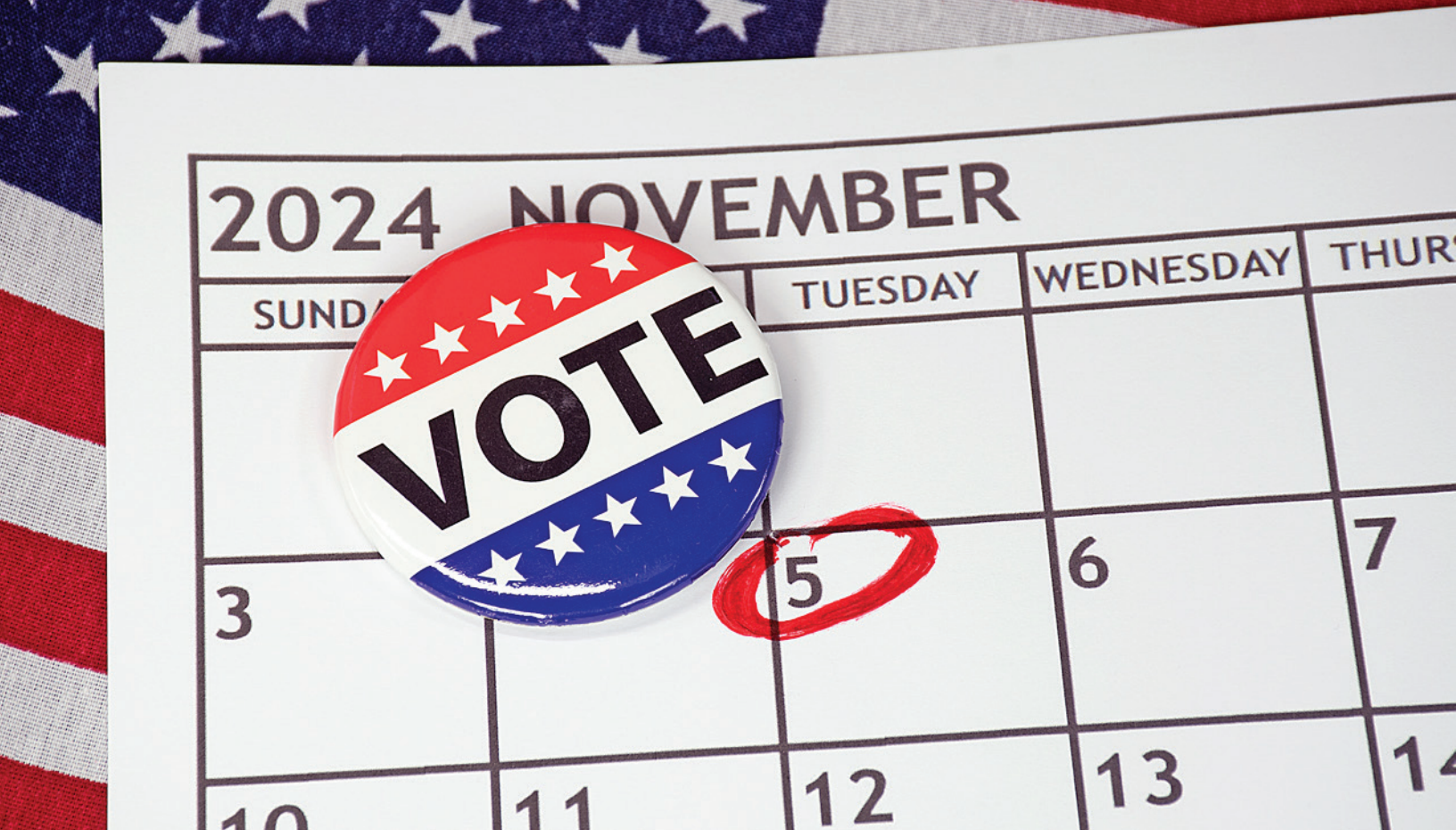
In some cases, people were forced to wait 11 hours to cast a ballot.<sup>5</sup> And communities of color are most likely to feel the brunt of these problems. Experts note that neighborhoods that are overwhelmingly nonwhite experienced the longest voting times on election day. For instance, in the 2018 midterm elections, Latinx and Black voters waited in line an average of 46 percent and 45 percent longer, respectively, than white voters.<sup>6</sup> And for low-income people, taking time to cast a ballot can become a major financial risk. Data shows that voters in poorer neighborhoods in the country took longer to vote and were more likely to experience voting times of an hour or more. Time spent trying to cast a ballot, which includes finding transportation to the polling site and waiting in line, could mean employment penalties and a potential loss of wages.<sup>7</sup>

## RECOMMENDATIONS

Establishing Election Day as a state holiday for public employees would relieve the burden of Tuesday voting and help promote civic engagement. Election Day is already a holiday for state employees in more than a dozen states, including Delaware, Hawaii, Kentucky, Indiana, Maryland, Michigan, New Jersey, Rhode Island, New York, and Virginia. An Election Day holiday would give voters more time to travel to their polling locations and cast their ballots. This would also turn voting into a celebration of democracy, which would further promote voter turnout. While an Election Day holiday would be helpful for most North Carolinians, it would especially help residents who could be disenfranchised because of physical disabilities, lack of transportation, unpredictable work schedules, or other limitations.

Providing a paid Election Day holiday for state employees could be paired with provisions for paid time off to vote for those in the private sector. Currently in North Carolina there is no law that requires employers to give workers time off to vote, according to analyses from Workplace Fairness. Many front-line workers do not get state holidays off, including many low-income workers in the service and restaurant industry.<sup>8</sup> These workers are at risk of being fired or otherwise penalized if they take time off to vote.





A measure to make Election Day a holiday in North Carolina failed to advance in the 2021-2022 legislative session. Senate Bill 833 would have made the statewide general election day an official state holiday and make that day a paid holiday for state employees.<sup>9</sup>

With this measure, North Carolina has a chance to join other Southern states in ensuring that workers have provisions that enable them to vote. Texas, Tennessee, and West Virginia have implemented paid time off policies, and Alabama, Arkansas, Georgia, and Kentucky have laws that require employers to give unpaid time off to vote.

Making Election Day a state holiday, paired with laws that enable workers to take leave to vote, would ensure that all North Carolinians — regardless of their income or job demands — have access to the ballot box.

– **Benjamin Barber**, *Institute for Southern Studies*



# PROTECT VOTERS FROM INTIMIDATION

## BACKGROUND

A voter's right to cast a ballot free from intimidation or coercion is fundamental to the democratic process. Yet, voters — especially in our state's Black, Latinx, and Asian American Pacific Islander communities — continue to face assaults on their right to vote in the form of voter intimidation.

While the definitions and manifestations of voter intimidation have evolved, the history of voter intimidation in the U.S. — and North Carolina — is entwined in our history of systemic racism. In a pattern that has repeated itself multiple times since the passage of the 14th and 15th Amendments, Black voters had to endure overt violence as well as legal voter suppression tactics such as poll taxes and literacy tests. These tactics have since been outlawed, but the underlying intent of intimidating voters and suppressing their voice still remains all too real today, just in a more modern form.

### Definition and Current Law

How does the law define voter intimidation? There is limited case law on the question, though federal courts have found a number of specific activities to constitute unlawful voter intimidation. While some forms are blatant, contemporary manifestations can be nuanced, subjective, and difficult to prove.

Although voter intimidation comes in many forms, some examples include:<sup>1</sup>

- Aggressively questioning a voter about qualifications to vote, including criminal records or citizenship status.
- Asking voters for documentation when none is needed.
- Police presence at polling sites when their presence has not been requested.
- Making verbal threats of violence, or displaying threatening behaviors or symbols inside or outside of a voting site.
- Stalking a voting site, including displaying firearms.
- Blocking the entrance to the voting place either physically or through intimidating language or action.
- Aggressively electioneering for a candidate or political position, whether inside or outside the buffer zone.
- Aggressively approaching voters' vehicles, recording voters' license plate numbers, or following voters to, from, or within the voting site.
- Providing disinformation about polling place hours, closures, or moves.

Both civil and criminal statutes protect against some forms of voter intimidation under both federal and state law. Further, election officials are required by law and the state elections board to ensure voter access without fear of intimidation. Section 11 of the Voting Rights Act specifically prohibits any "person, whether acting under color of law or otherwise" from "intimidat[ing], threaten[ing], or coerc[ing], or attempt[ing] to intimidate, threaten, or coerce any person for voting or attempting to vote," without requiring proof of discriminatory purpose or intent.<sup>2</sup>

The Civil Rights Act of 1957 also prohibits the "intimidation," "threats," and "coercion" of voters, though requiring plaintiffs to prove racial motivation and intent.<sup>3</sup> Section 2 of the Enforcement Act of 1871 — also known as the KKK Act, enacted initially to authorize the president to protect Black Americans and allies against vigilante groups — makes it unlawful for "two or more persons to conspire to prevent by force, intimidation, or threat," any voter from casting a ballot for the candidate of their choice.<sup>4</sup>

In addition, multiple federal criminal statutes protect against voter intimidation. It is illegal to intimidate, threaten, coerce a person, or attempt to interfere with that person's right "to vote or to vote as he may choose," as well as their right to register to vote.<sup>5</sup> It is also a crime "by force or threat of force" to willfully injure, intimidate, or interfere with any person because he or she is voting or has voted, or "in order to intimidate" anyone from voting.<sup>6</sup>

North Carolina criminal law prohibits interference with voting, lying to voters in an effort to discourage them, threatening to fire a worker for voting, and other forms of intimidation.<sup>7</sup> Poll workers are also not allowed to ask questions or seek proof of a disability from a voter who presents to vote curbside.<sup>8</sup>

North Carolina statutes explicitly provide additional protections for voters within the voting enclosure and "buffer zone," an area extending approximately 50 feet from the entrance of a voting site, or 6 feet from a car containing a voter casting a ballot via curbside voting: "No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes or otherwise engage in election-related activity in the voting place or in a buffer zone."<sup>9</sup> In addition, the chief election judge or one-stop voting site manager is responsible for ensuring voters have unimpeded access into the buffer zone and voting enclosure without fear of harassment or intimidation, and election officials are generally required to ensure peace and "order" at the voting place.<sup>10</sup>

North Carolina also empowers election judges to remove any person from the voting place for violation of any provision of election law; to call upon the sheriff, the police, or other law enforcement officers to aid them in enforcing the law; and to order the arrest of the person if necessary.<sup>11</sup> Police officers are also permitted within the voting enclosure, but only when requested by the county elections board or by the chief judge for the purpose of preventing disorder.<sup>12</sup> Officers can help with parking and traffic issues, but they must be in plain clothes; at sites with heightened and verified security concerns, they may "periodically drive by."<sup>13</sup>

## Recent Incidents

North Carolina has a long history of voter intimidation incidents. Today, more than 50 years after the passage of the Voting Rights Act, voter intimidation and deceptive election practices continue to target our state's most historically disenfranchised voters.

There are far too many recent reports of voter intimidation from our state, and advocates have noted a spike in incidents over the last decade. Some recent examples include:

- The North Carolina State Board of Elections (NCSBE) received 20 reports of potential voter intimidation during the 2022 general election, including allegations of yelling, harassment, photographing poll workers and their license plates, and even following one poll worker back to their neighborhood.<sup>14</sup>
- On Election Day 2020, an armed man returned to a Mecklenburg County polling site after being ordered to leave following previous reports of intimidating voters.<sup>15</sup>
- On the final day of early voting in 2020, Alamance County police pepper-sprayed voters peacefully marching to the polls.<sup>16</sup>
- A Confederate flag flew over the Uwharrie Fire Department polling station in Montgomery County in 2016.<sup>17</sup>
- North Carolina election officials received numerous reports in 2012 of party supporters breaching and moving barriers in the buffer zone around voting sites as well as engaging in aggressive electioneering, including threats of physical violence.<sup>18</sup>
- In 2012, an elected official asked a voter in line at an early voting site in Wake County whether she was preparing to vote twice.<sup>19</sup>

## Disinformation

Deceptive election practices involving the dissemination of false or misleading election information are another form of voter intimidation; this can be unintentional (misinformation) or intentional (disinformation). Misleading information can be an active form of voter suppression and negatively affect voters' perceptions of the election process. Examples of these practices include flyers, robocalls, or social media posts providing misleading or false information about voter registration status, election details, political party affiliations, or reports of the presence of law enforcement or immigration enforcement in the voting context.<sup>20</sup>

There is a long history of targeting voters, especially people of color, with disinformation to keep them away from the polls.<sup>21</sup> The 2020 election was particularly prone to this form of deception, due to last-minute pandemic-related election changes, with social media amplifying and spreading false and confusing messages.

Examples of disinformation reported in the 2020 election cycle include:

- In October, North Carolina voters reported suspicious phone calls that provided misinformation about individuals' voter registration records, prompting the NCSBE to investigate.<sup>22</sup>
- On Election Day, Buncombe County residents received robocalls instructing individuals to "stay safe and stay home."<sup>23</sup>

Persons or entities who spread false information in an attempt to suppress the vote may violate both federal and state laws. While these protections are vital, state and local election officials play the most crucial role in addressing deceptive election practices by countering disinformation with the dissemination of correct information as well as considering the proliferation of disinformation as a form of voter intimidation.

## Door-to-Door Canvassing

In early 2022, local news outlets reported that unidentified individuals were going door to door in Brunswick County, North Carolina. These individuals knocked on doors, demanding to see voters who had cast a ballot in 2020, in order to "verify" their identity. According to at least one video recording, the individuals did not clearly identify themselves or state that they were unaffiliated with the county or state board of elections. While the number of voters who have been targeted in this manner is uncertain, the group responsible for the action confirmed it was a part of a larger effort.<sup>24</sup>

This canvassing effort — which is part of a national movement — has led to claims of voter intimidation. A similar effort in Colorado resulted in a lawsuit, with the plaintiffs arguing that this canvassing caused voter intimidation in violation of the Voting Rights Act and the Ku Klux Klan Act. As of January 2023, the case is pending.<sup>25</sup>

## Steps Taken to Prevent Voter Intimidation

Several recent steps have been taken to prevent voter intimidation in North Carolina:

The NCSBE released a model Election Official Code of Conduct in 2022, which states that all poll workers treat voters with respect and fairness, conduct elections in a nonpartial manner, and be professional and courteous. For years, voting rights groups have advocated for a centralized code of conduct to ensure that poll workers abide by a uniform set of rules.<sup>26</sup>

For the first time, an Elections Reference Guide for North Carolina Law Enforcement was released ahead of the 2022 midterm election. This guide outlines best practices for how law enforcement should work with local boards of elections to identify and prevent voter intimidation, including how law enforcement should respond to incidents at voting sites. The guide also clearly defines key election criminal statutes in an easy-to-understand manner.<sup>27</sup>

## RECOMMENDATIONS

While some protections exist under federal and state law to protect North Carolinians from voter intimidation, more needs to be done. The state should, at a minimum, implement the following statutory and administrative actions and protections:

1. **Pass comprehensive state legislation protecting voters from intimidation and harassment.** The Safeguard Fair Elections Act was introduced in the N.C. General Assembly in 2022, but failed to advance. This vital piece of legislation would create new penalties for anyone who threatens a person for voting or attempting to vote; knowingly challenges a person's right to vote on fraudulent grounds, or for the purpose of preventing a voter from casting a ballot; or advises a voter that they are not eligible to vote or are not registered.<sup>28</sup>
2. **Create a private right of action for North Carolinians impacted by voter intimidation.** This would permit individuals to advocate for themselves in the absence of state or federal enforcement, seek immediate redress for their harm, and provide an effective defense against voter intimidation efforts by anyone acting under the color of law or by private individuals and entities. North Carolina state courts have infrequently considered claims of voter intimidation not because of the lack of incidents, but due to local officials' failure to prosecute these claims. When law enforcement authorities fail to act, voters who have had their rights violated should be able to hold the offender accountable for voter intimidation.
3. **Clearly define voter intimidation from the voter's perspective, acknowledging the historical and structural contexts that inform voters' individual experiences, such as racial violence and displacement associated with disasters.** This includes specifically addressing racist voter intimidation, including the use of hate symbols and discriminatory voter challenges.
4. **Clearly define voter intimidation in state statute.** Voter intimidation can encompass a wide range of acts, practices, and conduct. A clear definition of voter intimidation along with specific guidance as to which particular actions would constitute a violation is necessary. Without clarifying what conduct is prohibited, voter intimidation may go unreported or unaddressed, thereby potentially disenfranchising North Carolina residents. The definition should also explicitly include different modes of communication or deceptive practices that might be used for disinformation purposes, including social media, robocalls, and flyers.
5. **Educate North Carolinians on how to identify voter intimidation, and make it easier for individuals to submit reports of incidents.** In recent years, the North Carolina State Board of Elections has released memos<sup>29</sup> and press releases on the topic of voter intimidation. The NCSBE can expand on these passive forms of information to provide fuller understanding of what constitutes intimidation, and ensure this information broadly reaches the public — including steps a voter can take if they see or experience voter intimidation.
6. **Expand the definitions of "voting place" and "voting enclosure" to include voting by mail.** In 2020, more than one million North Carolinians voted by mail — the most in state history.<sup>30</sup> However, some state laws protecting voters from intimidation do not include the mail voting process. Including voting by mail in those definitions will extend protections to the physical location of where people are voting by mail, such as their house, military base, or residential living facility. The location where voters drop off their mail ballots, like a local election board office, should also be included in this definition.

On Sept. 23, 2020, voters dropping off their mail ballots at the Buncombe County elections office were verbally harassed by two vehicles of aggressive protesters. Because the election office is not considered a voting place, voters did not have adequate legal protections from voter intimidation.<sup>31</sup>



7. **Develop a voter intimidation advisory group.** The development of an advisory group at a local or statewide level can help meaningfully address systemic causes of voter intimidation as well as new forms of voter intimidation. A voter intimidation advisory group should include participation from election officials, community leaders, and racial justice organizations — and should focus on listening to and integrating voices of communities of color and groups historically impacted by voter intimidation about how to best respond to such incidents.
8. **Appropriately fund voter intimidation prevention at the state level.** Laws to hold those who intimidate voters and spread false information accountable are vital, but alone are insufficient to curb the problem. Enforcement is of paramount importance, and state and local election officials have a crucial role to play in addressing voter intimidation and disinformation. But they require fiscal resources to build an infrastructure to prepare for these incidents before they occur and to respond in a consistent and meaningful way.
9. **Require local election officials and law enforcement to work together to effectively prevent voter intimidation.** While the NCSBE “encourages” county boards of election to work with local law enforcement, these partnerships are not mandatory.<sup>32</sup>

It is also important to note North Carolina’s history of discriminatory policing and official voter suppression through law enforcement. Police intimidation was a key tactic in the voter suppression efforts in the Jim Crow South, and police presence continues to serve as a potential mode of intimidation. Volumes of research and the lived experiences of people of color in this country show that inviting intersections between voting and the criminal legal system creates situations in which criminal penalties and outcomes are felt more heavily by voters of color.

There are currently known and documented cases of implicit bias, white supremacy, and racist agendas within police departments and county sheriff’s offices, with recent incidents reported in Columbus County, Wilmington, and Wake County.<sup>33</sup> Improving relations between voters and law enforcement should be a priority for election officials in the coming years. In addition, law enforcement’s role in North Carolina elections should be carefully monitored, with reports issued following each statewide election.

10. **Mandate data collection on all intimidation incidents and direct uniform reporting standards.** County boards are mandated to report any complaint filed by a voter;<sup>34</sup> however, incident report forms are filled out by poll workers, leaving open the door to interpretive action. The North Carolina State Board of Elections should provide a “voter intimidation complaint form” to centralize complaints received by county election boards, and train all county election boards on a customer service model of reporting that prioritizes the voter perspective and experience. Reports that analyze this data should be made available to the public following each major election.
11. **Mandate anti-bias as well as situation-based voter intimidation training for all election officials.** Research has shown the polling places are a particularly fertile ground for unconscious or implicit bias to operate.<sup>35</sup> Poll workers are often charged with making quick decisions in busy environments based on little information. The legal or implied discretion provided to poll workers can lead to race-based discrimination, promotion of ableism, and incidents of voter intimidation.

The state should ensure that the North Carolina State Board of Elections provides regular training on implicit bias to all county election board staff and members as well as how to handle instances of voter intimidation at the polls. Each type of voter intimidation may require a different response. As such, county election boards, election officials, and poll workers should have situation-based training to understand how to respond to common forms of voter intimidation.

– **Katelin Kaiser**, *Southern Coalition for Social Justice*, with contributions from **Kathleen Roblez**, *Forward Justice*; **La'Meshia Whittington-Kaminski** and **Marcus Bass**, *North Carolina Black Alliance*; **Corye Dunn**, *Disability Rights North Carolina*; and **Caroline Fry**, *Institute for Southern Studies*

# PREVENT MALICIOUS VOTER CHALLENGES

## BACKGROUND

North Carolina allows registered voters to challenge “the right of any person to register, remain registered or vote.” A voter may be challenged only if the challenger believes that they do not meet the voter registration requirements, are not who they present themselves to be, already voted, or are not eligible to vote in a specific election.<sup>1</sup>

As long as they meet the residency requirements detailed below, nearly any North Carolina voter can challenge another voter’s registration or ballot.

Challenges to a voter’s registration must be submitted 25 days before Election Day<sup>2</sup>, or 90 days for challenges based on “generic and non-individualized evidence.”<sup>3</sup> The challenger must be a registered voter in the same county as the challenged voter.<sup>4</sup>

Challenges to a voter’s ballot must be made during the voting period. If the challenger is challenging a voter’s mail or early voting ballot, they must reside within the same precinct as the voter;<sup>5</sup> if they are challenging their Election Day ballot, they must reside within the same county.<sup>6</sup> Election officials at the precinct can also challenge a voter’s ballot on Election Day.

Challenges made to a voter’s registration or ballot receive a hearing — although these hearings vary based on the challenge. Whereas voter registration challenges receive both a preliminary and full evidentiary hearing conducted by the county board of elections, hearings for Election Day ballot challenges are performed by election judges at the voting site. Challenges made to a mail ballot or early voting ballot are performed on the day of the county canvass, which occurs 10 days after Election Day.<sup>7</sup>

For all challenges, the burden of proof falls on the challenger. If election officials find that there is no probable cause for the challenge, it is dismissed. Voter challenges that are upheld can be appealed.<sup>8</sup>

## History of Voter Challenges in North Carolina

North Carolina has a long history of private citizens attempting to remove voters — particularly Black and brown voters — from the state’s voter rolls. The first attempt was made in 1872, when a group of white citizens in Wake County challenged the voter registrations of 150 formerly enslaved Black voters.<sup>9</sup>

In more recent history, several “election integrity” organizations have focused their energy on challenging voter registrations in the state:

- In 2012, the Voter Integrity Project challenged the voter registration of 550 Wake County voters, mostly people of color. Election officials dismissed all but 11 of these challenges.<sup>10</sup>
- Shortly before the 2016 presidential election, the voter registrations of nearly 6,500 voters in Cumberland, Moore, and Beaufort counties were challenged, leading U.S. District Judge Loretta Biggs to call the state’s challenge laws “insane.”<sup>11</sup>
- In 2022, individuals with the group NC Audit Force went door to door to “verify” that voters who cast a ballot in 2020 were alive.<sup>12</sup>
- Several North Carolina counties received multiple voter registration challenges in the days leading up to the 2022 midterm election.<sup>13</sup>



## RECOMMENDATIONS

1. **Codify the prohibition on voter challenges based on “generic evidence” made within 90 days into state law.** Although a permanent injunction in a recent court case has guaranteed this minimum standard, it should be written into North Carolina law to guard against future judicial proceedings.<sup>14</sup>
2. **Allow challenges to be made only by verified challengers, who could be appointed by political parties (or candidates not affiliated with a party).** Voter challenges have been used as a tool to purposefully disenfranchise Black and brown North Carolinians. There are currently no restrictions on who can challenge a voter’s ballot during the voting period, apart from minimal residency requirements.<sup>15</sup>
3. **Provide additional education and resources to North Carolina voters about challenges.** With the exception of a “Voter Challenge Procedures Guide,” the State Board of Elections does not provide any online information for voters who may be facing challenges. Accessible, user-friendly resources should be available to help voters understand what to do if their registration or ballot has been challenged.

– *Caroline Fry, Institute for Southern Studies,*  
*with contributions from Hilary Harris Klein, Southern Coalition for Social Justice*

# REPEAL NORTH CAROLINA'S LITERACY TEST FOR VOTING

## BACKGROUND

Lawmakers have been talking for decades about repealing North Carolina's literacy test — a relic of Jim Crow voter suppression that's been in the state constitution for 120 years. The legislature hasn't put the question of repeal before the voters since 1969, when a vaguely worded repeal amendment was rejected by voters. More recent repeal efforts have had solid bipartisan support but didn't make it onto the ballot.

Now is the time for lawmakers to put another repeal amendment on the ballot, with clear language describing the literacy test's racist history.

North Carolina voters passed the literacy test in 1899, after white supremacist Democrats regained control of state government with the help of violent voter suppression.<sup>1</sup> They enacted amendments limiting the right to vote created at the 1868 constitutional convention, which had included formerly enslaved people.<sup>2</sup>

The amendment, which voters ratified, also included a poll tax. Lawmakers wanted to target Black voters, other voters of color, and minority language groups. The literacy test was enacted around the same time that white supremacists overthrew Black elected officials and murdered hundreds of Black people in Wilmington.

White voters were given a pass on the literacy test, which required potential voters to write a portion of the U.S. Constitution. A so-called "grandfather clause" ensured that people whose ancestors were registered to vote before the 1868 constitution didn't have to take the test.

The federal Voting Rights Act of 1965 made literacy tests unlawful in Southern states, but the literacy test remains in North Carolina's constitution. In 1969, North Carolinians voted against removing the provision from the constitution. The ballot vaguely asked voters if they wanted to repeal the "constitutional amendment abolishing literacy requirement for voting." The repeal got only 44% of the vote.

More recent repeal efforts have stalled in the legislature. Two repeal bills passed with bipartisan support in the state House in the past decade, but neither bill was brought up in the Senate.<sup>3</sup> Like the unsuccessful 1969 repeal, the recent bills have used vague ballot language that doesn't explain the racist history of the literacy test.

## RECOMMENDATIONS

Repealing the literacy test would send a bipartisan message that all voters can participate equally in shaping the future of North Carolina. It would bring some unity to a legislature that has been sharply divided along party lines. One conservative commentator called the literacy test "a barnacle on North Carolina's ship of state that should be scraped off as soon as possible."<sup>4</sup>

Other Southern states are removing the remnants of Jim Crow from their constitutions. Mississippi voters in 2020 removed an undemocratic, 130-year-old provision that made it harder for Black voters to impact crucial elections.<sup>5</sup> In Alabama, voters approved a measure two years ago that allows the legislature to remove racist provisions, including a poll tax and school segregation mandate, from the state constitution.<sup>6</sup> And Florida voters repealed the ban on people with felony convictions registering to vote in 2018.<sup>7</sup>

Now is the time to give North Carolina voters the chance to purge this vestige of Jim Crow from their state constitution. The literacy test, even if it's not enforced, serves as a reminder of longstanding racial injustice.

It's been more than 50 years since North Carolina voters were given the chance to do the right thing. Lawmakers should get a repeal measure on the ballot — with language describing the racist origin of the amendment — for the November 2024 election.

– *Marques Thompson, Democracy North Carolina*





## EXPAND LANGUAGE ACCESS

### BACKGROUND

According to the U.S. Census Bureau, more than one out of 10 North Carolinians over the age of 5 — 11.8 percent — speak a language other than English at home. Additionally, 4.4 percent of people in North Carolina speak English less than “very well.” There are 17 counties in the state – urban and rural, spanning from the mountains to the coast – where five percent or more of the population speaks English less than “very well.”<sup>1</sup>

Language barriers can impede voting access for North Carolina citizens. So-called “language minority” voters face challenges at every step of the voting process, including registering, filling out absentee ballots, navigating voting sites, casting ballots on Election Day, and following up with election officials if there are any voting problems.

Federal law sets out basic standards for promoting language access. The original Voting Rights Act of 1965 included a provision prohibiting practices that deny registration of the vote because of inability to speak English to U.S. citizens educated in another language within the United States or its territories. The 1975 reauthorization of the Voting Rights Act went further, mandating under Section 203 language assistance in jurisdictions that meet certain criteria for coverage: 5 percent of voting-age citizens, or 10,000 voting-age citizens who are members of a single language minority group, have depressed literacy rates, and do not speak English very well.<sup>2</sup>



While there are many communities in North Carolina with significant numbers of current and future voters with language barriers, under the latest coverage formulas released by the U.S. Census Bureau no counties in North Carolina met the necessary population threshold for one single language, and are therefore not covered by the Voting Rights Act's language access rules.<sup>3</sup>

Making elections more linguistically accessible has concrete benefits. Research conducted after the Voting Rights Act's expansion of language access standards in 1975 found increases in voter registration of citizens belonging to language-minority communities, higher voter turnout rates, and an increase in leaders from language-minority communities holding elected office.<sup>4</sup>

North Carolina has taken some steps to improve language access for voters. In 2020, the State Board of Elections launched a new website that can be translated into 15 additional languages besides English.<sup>5</sup> Voter registration forms are also available in Spanish. However, only a handful of county boards of election websites offer such translations, and PDF forms can't be translated on any state and local government websites.

## RECOMMENDATIONS

Expanding language access for North Carolina citizens seeking to vote is good for democracy. Given the rapidly changing demographics across the state, here are additional steps lawmakers can take to ensure language barriers don't prevent citizens from casting a ballot:

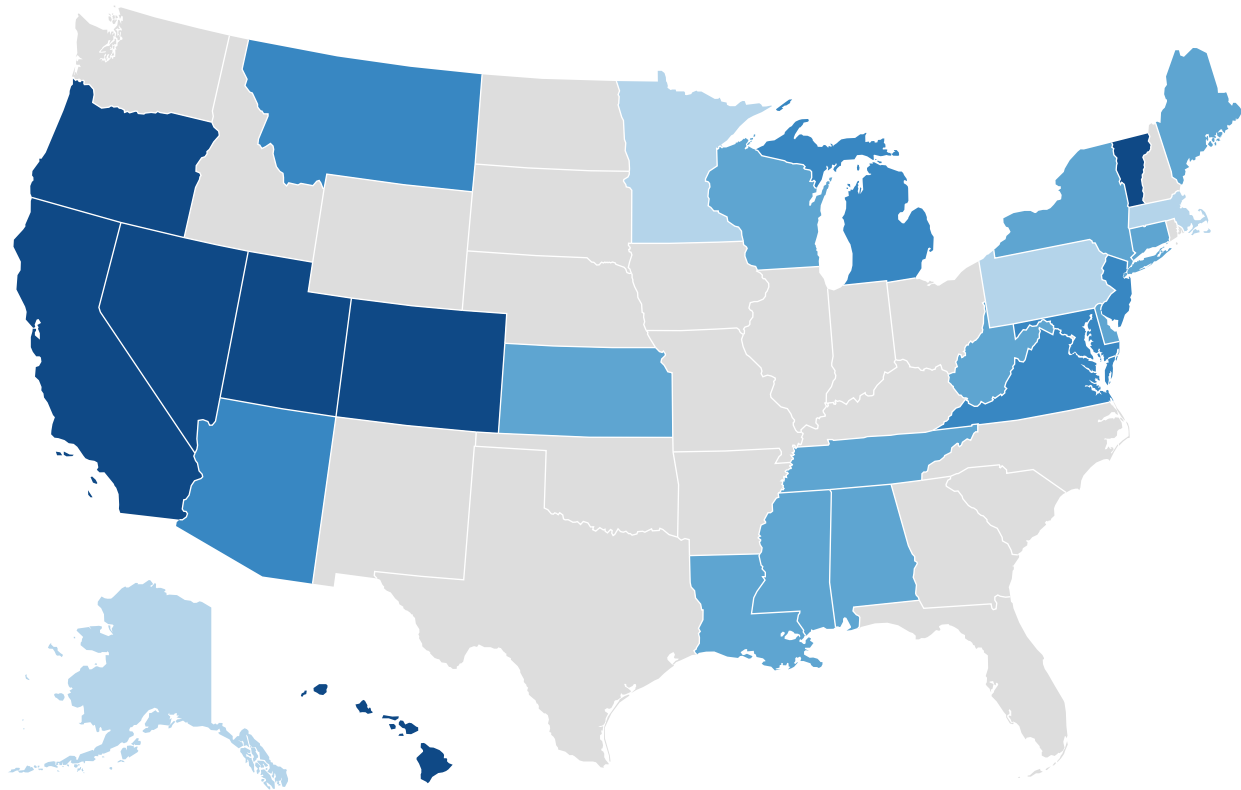
1. **Expand the Right to Voter Assistance at the Polls:** North Carolina law allows a voter to bring another person to assist them at the polls, regardless of reason. The catch is that the person assisting the voter must be a family member – defined by N.C. statute as a spouse, parent/stepparent, grandparent, child/stepchild, grandchild, parent-in-law, or sibling-in-law. North Carolina voters are allowed to bring non-family members to assist them at the polls only if the voter meets specific definitions of disability or impairment.<sup>6</sup> North Carolina should change its requirements to allow voters the freedom to bring any person they wish to assist them at the polls. A good model would be Alabama's statute, which says, "Any person who wishes assistance in voting may receive assistance ... The voter is not required to state a reason for requesting assistance."<sup>7</sup>
2. **Move Beyond Minimum Federal Requirements:** The Voting Rights Act provides a floor, not a ceiling, for what lawmakers can do to ensure voting access for language minorities. Across the country, several states have gone behind the Act's minimum provisions to provide more extensive and proactive assistance. For example, Colorado mandates that, if at least 3 percent of eligible voters in a precinct do not speak English, the officials overseeing the precinct must "take affirmative action to recruit full-time staff members who are fluent in the language used."<sup>8</sup> California and Connecticut further allow for polling sites to hire youth aged 16-17 and legal permanent residents to provide language assistance.<sup>9</sup> North Carolina could explore setting similar lower thresholds to trigger availability of voting materials and language assistance at polling sites.

- *Chavi Khanna Koneru, North Carolina Asian Americans Together,*  
and *Chris Kromm, Institute for Southern Studies*

## STRENGTHEN MAIL VOTING

### Mail Voting Access by State

- Mails a mail ballot application to every permanent mail voter
- Mails a ballot to every disabled voter
- Mails a ballot to every permanent mail voter
- Mails a ballot to every registered voter



MAP: Olivia Paschal, Institute for Southern Studies, February 2023 • Source: NCSL

## BACKGROUND

Over the past decade, voting by mail has steadily risen in popularity across the country.<sup>1</sup> During the 2020 presidential election, nearly 1 in 5 North Carolinians cast their ballot by mail — more than the number of voters who cast their ballot on Election Day.<sup>2</sup> The popularity of mail voting continued into the 2022 midterm election, as North Carolinians cast mail ballots at rates far greater than in the 2018 midterm election.<sup>3</sup>

### Improvements in Mail Voting

State election officials and lawmakers have taken numerous strides to improve North Carolina's mail voting system in the previous years — most notably due to the COVID-19 pandemic. This includes:

- **Mail ballot online request system:** In 2020, the North Carolina State Board of Elections (NCSBE) launched an online mail ballot request portal for the first time in state history. Before this time, voters had to request a ballot via a paper form.<sup>4</sup>
- **Mail ballot tracking:** In 2020, the NCSBE released BallotTrax, an online system that allows voters to track their mail ballot. BallotTrax automatically notifies voters when their mail ballot has been sent, received, and accepted for counting.<sup>5</sup>
- **Fixing mistakes on mail ballots:** In 2020, the NCSBE issued a new statewide process giving voters an opportunity to correct mistakes made on their mail ballot envelope. This new “ballot cure” process allowed 20,000 mail ballots to be fixed in 2020 — ballots that otherwise would have been rejected.<sup>6</sup>

## RECENT ATTACKS ON MAIL VOTING

Since the 2020 election, there have been several attempts to make mail voting harder in North Carolina:

- **Shortening the window of time when mail ballots can be accepted.** During the 2021-2022 legislative session, the North Carolina General Assembly attempted to pass several bills (HB 782, SB 326) shortening the period of time when mail ballots can be accepted. Current law allows mail ballots that were postmarked by Election Day to be received three days following the election<sup>7</sup> — an important guard against mail delays. If this three-day window had been eliminated during the 2020 election, over 13,000 mail ballots would have been rejected.<sup>8</sup>
- **Requiring signature verification for mail ballots.** By law, signatures included on mail ballots and mail ballot applications are not verified by election officials.<sup>9</sup> This is because a voter's identity is verified by personally identifying information and the presence of witness signatures on the ballot. In addition, election officials are not handwriting experts; studies have shown that signature verification has resulted in the rejection of valid ballots.<sup>10</sup>

In 2022, North Carolina Republicans attempted to force the State Board of Elections to allow counties to conduct signature verification.<sup>11</sup> This request was denied by the NCSBE, and an appeal is pending in state court.<sup>12</sup> Republicans on the NCSBE vowed to codify signature verification into state law in the future.<sup>13</sup>

## RECOMMENDATIONS

1. **Cement the single witness requirement into state law.** North Carolina law requires a voter casting a mail ballot either to have two witnesses sign their ballot envelope, or to have their ballot envelope notarized. This law was temporarily changed in 2020 and should be reinstated.
2. **Codify the mail ballot cure process into state law.** While this process is outlined in a NCSBE numbered memo, it should be written into law, guaranteeing that voters in all future elections can use this process.
3. **Offer paid postage for mail ballots and mail ballot request forms.** In North Carolina, voters must pay for postage on their mail ballot request form and mail ballot. Voters should not face a poll tax in order to vote by mail.
4. **Allow voters to pick up their mail ballot from their county board of elections.** Current law requires all mail ballots to be mailed to voters, making it impossible for voters who do not have a permanent residence to receive their ballot. This would also help voters facing deadlines who do not have time to wait for a ballot to be mailed.
5. **Codify the online mail ballot request and tracking systems into state law, and ensure future state funding for these tools.** Starting in 2020, voters can use websites to both request and track their mail ballot. However, these systems have not been written into state law, and could be rescinded or underfunded in future years.
6. **Allow voters to indicate their preference to vote by mail for future elections — and automatically send these voters a mail ballot request form.** Currently, voters must seek out and submit a mail ballot request form for every election; there is no way to indicate that they wish to vote by mail for all future elections. North Carolina should give voters the option to automatically receive a mail ballot request form for every election in which they are eligible to vote. If the voter has provided their email address when registering to vote, a link to the mail ballot request portal should also be sent via email.

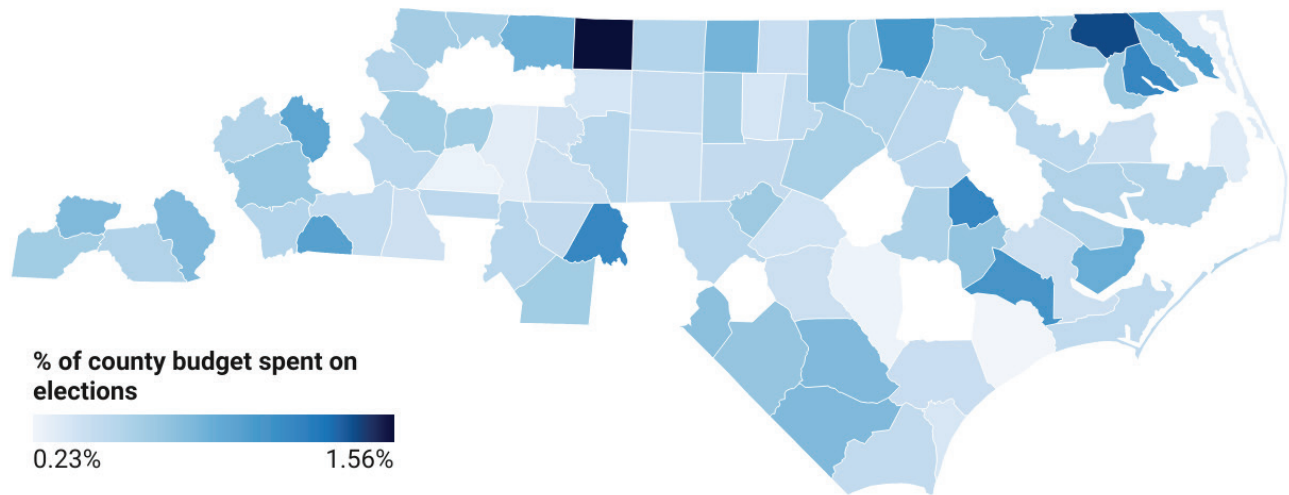
– *Caroline Fry, Institute for Southern Studies*

## SECTION III: STRENGTHEN ELECTION INFRASTRUCTURE

### SECURE ADEQUATE ELECTION FUNDING

#### Miniscule amount of NC county budgets spent on elections

Share of total county budget directed to Board of Elections in 2022



*Counties that are blank on the map did not have board of elections budget data available*

MAP: NC Budget & Tax Center • Source: Analysis of 2022 county budgets

### BACKGROUND

Adequate election funding is essential to our democracy. This funding ensures that:

- Voters are able to register and update their registration
- Our election systems are secure from cyber attacks
- Election malfeasance is identified and investigated
- Candidates can file and run for office
- Voting sites are operational and fully staffed
- Election audits are conducted, ensuring all ballots are counted as cast

Despite the vital importance of election funding, deficits are becoming increasingly common — particularly at the state level. Lawmakers must work to ensure that our elections are adequately funded for the 2024 presidential election and beyond.

## How Election Funding Is Used

Each year, election funds are needed at both the state and local levels:

**State:** The North Carolina State Board of Elections (NCSBE) is responsible for overseeing all elections conducted within the state. NCSBE staff provide vital support, guidance, and training for local election officials. Additionally, NCSBE staff investigate election law violations, maintain essential voting systems and databases, and ensure campaign finance compliance.<sup>1</sup>

**County:** Each county board of elections (CBOE) is responsible for conducting elections within their county. CBOE staff register new voters and update voter records, purchase and maintain voting equipment, implement mail voting, run voting sites, count ballots, and conduct post-election audits.<sup>2</sup>

## Sources of Election Funding

In North Carolina, election funding comes from federal, state, and local governments:<sup>3</sup>

**Federal funding** from Congress is sporadic and unpredictable.<sup>4</sup> Help America Vote Act (HAVA) funding has been the single biggest source of federal funds in recent years. Between 2003 and 2021, North Carolina received approximately \$114 million in HAVA funding. However, no federal funds were received from 2010 to 2018, and this funding is not guaranteed in the future.<sup>5</sup>

**State funding** typically comes from the NC General Assembly's (NCGA) annual budgeting process. These funds are provided to the NCSBE for staffing and operations, and usually are not passed on to counties. For Fiscal Year 2022-2023, the state election budget was only \$8.3 million<sup>6</sup> — making up less than half of 1 percent of the state budget.<sup>7</sup>

**Local funding** for elections is appropriated by the county commissioners via the county's annual budgeting process. Because this funding is contingent on a county's revenue, research has shown significant disparities between how much counties spend on elections per voter.<sup>8</sup> Most local election budgets constitute a very small percentage of their county's operating budget — typically less than 1 percent of their total annual budget.<sup>9</sup>

## Funding Deficits

In recent years, a lack of election funding at the state and local levels has had significant repercussions:

- In 2022, a request by the NCSBE for an additional \$3 million in the annual budget went unanswered by the NCGA. Without the funding, the State Board reported they would be forced to remove "critical personnel and services that ensure that elections are run smoothly, jeopardizing the entire State's election processes."<sup>10</sup>
- In 2022, the Rockingham County Board of Elections voted to remove 75 percent of their early voting sites after a county funding shortfall. After pressure from local activists, the board reversed the decision and the sites were fully funded.<sup>11</sup>
- In 2020, nonprofit organizations provided grants to state and county boards of elections for COVID-19 response. A total of 97 out of 100 counties received these grants, which were used to purchase single-use pens, pay poll workers, and send educational mailers to voters.<sup>12</sup>
- In 2018, Alamance County requested \$3.8 million in election funding to improve and secure severely outdated voting equipment, but received only \$860,000.<sup>13</sup>



In response to the COVID-19 pandemic, nonprofit organizations provided election funding to North Carolina CBOEs. Although nearly every county in the state benefited from this funding, several bills were introduced during the 2021-2022 legislative session to prohibit these funding sources — while providing no new funding. One such bill — Senate Bill 725 — was passed by the NC General Assembly with no Democratic support, and was vetoed by Governor Cooper.<sup>14</sup>

## RECOMMENDATIONS

1. **The NCGA must provide consistent, reliable, and sufficient election funding to the NCSBE.** This will ensure that election experts can be hired and retained, and that North Carolina's voting system is not vulnerable to security breaches.
2. **The NCGA must create a contingency fund for counties faced with election budget shortfalls.** Additionally, the NCGA should create a way for counties to apply and secure these funds in a timely manner.
3. **The NCSBE must end the practice of relying on federal election funds to pay for permanent state election staff.** Federal funding is notoriously inconsistent, whereas year-round election staff are necessary to maintain a secure voting system.
4. **When federal funding for elections is available, the NCGA must consistently contribute its share in matching dollars.** Federal funds such as those provided through HAVA typically require states to contribute a percentage of the total pot of money. In some cases, the NCGA has failed to provide this contribution, rendering the federal dollars unusable.
5. **Counties must provide additional public education concerning how local election budgets are developed and approved.** County BOEs should host at least one public education forum to review the budget and gather feedback, before the budget is sent to county commissioners. Little information currently exists for the public to learn about how election budgets are created, much less learn to advocate for appropriate election funding in their community.
6. **Analyze election funding across the state in an effort to identify spending deficits.** This research could help establish a required minimum amount, per voter, that counties must spend on elections each year.
7. **Include funding for implementation within any voting bill introduced into the NCGA.** Unfunded mandates place an undue burden on state and local election officials to implement without being given the financial means to do so. To this end, any future prohibitions on election funding must include new and permanent sources of election funds.

– *Caroline Fry, Institute for Southern Studies,*  
*with contributions from Alexandra Forter Sirota, NC Budget & Tax Center,*  
*and Jackson Sailor Jones, Common Cause North Carolina*

## FUND, SUPPORT, AND PROTECT ELECTION OFFICIALS

*“This is the most difficult election season that I’ve been through, and I think most county directors will say the same.”*

— Patrick Gannon, NCSBE Public Information Director, September 2022<sup>1</sup>

### BACKGROUND

Our democracy hinges on the election officials and administrators who register voters, maintain voter rolls, and conduct fair and secure elections. This includes North Carolina State Board of Elections (NCSBE) staff and board members, county board of elections (CBOE) staff and board members, and an array of temporary election staff.

Recruiting, training, and retaining election officials has been increasingly challenging in recent years. This is due to state and county funding deficits, low pay, and an increasingly hostile environment for election officials.

**IT & Cybersecurity Experts:** North Carolina’s election infrastructure is complex, and increasingly under threat by malicious foreign actors.<sup>2</sup> The NCSBE maintains the statewide election information management system, which is used by all counties to register voters, update voter rolls, and perform post-election canvassing. Managing this system requires experienced IT and cybersecurity professionals, who are increasingly hard to recruit and retain.<sup>3</sup>

**County Support:** NCSBE staff provide a significant amount of support to counties via regular meetings, trainings, annual conferences, and an on-demand “help desk” system. County support is particularly important given the fact that almost half of county election directors are new to their job within the past three years.<sup>4</sup>

**Regional Security and Support Technicians (SSTs)** — who provide on-demand support to county election staff across the state — are one vital piece of county support. However, the number of SSTs was cut in half for the 2022 midterm election, from eight to just four. As a result, each SST must now cover an area of 25 counties. This was due to budget constraints and a lack of federal Help America Vote Act funds, which had supported these positions in the past.<sup>5</sup>

**Temporary Election Staff:** Each year, counties are responsible for recruiting and training temporary election workers from within their county.<sup>6</sup> Temporary election staff include Election Day precinct officials, election judges, and Multipartisan Assistance Team members. Counties have expressed challenges with finding, recruiting, and paying for these temporary election staff.<sup>7</sup>

In 2020, poll worker shortages were reported across the state.<sup>8</sup> The NCSBE responded by launching a statewide recruitment effort, known as the “Democracy Heroes” program, which successfully recruited nearly 60,000 election workers. The program received national recognition, and it continued into 2022.<sup>9</sup>

### Harassment and Intimidation

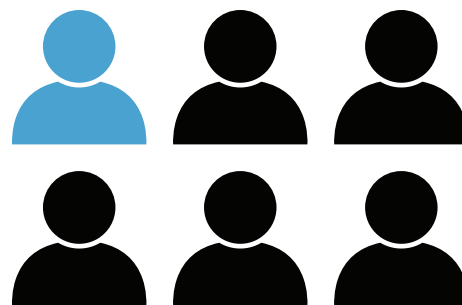
Since the 2020 presidential election, election officials across the country have experienced threats and harassment at unprecedented levels. According to a recent Brennan Center survey, 1 in 6 election officials across the country have experienced threats in the recent past.<sup>10</sup>

Reports of intimidation include threats of violence and death to election officials and their family members, as well as threats of mass shootings in election offices.<sup>11</sup> Wake County Board of Elections reported problems with stalking and harassment of their staff and board members, while the NCSBE has reported receiving “disgusting” and threatening emails.<sup>12</sup>

In response, county boards across North Carolina have installed bulletproof glass and panic buttons in their offices.<sup>13</sup> The NCSBE also requested funding for additional security precautions in their building.<sup>14</sup>

North Carolina political party leaders and lawmakers have also contributed to the current hostile environment for election officials. A significant number of North Carolina Republicans have repeated false claims that the 2020 election was stolen — bolstering the conspiracy theory and casting doubt on the integrity of local and state election officials.

- In April 2022, Surry County Republican Party Chairman Keith Senter threatened to fire Surry County Elections Director Michella Huff unless she provided him with illegal access to voting equipment.<sup>15</sup>
- In October 2021, members of the North Carolina House Freedom Caucus threatened to force their way into Durham County Elections in order to open voting equipment, which is prohibited by state law.<sup>16</sup>



**ONE IN SIX ELECTION OFFICIALS  
HAVE EXPERIENCED THREATS**

Source: "Local Election Officials Survey,"  
Brennan Center for Justice, March 2022

Local election officials have been bombarded with duplicative public records requests in recent months. The requests are part of a nationwide movement by Big Lie proponents to compile voting records. While information requests are an important piece of transparent and accountable government, the sheer number of the requests overwhelmed election officials, who were struggling to simultaneously run the 2022 midterm election.<sup>17</sup>

## RECOMMENDATIONS

1. **Improve legal protections for state and local election officials.** The Safeguard Fair Elections Act — which was introduced into the North Carolina General Assembly in 2022, but stalled due to inaction — would establish new protections for poll workers and election officials against intimidation and harassment.
2. **Ensure consistent and competitive pay for election administrators at the state and county levels — particularly for those in IT and cybersecurity.** The NCSBE has reported challenges in hiring and retaining staff due to a lack of competitive funding.<sup>18</sup>
3. **Provide additional support to counties to help them recruit, train and retain county election staff and board members.** This could come in the form of hiring more SSTs, offering more trainings, and providing on-demand support during election season.
4. **Require all state and local election staff — including poll workers — to receive de-escalation training, along with other protocols for staying safe on and off the job.** This can be modeled after a de-escalation training presented at the 2022 NCSBE Summer Conference.<sup>19</sup>
5. **Establish statewide funding for security improvements at state and local election offices.**
6. **Focus poll worker recruitment on younger and more diverse poll workers — and establish an hourly minimum wage for these positions.** At present, pay rates for poll workers vary widely from county to county.

– *Caroline Fry, Institute for Southern Studies*

# ENSURE UNIFORM ELECTION ADMINISTRATION

## BACKGROUND

In North Carolina, election law is primarily created by the General Assembly.<sup>1</sup> The North Carolina State Board of Elections (NCSBE) has the power to create rules and procedures related to election administration, as long as they do not contradict existing election law.<sup>2</sup> Lastly, courts intermittently rule on the validity of election law, which must be implemented by state and local election administrators.

The NCSBE is responsible for ensuring that all 100 county boards of elections (CBOE) uniformly enforce election law. This ensures that every North Carolinian has a similar voting experience, no matter their county of residence. This can be challenging amidst a fluid legal landscape when rules are modified — or when existing rules are vague and leave room for interpretation.

In recent years, the NCSBE has made significant progress to ensure that local election officials uniformly administer elections within their counties, including:

- Requiring a minimum number of early voting sites and hours. During the height of the COVID-19 pandemic, the NCSBE issued an emergency order requiring counties to operate a minimum number of early voting sites and weekend hours.<sup>3</sup> This led to the state offering voters the most voting sites and hours in state history.<sup>4</sup>
- Mail ballot signature verification. Until 2020, North Carolina had not clearly defined a procedure for verifying signatures on mail ballots. As a result, counties sometimes conducted random signature verification using untested and unverified means.<sup>5</sup> A numbered memo issued by the NCSBE now forbids this process.<sup>6</sup>
- Mail ballot curing. Following a 2020 lawsuit, the NCSBE established a uniform process for North Carolinians voting by mail, giving them the ability to fix problems with their mail ballot. Until this time, there was no clear instruction for counties that received mail ballots with problems; as a result, thousands of ballots were rejected. Implemented for the first time in the 2020 presidential election, the new “ballot cure” process allowed 20,000 voters to have their ballots count.<sup>7</sup>

The NCSBE regularly disseminates information to counties on election administration. This includes numbered memos, meetings, training, and statewide conferences. However, few protocols exist for monitoring how laws are implemented by the counties.

## RECOMMENDATIONS

1. **Institute administrative accountability procedures for county boards of elections to ensure compliance with existing administrative rules, guidance, and election laws.** Although providing education and training on the front end is vitally important, there must be measures in place to ensure that counties uniformly apply election law.
2. **Build on existing work to ensure county election staff have expertise in complex and rapidly changing election law.** One example of this is the “HUBS” program, which creates working groups of county and state election officials to share expertise and best practices in election administration.<sup>8</sup>
3. **Share templates, trainings, and resources with counties to both prevent duplicative efforts and ease administrative burden.** One example is an online poll worker training system, which some larger counties offer but many smaller counties cannot afford.
4. **Provide counties with clearer guidelines for developing early voting plans, cementing into place similar standards issued in 2020.** This should include mandatory weekend voting hours.

– Caroline Fry, Institute for Southern Studies

# IMPROVE PUBLIC ACCESS AND TRUST IN ELECTIONS

## BACKGROUND

By law, every county board of elections (CBOE) in North Carolina is subject to open meetings requirements.<sup>1</sup> In addition to observing meetings, the public sometimes plays a role in decision making — for example, the process of choosing early voting sites often includes community feedback.<sup>2</sup>

However, the immense variance in communication infrastructure used by CBOEs poses a challenge to public access. Some counties have invested a significant amount of time and money in building intuitive, user-friendly websites, whereas smaller counties with limited staff and resources often cannot make these same investments.

These disparities extend to CBOE meetings. Some counties offer telephonic and online meetings, but many do not. While the North Carolina State Board of Elections (NCSBE) recommended that counties offer virtual public meeting access in 2020,<sup>3</sup> this has never been a requirement.

For counties that do offer virtual meeting access, county residents tuning in have reported the following issues:<sup>4</sup>

- Lack of information on CBOE websites regarding meeting time and how to participate, even in the hours leading up to the meeting.
- Problems with audio and video quality, including not knowing who is speaking.
- Having no way to participate in the meeting (e.g. to ask questions or submit public comment).

## Repairing Public Trust

Public trust in elections has declined steadily in recent years, taking a significant drop following the 2020 election.<sup>5</sup> Conspiracy theorists have used the public's lack of understanding about how elections work to their advantage — accusing election officials, without specificity, of rigging elections.

Election officials are well aware of the threat that disinformation poses to the health of our democracy. In recent years, the NCSBE has added information to their website about election security, election audits, and basic voting procedures. Following the 2020 election, the agency created a “Combating Misinformation” online campaign.<sup>6</sup>

In 2022, a group of bipartisan state and local election officials participated in a series of town halls to provide North Carolinians with information on the electoral process, build trust in our voting system, and strengthen civil discourse. The “Trusted Elections Tour” sought to address public concerns about voting machines, cybersecurity, and the process for collecting and counting ballots. The tour was developed by the North Carolina Network for Fair, Safe, & Secure Elections, a project of the Carter Center.<sup>7</sup>

## RECOMMENDATIONS

### 1. **Require all county boards of elections to offer virtual access to all meetings, including:**

- Stream all meetings live on an online platform that allows the public to see and hear the meetings.
- Provide a phone number that people without internet access can call in to listen to the meetings.
- Provide clear instructions for how to join and participate in meetings on the county elections board website at least 48 hours before the meeting.





2. **Require counties to offer a record of past meetings online, including:**

- Publishing video/audio recording of meetings on the county board of election's website within 48 hours of the meeting.
- Publishing meeting minutes on the county board of election's website within 48 hours.
- Posting agendas for upcoming meetings at least 48 hours before the meeting on the county's website, clearly indicating where the public may provide input.

3. **Improve the ability for the public to provide comments and feedback, including:**

- Allowing people to post comments online or submit them by e-mail or text during the public comment period.
- Providing clear instructions for how the public can submit feedback or comments to the county elections board.

4. **The North Carolina General Assembly should dedicate funds to purchase technology to allow all state and county board of elections meetings to be available online and via telephone.** Additionally, the NCSBE should provide support to counties in implementing virtual meetings.

5. **Both the state and county election offices should continue offering public education campaigns about how elections work, how ballots are counted, and how to identify misinformation.** State funding should be available for this work.

– *Caroline Fry, Institute for Southern Studies*

## SECTION IV: DEFEND AGAINST ELECTION SUBVERSION

### SAFEGUARD FAIR ELECTIONS

#### BACKGROUND

When we vote, we depend on a vast array of people, systems, and legal protections. This includes the poll workers who provide us with a ballot, a tabulation process that ensures ballots are counted accurately, and election laws that protect us from intimidation. The democratic process hinges on a decentralized, bipartisan network of skilled election administrators who oversee the process.

With every passing day, we know more about how dangerously close we came to losing this democratic process in 2020. As we learned from the January 6th committee hearings, Donald Trump and his allies mounted an all-out effort to force state and local officials to falsify election results. In one example of their pressure campaign, Trump targeted a Georgia election official, who faced threats and ultimately left her position.<sup>1</sup>

The Big Lie has led to the continued politicization of election administration. Starting in 2021, state legislatures across the country introduced bills to take power away from election officials, shifting election administration responsibility from the executive to the legislative branch.<sup>2</sup> Although they proved to be unsuccessful, there were several related attempts in North Carolina:

- Senate Bill 360 (2021): If passed into law, the bill would have required state agencies — most notably, the North Carolina State Board of Elections (NCSBE) — to seek approval from the General Assembly before settling many election-related lawsuits.
- House Bill 487 (2021): This bill would have allowed unspecified individuals to fire election officials for undefined reasons. If passed, this bill could have been used as a tool for the legislature to interfere in the hiring and firing of election officials.
- Attempted seizure of voting machines: Members of the North Carolina House Freedom Caucus threatened to force their way into the Durham County Board of Elections in order to “inspect” voting equipment, in violation of state election law.<sup>3</sup>

In order to safeguard against election subversion and sabotage, we must ensure that election officials receive the training and protection they need to do their jobs. We must build guardrails around election administrators, shielding them from partisan efforts to manipulate elections. And we must continue to improve our systems for counting ballots and guaranteeing their results are correct, without allowing third parties to hijack our democratic processes.

#### RECOMMENDATIONS

In the 2021-2022 legislative session, pro-democracy advocates worked with legislators to file Senate Bill 916, the Safeguard Fair Elections Act. If passed, this act would make it a crime to intimidate, threaten, or engage in violence against election officials; help protect voters from intimidation and coercion before or on election day; hold state officials accountable to the will of the people so that elections are certified and decided based on fact, not political fiction; prohibit sham ballot reviews; and prevent further interference with the election process.

#### **Increase Voter Protections Against Intimidation, Threats, or Coercion**

North Carolina has a long history of voter intimidation incidents. Today, more than 50 years after the passage of the Voting Rights Act, voter intimidation and deceptive election practices continue to target our state’s most historically disenfranchised voters. (For more information, see Section II, “Protect Voters from Intimidation.”)

The Safeguard Fair Elections Act would create new legal protections to ensure that individuals cannot threaten or attempt to threaten any person for voting, attempting to vote, or registering to vote. This includes those who knowingly challenge a voter's right to vote on fraudulent grounds, or advising someone that they cannot vote when they can.

The bill would also enact new protections for workers, forbidding employers from coercing employees to vote or to support a specific candidate. Lastly, the bill provides a right of action to any aggrieved person so that they may bring a lawsuit for relief, and it creates a restitution fund that violators must pay into, which will be used for voter education campaigns. The act would also create a uniform voter intimidation reporting system.

### **Protect Election Officials from Intimidation**

Since the 2020 presidential election, election officials across the country have experienced threats and harassment at unprecedented levels. According to a recent Brennan Center survey, 1 in 6 election officials across the country have experienced threats in the recent past.<sup>4</sup> (To read more about recent attacks on North Carolina election officials, see Section III, "Fund, Support, and Protect Election Officials.")

The act would ensure that an individual cannot intimidate, threaten, or coerce an election worker with the intent to impede, intimidate, or interfere with the election worker's official duties. It would allow NCSBE and district attorneys to investigate, prosecute, and seek penalties for any person that intimidates, threatens, or coerces an elections worker.

Importantly, the act would also ensure that election administrators are adequately and equitably compensated throughout the state. County election boards and the NCSBE have reported funding shortages and problems with recruiting and training skilled workers in recent years.

Lastly, the bill would protect election officials' and their immediate family's personally identifiable information in public records, if they are at risk of intimidation, threat, or coercion in response to official duties.

### **Disqualify Any Public Official Who Refuses to Certify an Election Without Evidence**

In all, 147 U.S. senators and representatives — including seven from North Carolina — voted to overturn the results of the 2020 presidential election, despite a dearth of substantial evidence of fraud.<sup>5</sup> The certification of North Carolina's election results is a process conducted by the NCSBE, without the General Assembly. Four of the five NCSBE Board Members voted to certify the state's 2020 election results. This was the first time that a member has dissented from a unanimous certification vote in recent history.<sup>6</sup>

The Safeguard Fair Elections Act would make certain that a public official cannot refuse to certify the actual results or count of an election without providing substantial, scientifically supported evidence. Public officials who break from this would be forced to resign from office.

### **Prohibiting Sham Ballot Reviews and Strengthening Election Audits**

Following the 2020 presidential election, calls from North Carolina lawmakers to conduct sham election reviews intensified. Unlike legitimate election audits — which North Carolina already implements — sham reviews are conducted by third parties who may be politically motivated to skew election results, untrained in election administration, or both. These reviews have led to the de-certification of highly sensitive and secure voting equipment — ultimately costing taxpayers millions of dollars to replace voting machines.<sup>7</sup> (For more information about sham ballot reviews and how they differ from legitimate election audits, see Section IV, "Strengthen Election Audits.")





Safeguard Fair Elections press conference held in Raleigh, June 2022. IMAGE: Common Cause North Carolina

The Safeguard Fair Elections Act would forbid these types of politically motivated and unreliable third-party sham ballot reviews. In addition, North Carolina’s audit system would be further developed, including the use of risk-limiting audits following each general election.

### **Prevent Poll Observers from Interfering with Election Processes**

Election officials reported over a dozen violations by poll observers during the 2020 primary election. Violations included interacting with voters, trying to enter restricted areas, and standing too close to voting machines and tabulators.<sup>8</sup> New rules passed by the NCSBE creating additional protections for voters and their privacy inside a voting site were rejected by the Republican-controlled Rules Review Commission.<sup>9</sup>

The Safeguard Fair Elections Act would ensure that political party observers must complete a standardized statewide training before acting as an observer and complete additional training at least once every two years as applicable. It would also require poll observers to sign a sworn oath that the observer shall do no electioneering at the voting place and shall not impede the voting process or interfere with or communicate with or observe any voter in casting a ballot. Lastly, it would require observers to wear clear identification, including the observer’s name, role, and partisan affiliation.

– **Melissa Price Kromm**, North Carolina Voters for Clean Elections,  
**Caroline Fry**, Institute for Southern Studies, and **Marian Lewin**, League of Women Voters of North Carolina

# REDEFINE HOW ELECTIONS CAN BE CONTESTED

## BACKGROUND

North Carolina law gives legislators power to decide contested elections for governor and other executive branch positions. And the outcome can't be reviewed by the courts.

This system opens the door to politicians changing the outcome of an election. Efforts to subvert the 2020 elections highlighted the dangers of allowing election results to be contested for partisan and political reasons. The previous president tried to overturn the results of the 2020 presidential election, and legislators should act now to ensure that won't happen in our state capitol. Lawmakers should pass a bill that either limits the legislature to ordering new elections, or gives other officials a role in resolving contested executive branch elections.

In a 2013 law review article, election law expert Joshua Douglas of the University of Kentucky found that only 13 states give legislatures the power to decide contested gubernatorial elections. Nearly all of these states are in the South, and some of these rules are antiquated remnants of Jim Crow legal regimes.<sup>1</sup>

Courts resolve disputed elections for governor in around half of all states. Texas saw its highest court intervene in the 1873 gubernatorial election after a white supremacist Democrat initially appeared to have won handily. On Jan. 6, 1874, the Texas Supreme Court — which had been appointed entirely by the incumbent Republican — ruled the election itself unconstitutional because lawmakers had limited voting to one day. The case turned on a technicality, punctuation in the state constitution, and was widely perceived as partisan. But the Republican eventually conceded.<sup>2</sup> The court was widely criticized, and Texas law was changed to allow the legislature to settle disputed elections for governor.<sup>3</sup>

The North Carolina Constitution says that contested races for governor or other "Council of State" positions "shall be determined by joint ballot of both houses of the General Assembly." The statute implementing this provision specifies that once an intent to contest the results is filed with the state House, any lawsuits are halted.<sup>4</sup>

The House speaker and Senate president each appoint five lawmakers to a joint committee, and both must choose two members of the minority party. The committee issues a recommendation to a joint session of the legislature for a "final determination" of the election.

Legislators "shall determine which candidate received the highest number of votes," if the dispute is over who won the election. If they can't decide who got more votes, they can order a new election or take any other action that is "necessary and proper." If the legislature determines that a candidate wasn't qualified to run, it orders a new election. Lawmakers' decisions "may not be reviewed" by the courts.

Former Gov. Pat McCrory considered invoking this legislative process after the narrowly decided 2016 election, in which Democratic challenger Roy Cooper defeated him by 10,000 votes. A recent article in *The Assembly* described what happened around midnight on Nov. 8, 2016, when Durham County delivered tens of thousands of ballots after technical problems caused long delays. McCrory's team had "grave concerns" about the "sudden emergence" of the ballots. They went on to suggest widespread fraud and accuse more than 100 voters of illegally voting.<sup>5</sup> Bob Orr, a former high court justice, advised McCrory to contest the outcome. The governor declined to ask lawmakers to intervene. In Orr's conversation with McCrory, he noted that the system of allowing legislators to settle contested gubernatorial elections had been created by Democrats a decade earlier.

In the spring of 2005, members of the Democratic-controlled legislature voted along party lines to give themselves this authority. The 2004 race for education superintendent had yet to be decided. The Democratic candidate led by more than 8,000 votes, but her Republican opponent had successfully sued to stop the certification of her victory. At the time, the North Carolina Supreme Court had its first Republican majority in nearly a century;<sup>6</sup> it had ruled that thousands of mail ballots that the Republican challenged shouldn't have been counted, because they were returned to the wrong precinct.<sup>7</sup>



The legislature passed the statute giving itself final authority to resolve executive branch elections. The courts were divested of jurisdiction over contested elections. Then the legislature declared the Democrat the winner, because she received more votes.

Besides settling gubernatorial races, North Carolina lawmakers also have the power to resolve disputed elections for their own chamber. Senators deal with disputed Senate races, and the House does the same for its own elections. Nearly every other state has a similar system. The judiciary plays a role in some states, such as deciding issues of fact about the number of votes cast.

State law also allows the North Carolina legislature to decide who won the presidential election in the state, if the governor still hasn't "proclaimed" the results by the time the Electoral College meets. Lawmakers are supposed to make their decision align "with their best judgment of the will of the electorate," but the decision can't be reviewed by the courts.<sup>8</sup>

Under the current statutory scheme, the North Carolina State Board of Elections retains the power to order new elections because of widespread irregularities that taint the results, such as the mail ballot election fraud in a 2018 congressional race. The board can also order new elections if eligible voters were disenfranchised or ineligible voters cast ballots, but only if the number of votes at issue could've changed the outcome. A majority of state and local election board members belong to the governor's political party.<sup>9</sup>

## RECOMMENDATIONS

The North Carolina legislature should update state law to make it more difficult for legislators to resolve elections in ways contrary to the will of the voters, particularly with respect to contested elections for governor and other executive branch offices. Only 13 states, mostly in the South, allow legislatures to decide who won these elections.

In his law review article, Douglas recommends that states have "a neutral, unbiased decision maker" to resolve contested elections. "The legitimacy of an election dispute's outcome depends in large part on the impartiality of the tribunal that decides the case," he argues.<sup>10</sup>

Because elected judges may not be perceived as the most impartial decision makers, Douglas suggests that states appoint a body that is diverse, in terms of ideology and background, to resolve contested elections. He argues that a bipartisan system would help ensure that the losing candidate doesn't claim that the decision was politically motivated.

Douglas calls for a "multi-member panel of judges, political operatives, and experts." Candidates would list prospective members when they file to run. And either the panel would require a supermajority to act, or the candidates' choices would have to agree on "neutral" members. The decision wouldn't be subject to review by the courts.

Even if North Carolina doesn't go that far, it shouldn't allow Republican or Democratic majorities in the legislature to resolve contested elections for executive branch offices. Lawmakers should pass a new law that gives courts a role to play, such as issuing "findings of facts" about who got more votes. Douglas also highlights some states, including Kentucky and Tennessee, where lawmakers are randomly assigned to the committees looking into the election dispute.

Alternatively, the legislature could consider giving the North Carolina State Board of Elections a greater role in contested elections. One option would be to allow the Board to submit its own findings of fact to the legislature and to have the legislature rely on those findings of fact as conclusive as long as they are supported by competent evidence..

In the current political climate, candidates are increasingly questioning the legitimacy of election outcomes. North Carolina lawmakers should act to ensure that, if this happens here, there's a better way to resolve the dispute and protect the integrity of elections. The state should make sure that the outcome of every election is determined by the voters, not politicians.

– **Melissa Price Kromm**, *North Carolina Voters for Clean Elections*

# COMBAT ELECTION DISINFORMATION

## BACKGROUND

Over the past several years, we have witnessed a sharp increase in online disinformation. This phenomenon is especially pernicious when targeted, bad information impacts local, state, or national electoral and democratic processes. Efforts to disinform voters are a constant threat to our democracy.

Examples of election disinformation include communications providing the wrong election date or citing bogus election rules, false claims about election integrity/security and election results, and voter intimidation. The most common means of disseminating disinformation today are social media platforms like Facebook and Twitter, junk websites, untrustworthy media outlets, search engines like Google, email, text messages, and robocalls.

False claims about voter fraud in the 2020 election fueled a false post-election narrative, known as the Big Lie, that the election was “stolen” from Trump, and they gave energy to the so-called “Stop the Steal” movement and the deadly insurrection at the U.S. Capitol on Jan. 6, 2021. Now, this election disinformation has been so thoroughly disseminated that more than 1 in 3 residents in the U.S. believe the Big Lie.<sup>1</sup> The Big Lie was used to justify more than 400 bills that restrict voter access being introduced in 41 states in the 2021 legislative sessions.<sup>2</sup> Since the 2020 election, legislators in at least 21 states have enacted 42 new restrictive voting laws.<sup>3</sup> In other words, laws were changed to make it harder for people to vote based on a disinformation campaign — a clear example of why preventing election disinformation is vital.

## RECOMMENDATIONS

Given the relative novelty of online disinformation, the existing body of policy tools lawmakers have at their disposal is limited. And much of the response will need to move through Congress, as tackling issues such as social media algorithms promoting bad information requires national policy responses, as found in the Algorithmic Justice and Online Platform Transparency Act,<sup>4</sup> or efforts to hold platforms accountable, as found in the Social Media Disclosure and Transparency of Advertisements Act.<sup>5</sup>

However, state reforms are potential avenues through which state legislators can address disinformation in the near future. Potential approaches include:

1. In 2021, lawmakers in Oregon passed bipartisan legislation that explicitly outlaws the dissemination of disinformation to voters about election dates, deadlines for voting procedures, and other election requirements and qualifications. The specific timeframe for these limits would be 30 days before a primary or special election, and 60 days before a general election.<sup>6</sup>
2. Lawmakers in the Florida Senate introduced legislation in 2021 to address growing concerns over manipulated videos and images, wherein public figures or elected officials are deceptively edited in order to present misleading information. The bill requires a medium that contains a manipulation of any political candidate's likeness to include an audible and visual disclaimer clearly labeling the medium as being edited for a specific purpose.<sup>7</sup>
3. In Virginia, lawmakers approved a bill that makes certain forms of election disinformation that are already subject to criminal penalties — including knowingly communicating false information to voters — cause for civil action as well. Areas covered under the statute include giving registered voters false information intended to impede them in the exercise of the right to vote, such as the date, time, and place of the election; the voter's precinct or polling place; and voter registration status.<sup>8</sup>

– **Melissa Price Kromm**, North Carolina Voters for Clean Elections

# STRENGTHEN ELECTION AUDITS

## BACKGROUND

North Carolina law requires a statewide audit to take place after each election is held within the state.<sup>1</sup> Audits can spot problems with voting machines, ballot coding, counting, or intentional data manipulation. Most audits are performed at meetings that are open to the public, and audit results are made publicly available on both the county board of elections (CBOE) and North Carolina State Board of Elections (NCSBE) websites.<sup>2</sup>

Audits that take place in North Carolina<sup>3</sup> include:

**Sample Audit:** The NCSBE assigns each county to count every ballot cast for one contest (for example, governor) for two randomly selected samples (an Election Day polling place, a one-stop early voting site, or ballots cast by mail). These ballots are hand-counted by a bipartisan team of trained volunteers. The audit occurs during a public meeting held by the CBOE, which must take place before the county canvass.

**Voter History Audit:** County election officials compare the number of forms that every voter must sign before receiving a ballot with the total number of ballots counted via tabulator. For mail ballots, these audits are performed during ballot counting meetings, which are open to the public.

**Manual Entry Audit/Votes Cast Audit:** County election officials must sometimes enter election results by hand. This audit catches mistakes in transcribing numbers from tally sheets and election result tapes, and ultimately ensures that voters' ballot choices match the tabulator results.

**Provisional Audit:** Provisional voting is a fail-safe mechanism when election officials cannot confirm a voter's qualifications or eligibility to vote. If needed, data analysts conduct research to determine whether provisional voters were eligible to vote in the counties where they presented to vote. This information is sent to CBOEs to determine whether or not to count the provisional ballots and amend their canvasses to reflect any changes.

**Risk-Limiting Audit:** These audits provide statistical evidence that machine-tabulated ballot results are equivalent to what a full hand-to-eye recount would reveal. During a risk-limiting audit, bipartisan election officials in every county hand-count a statistically significant sample of ballots in one given contest. For the first time in North Carolina history, 17 counties used risk-limiting audits during the 2021 municipal elections. However, these audits are not yet required in North Carolina.<sup>4</sup>

## Sham Election Reviews

Following the 2020 presidential election, calls from election deniers to conduct sham election reviews intensified. Unlike legitimate election audits — which are conducted by election experts in full view of the public — sham reviews are conducted by third parties who may be politically motivated to skew election results, untrained in election administration, or both.<sup>5</sup> These reviews have led to the de-certification of highly sensitive and secure voting equipment — ultimately costing taxpayers millions of dollars to replace voting machines.<sup>6</sup>

A sham review conducted in Maricopa County, Arizona, was led by Cyber Ninjas, a consulting firm with no prior election-related experience. Cyber Ninjas was led by a Trump supporter who had repeated claims of voter fraud, and the review was funded by donations from far-right groups. The review audited over 2 million ballots that were cast in the county, also reviewing voting machines, servers and other data. The audit upheld President Biden's victory in the presidential election.<sup>7</sup>



Durham County Board of Elections staff process absentee ballots in October 2020 at the agency's warehouse. Each blue bin holds ballots from a different precinct. The workers are removing ballots from absentee-by-mail envelopes and flatten them, to be scanned in batches later on. IMAGE: Jordan Wilkie / Carolina Public Press

North Carolina lawmakers called for sham reviews to take place within the state on multiple occasions. In October 2021, 16 North Carolina state legislators signed onto a letter calling for a “forensic audit” to be held in every state in the country.<sup>8</sup> The same month, members of the state House Freedom Caucus threatened to force their way into Durham County Elections in order to examine voting equipment.<sup>9</sup> Although this effort proved to be unsuccessful, conspiracy theories about the 2020 election have continued to spread.

## RECOMMENDATIONS

1. **Statutorily require risk-limiting audits following every statewide election.** Election security experts and statisticians recommend these audits be conducted nationwide to find and correct erroneous electoral outcomes.<sup>10</sup> North Carolina legislators should pass a bill requiring risk-limiting audits to be held statewide following each statewide election. These audits must be adequately funded by the state legislature.
2. **Prohibit the use of sham ballot reviews within the state.** Sham reviews could result in election malfeasance by partisan third parties, cost taxpayers millions of dollars, and would conflict with current law.<sup>11</sup>
3. **Provide additional education about audits to the public.** Although the NCSBE has taken a good first step in providing some information about audits on their website, much more can be done to ensure the public is familiar with North Carolina’s audit processes. This education can empower citizens to participate in the public meetings where audits are conducted, and diminish the persistent disinformation on this topic.

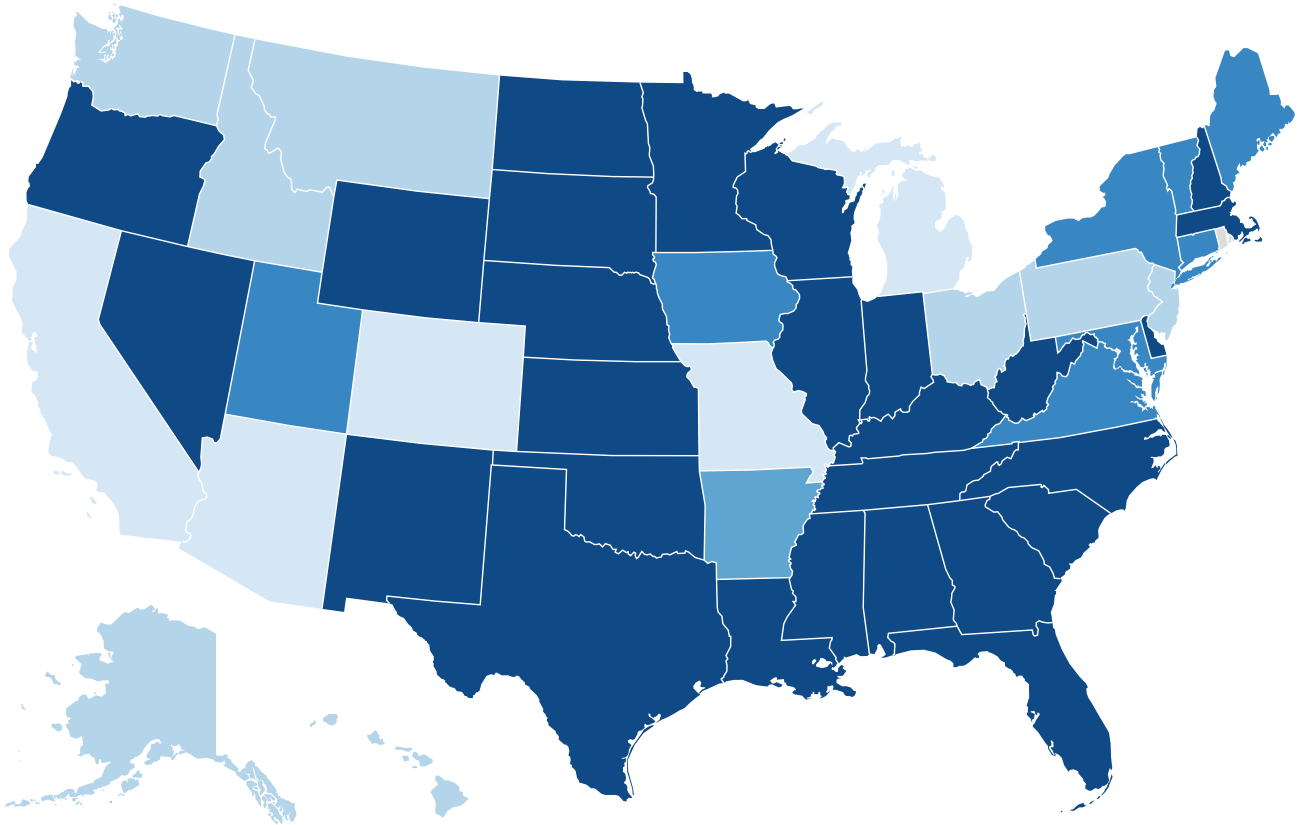
– *Caroline Fry, Institute for Southern Studies*



## SECTION V: PROMOTE FAIR REDISTRICTING AND EQUAL REPRESENTATION

### DRAW FAIR MAPS: REDISTRICTING REFORM

#### Who Draws State Legislative Districts



MAP: Olivia Paschal, Institute for Southern Studies, February 2023 • Source: Eagleton Center on the American Governor/Rutgers University

#### BACKGROUND

Every decade, our state's congressional and legislative voting districts, along with local boundaries for city councils and school boards, are redrawn. How those lines wind through counties and communities will impact elections and the priorities of our government for years to come.

The redistricting process is intended to produce voting maps that reflect population shifts as shown by the decennial U.S. census, guided by the principle of one person, one vote. The sad reality is that for decades, politicians from both sides of the aisle in the legislature have manipulated our districts through gerrymandering — stacking the deck by drawing boundaries that unfairly favor their own party.

Gerrymandering is almost as old as our nation. But modern advances in mapping technology and more sophisticated data collection enable politicians today to rig our voting maps with even more pernicious effectiveness, splitting neighborhoods and treating voters as political pawns instead of constituents.

The damaging impact of gerrymandering is seen with increased polarization in government and extreme policies that fail to consider the will of voters. Black and brown voters have especially been hurt by gerrymandered districts that undermine their right to have a voice in our democracy.



For many years, North Carolina has been at the epicenter in the fight to end both racial and partisan gerrymandering. However, there have been recent victories against gerrymandering and reason for hope that change can happen.

In 2019, a state court issued a landmark decision in *Common Cause v. Lewis*, ruling that partisan gerrymandering, like racial gerrymandering, violates North Carolina's constitution.<sup>1</sup> As a result, the court ordered new legislative maps to be drawn for the 2020 election in full public view and without using partisan data.

While legislative leaders have been slow to embrace reform, North Carolinians clearly want an end to gerrymandering. Some 62 percent of the state's voters favor nonpartisan redistricting, with just 9 percent opposed, according to an October 2019 survey from Public Policy Polling.<sup>2</sup>

## RECOMMENDATIONS

In the 2019-2020 legislative session, there were a half-dozen redistricting reform bills introduced, including proposals that were co-sponsored by a bipartisan majority of North Carolina House members. Although none of those bills got a vote in the General Assembly, it was heartening to see growing support for reform among rank-and-file lawmakers.

The courts have made clear that both racial and partisan gerrymandering are unconstitutional in North Carolina, and the public overwhelmingly wants nonpartisan redistricting. In order to avoid illegal map-rigging, the redistricting process must be nonpartisan, with robust public input and full transparency.

We need to enact lasting reform that ultimately takes redistricting power out of the hands of politicians, and entrusts it with a nonpartisan citizens commission that will draw our voting maps without racial or partisan gerrymandering.

Reform comes in different forms. Some states have an *advisory commission* that recommends plans but the legislature has the final say. Some states have a *back-up commission* to step up and draw plans only if the legislature cannot agree on a districting plan in a timely fashion. Other states strive for an *independent commission* wherein legislators sometimes have a role in picking the commissioners but are not able to draw the district lines themselves. Lastly, some states have a *politician commission* where either legislators or other elected officials sit on the commission but the legislature as a whole is not involved.

One measure, House Bill 9 filed in 2023, provides for a constitutional amendment to change how district lines are drawn by creating a North Carolina Citizens Redistricting Commission.<sup>3</sup> The commission will draw districts to meet the following criteria: contiguous districts, minimizing the number of split communities of interest (including municipalities, census-designated places, precincts, and counties), compactness, electoral impartiality, and a prohibition on incumbent protection. This legislation would create a 15-member commission comprised of five Democrats, five Republicans, and five from neither of the two largest parties. Eight members are appointed by the leadership of both parties in the state House and Senate from a pool of voters that have applied and been pre-cleared for eligibility. The final seven are chosen at random. Applicants must meet strict criteria to limit partisan influence. The commission has the final say on maps, and thus there is no role for the legislature.

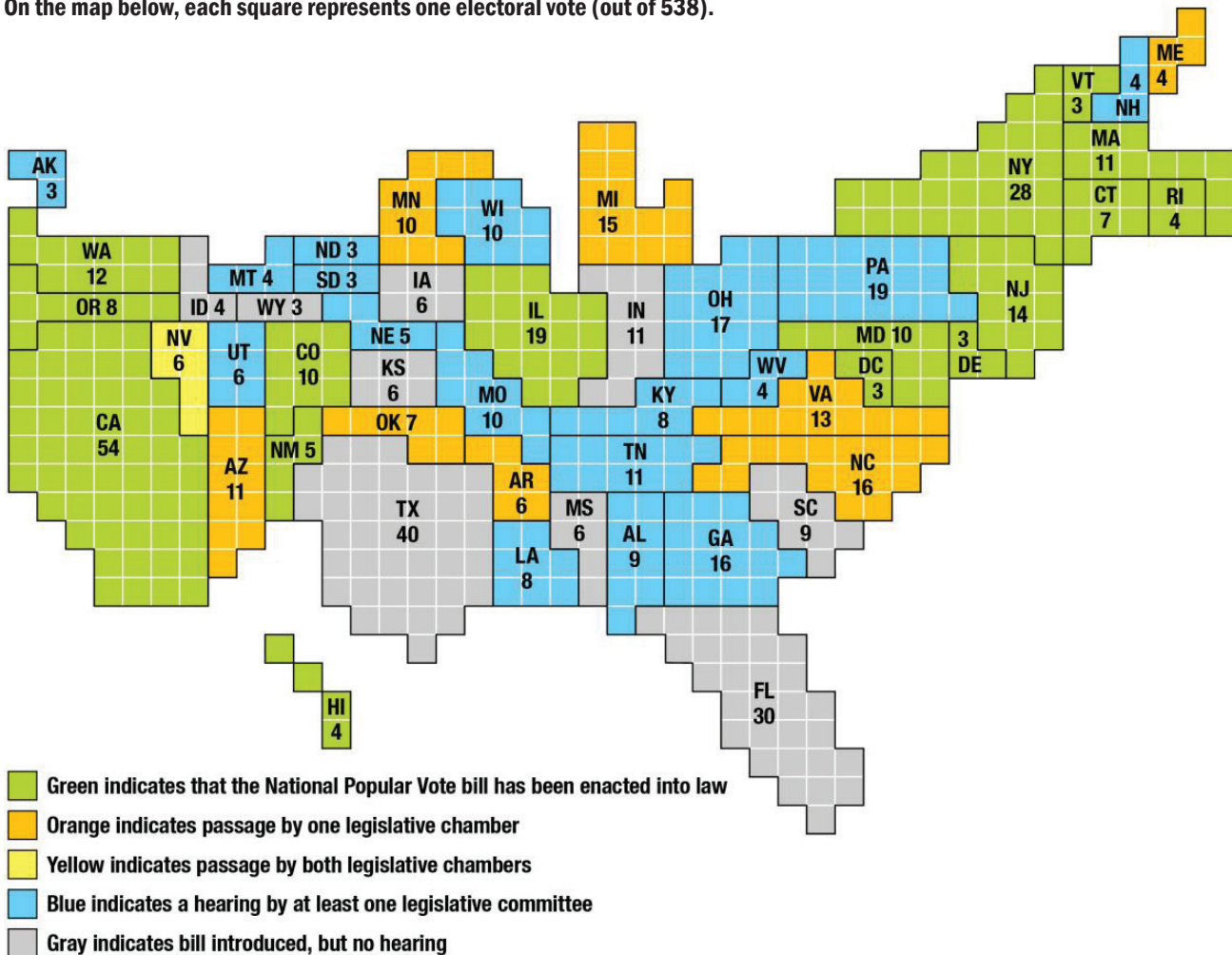
To ensure public inclusion in the process, the commission proposed in this measure holds at least 20 hearings and makes resources available to the public to permit them to draw their own maps, understand the process, and submit comments. Adoption of a plan requires a vote of at least nine members of the commission, including at least three members from each subgroup (Republicans, Democrats, and unaffiliated). If the commission is unable to adopt a plan, it shall hire a special master to draw a plan, which shall be adopted by the commission.

An updated version of Senate Bill 673 was filed in 2021, House Bill 437, the Fair Maps Act.<sup>4</sup> The public is hungry for a solution that ensures voters choose their elected officials, and politicians don't choose their voters. The time for real redistricting reform is now.

– **Bob Phillips**, *Common Cause North Carolina*

# REFORM THE ELECTORAL COLLEGE: POPULAR VOTE STATE COMPACT

On the map below, each square represents one electoral vote (out of 538).



MAP: National Popular Vote, 2023

## BACKGROUND

One person, one vote is a fundamental tenet of democracy. However, this principle doesn't apply in the election of the most powerful official in the country, the president of the United States.

The Electoral College system has its roots in inequality. At its founding, the Electoral College counted slaves as "three-fifths" of a person, and they of course couldn't vote themselves. Instead of counting the votes of people, the Electoral College creates a confusing system that removes the vote from the public and privileges a handful of sparsely populated states. It has enshrined a system of minority rule increasingly out of step with the realities of where people live and vote. Today, a majority of U.S. Supreme Court justices were appointed by presidents who lost the popular vote.

## RECOMMENDATIONS

While amending the U.S. Constitution to eliminate the Electoral College would be extremely difficult, there is a step the North Carolina legislature can take to move our state and country closer to one person, one vote.



The National Popular Vote Interstate Compact is an agreement among states and the District of Columbia to award all their electoral votes to whichever presidential candidate wins the overall popular vote in the 50 states and the District of Columbia. The compact is designed to ensure that the candidate who receives the most votes nationwide is elected president, and it would come into effect only when it would be necessary to ensure that outcome.

Currently, the compact has been adopted by 15 states and the District of Columbia. Together, those states represent 196 electoral votes. The compact needs to be adopted by states totaling 270 or more Electoral College votes to go into effect and influence the outcome of the election.

In May 2007, Senate Bill 954, a National Popular Vote by State Compact bill, passed the North Carolina Senate but later died in the North Carolina House.<sup>1</sup> Since then, the North Carolina state legislature has filed similar bills several times, with Senate Bill 104 in 2019 being the most recent.<sup>2</sup>

**– Melissa Price Kromm, North Carolina Voters for Clean Elections**

## SECTION VI: HEIGHTEN TRANSPARENCY AND COMBAT CORRUPTION

### BROADEN DISCLOSURE LAWS AND ENCOURAGE GOOD GOVERNMENT

#### BACKGROUND

North Carolinians deserve an ethical government that works for everyone. We must hold elected leaders accountable to strong ethical and transparency standards, so they serve the people instead of their own self interest. Over the years several good government and transparency reforms proposals have been introduced and advocated for in North Carolina. Recommendations for ensuring a North Carolina where public institutions are accountable and transparent are described herein.

#### RECOMMENDATIONS

1. **Close digital disclosure loopholes.** It is vital that we protect against foreign spending and influence in our elections. This lack of transparency means that voters are left in the dark about who is attempting to influence them, and there is little accountability for bad actors — including foreign nationals, who are legally barred from spending on U.S. elections. This is how trust in the democratic process erodes. To provide sufficient transparency and accountability to safeguard our political system, we must address these challenges and fix loopholes in election spending disclosure rules that don't cover digital election advertising. By updating campaign finance disclosure laws, we can ensure that voters have the information they need to interpret political messages and make choices in their interests and that reporters and government watchdogs can hold political actors accountable.

In 2019, advocates worked with lawmakers and experts to create legislation to address the digital election spending loophole.<sup>1</sup> This legislation narrowly defined qualified digital ads as those placed with a fee, and it would require most campaign entities supporting or opposing candidates or those engaging in electioneering communication (the mentioning of a candidate 30 days prior to an election) to place disclaimers on their qualified digital ads and file qualified digital communications disclosure report, in most cases.

The most recent version of the bill adds a \$1,000 election spending threshold for digital ads to qualify for disclosure. This ensures that the law is not overly burdensome to low-dollar candidates or individuals who wish to have their voice heard but are not keenly aware of campaign finance disclosure rules.

2. **Increase frequency of campaign finance reports.** Citizens are affected every day by the decisions of their democratically elected representatives and have the right to know when a campaign contribution or the access it buys contributed to the introduction of a bill, the tabling of an amendment, or a vote on legislation.

Secret outside money groups often spend vast sums of money to influence elections, but the source of that money is often not disclosed to the voting public in a timely fashion. By requiring them to file campaign finance reports sooner, voters are provided with a clearer idea of who is funding these organizations before heading to the polls.

Advocates proposed House Bill 919 in 2013 to increase the frequency of secret outside money disclosure close to an election.<sup>2</sup>

3. **Bring campaign finance reporting into the 21st century.** Looking toward the future, the State Board of Elections should be directed through legislation to create a better database on their website with electronic disclosures and copies of advertisements from political committees, candidate committees, independent expenditure committees, and unregistered outside spending committees, making it more accessible for public consumption.

The New York Board of Elections offers a good model for review.<sup>3</sup> North Carolina would need to provide additional resources and look at cyber protections for uploaded advertisements.

4. **Return electioneering communication to 60 days prior to election.** North Carolina has regulated





electioneering communications — ads or broadcasts that mention a candidate and reach a certain size of audience — since at least 2004, and the trigger date and disclosure regime has changed at different times. Most recently, the law was changed to require political groups to disclose electioneering communications only if they fall within 30 days of the start of early voting.

North Carolina should return to the original trigger date, and require disclosure of any electioneering communications within 60 days before the start of early voting.

5. **Revolving door prohibitions.** The revolving door is a practice in which former public officials benefit from their government service by becoming lobbyists or strategic consultants after they leave government, then selling their inside connections and knowledge to corporate interests. This revolving door muddies whether public officials are representing the public interest or corporate interests.

North Carolina law states that no former legislator may register as a lobbyist for six months after leaving office. Advocates argue the mandatory waiting period must be extended from six months to at least two years, if not more. The most recent version of this was filed in 2021, House Bill 318, extending the mandatory waiting period to four years.<sup>4</sup>

North Carolina could also look at how to make this provision more broadly applicable, such as for public appointees or employees of the legislative or executive branches.

6. **Increase transparency and predictability at the legislature.** Various reforms could make it easier for average citizens to keep track of important policy debates. One bill, The Sunshine Act, was filed in 2019 and includes several provisions that would increase transparency in the legislative branch.<sup>5</sup> This legislation would 1) enact live streaming and searchable archives of the legislative sessions and committee meetings, 2) ensure that agendas for legislative sessions and meetings are made public 24 hours ahead of time, 3) mandate that official legislative business be conducted between the hours of 7 a.m. and 9 p.m., 4) end the practice of “gut and replace bills” with changes that are not germane to the bill’s original author’s intent, and, 5) require that budget provisions carry the name of the legislator who requested the provision. This is a strong start to providing more transparency and accountability in our government. However, similar provisions for the executive and judicial branches should be reviewed as well.

– *Melissa Price Kromm, North Carolina Voters for Clean Elections*



## STRENGTHEN COORDINATION LAWS

### BACKGROUND

For our democracy to be effective, candidates and elected officials have to answer to their constituents — not wealthy special interests. Campaign contribution limits reduce the undue influence of wealthy donors, thereby guarding against political corruption and ensuring that officeholders are accountable to the people they represent. Similar to federal law and other states, North Carolina limits contributions by anyone giving directly to a candidate or coordinating their political spending with a candidate. Because coordinated spending is just as valuable to candidates as direct contributions, coordination between outside spenders and their preferred candidates must be regulated to prevent big donors from indirectly bankrolling campaigns while evading contribution limits.

The U.S. Supreme Court's 2010 *Citizens United* decision, together with subsequent court decisions, opened the floodgates for supposedly independent groups to accept and spend unlimited amounts of special interest money in our elections. As this outside spending has increased, the legal lines separating "independent" and "coordinated" spending have become critically important. However, most state laws have not been updated to reflect the new reality. Many coordination laws focus on particular expenditures and do not address the sophisticated relationships that exist between campaigns and outside spenders. For example, at the federal level, super PACs are often formed or managed by a candidate's former staff, thereby using those staffers' unique knowledge of the candidate's campaign to guide the super PAC's spending in a way that is most beneficial to the candidate, all while claiming to be independent.<sup>1</sup>

North Carolina's coordination law is similar to federal law<sup>2</sup>: A coordinated expenditure occurs when the person "makes an expenditure in concert or cooperation with, or at the request or suggestion of, a candidate, candidate's agent, or party."<sup>3</sup> These coordinated expenditures are considered contributions<sup>4</sup> and are subject to contribution limits.<sup>5</sup> However, the focus on particular expenditures is too narrow and fails to capture all of the activities that may be indicative of coordination between a campaign and a supposedly "independent" group.

In federal campaigns and in North Carolina, candidates and independent groups have pushed the boundaries of "coordination" and thus avoided contribution limits. These schemes include sharing employees, fundraising efforts, and campaign materials, without a direct agreement between the candidate and the nominally independent group regarding expenditures. Outside groups and candidates may try to evade coordination laws by hiring the same firm for their campaign services, using the common firm to informally coordinate their strategy.<sup>6</sup> At the federal level, candidates have gone so far as to tell the public that a super PAC is their preferred PAC and appear at events to help the PAC fundraise, even though the PAC is supposed to operate independently and is prohibited from coordinating with the candidate. If a candidate can solicit large contributions from a supporter to a supposedly "independent" PAC supporting the candidate, the contribution limit to candidates is eviscerated.<sup>7</sup>

More recently, candidates across the country have used a practice known as "redboxing" to evade coordination rules while overtly coordinating with outside spenders.<sup>8</sup> "Redboxing" involves candidates' publication of campaign materials, messaging, and strategy on their public campaign websites, with explicit signals about the kinds of ads that supportive super PACs should run, often set out in an actual bright red box on the candidate's website.<sup>9</sup> Although the signals — like the phrase "voters need to see on the go" — are meaningless to the general public, they provide direct guidance to super PACs on how to most effectively support the candidate.

North Carolina law should be updated to address these schemes and subject such coordinated spending to contribution limits.

## RECOMMENDATIONS

North Carolina's coordination law should be updated to capture the ways that candidates and ostensibly independent groups work together. These policies shift the focus from particular expenditures to the relationship between a campaign and an outside spender and all of the ways — from fundraising on — in which they may be working together.

First, the law should be amended to provide holistic standards for determining whether expenditures are coordinated and thus subject to contribution limits. Current law refers only to explicit requests or suggestions. In general, these standards should apply to expenditures by outside groups that have certain connections or contacts with the candidate's campaign. These connections or contacts should include the following:

- A candidate, candidate's family member, or campaign official has a role in forming or managing the group making the expenditure.<sup>10</sup>
- A candidate fundraises for the group making the expenditure or appears at the group's fundraising events.<sup>11</sup>
- The group makes the expenditure relying on nonpublic information about the campaign that is provided by the candidate or others involved in the campaign.<sup>12</sup>
- The group making the expenditure employs a former employee or associate of the candidate,<sup>13</sup> or uses a common vendor also providing services to the campaign.<sup>14</sup>

If a group with these types of connections to a candidate's campaign makes certain types of expenditures to benefit the candidate, the expenditures should be considered coordinated and subject to contribution limits. The types of expenditures covered by an effective coordination law should include partisan voter activity, political advertising, or research and support for these activities that benefit a particular candidate.

Second, when a group republishes a candidate's campaign materials or uses information from a candidate's redbox to run ads supporting the candidate, the expenditure should be considered a coordinated expenditure.<sup>15</sup>

Finally, North Carolina law should provide guidelines for how a group can engage in independent spending without running afoul of the coordination law. Groups that implement effective firewall policies should be able to make independent expenditures without their activities being considered coordination.<sup>16</sup>

**– Aaron McKean, Campaign Legal Center**

# ENSURE A VOTER'S "RIGHT TO KNOW" ABOUT MONEY BEHIND ELECTIONS

## BACKGROUND

Unlimited secret campaign spending has grown to be one of the most pernicious problems in American politics, with more than \$1 billion of so-called "secret money" flowing into our elections over the past decade.

In 2010, the U.S. Supreme Court's decision in *Citizens United v. FEC* gave corporations and unions the ability to spend unlimited amounts of money to influence elections in the form of "independent" expenditures. Underlying this decision was a near unanimous conclusion by the court: that it is within the constitutional purview of legislatures to require transparency of the identities of political spenders and contributors, giving voters the ability to know who is paying for campaigns to influence their decisions at the ballot box. Indeed, in its *Citizens United* ruling, eight of the nine justices joined in affirming that:

"The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."<sup>1</sup>

If voters know who is speaking, so the logic goes, then the risk of corruption, or appearance of corruption, resulting from "independent" spending is reduced.

Unfortunately, in the decade following *Citizens United*, legislatures have largely failed to deliver on the court's affirmation of transparency. Unlimited "independent" spending has grown exponentially, and along with it so has the prevalence of "dark money" — TV ads and other political spending paid for by front groups, funded by secret, unaccountable donors. Not only is "dark money" spending not transparent, as a primary engine of attack advertising,<sup>2</sup> but it promotes divisiveness and polarization in political discourse.<sup>3</sup> What's more, it allows special interests to achieve undue credibility in their campaign communications, giving deceptive, highly targeted messages more persuasive power by dissociating them from the big-money sources that fund them. Dark money, for example, is a key mechanism by which foreign actors have sought to sway our national elections.<sup>4</sup>

North Carolina has not been immune to the flood of dark money spending in elections. Secret spending was a major force in the 2020 U.S. Senate race,<sup>5</sup> and over the past decade it has played an increasing role in state-level contests. The ability to spend unlimited amounts of money in secret has given an outsize voice to wealthy donors<sup>6</sup> and has even come to shape public opinion in the form of political activism masquerading as journalism.<sup>7</sup>

## RECOMMENDATIONS

There is a commonsense solution to curb the problem of dark money in politics that has gained traction in states from Alaska to Arizona: Give voters a "right to know" who is trying to influence their vote. Eighty-one percent of American voters believe they should have this right. A voters' "right to know" bill could include measures such as:

- All political advertising expenditures above a state-appropriate threshold must be traced back to their "true" source. A "true" source refers to a source of funding that is: 1. a natural person; or, 2. a corporation whose money comes from revenue obtained in the ordinary course of business. It does not refer to entities spending or contributing money they received from donations or transfers. If money spent on political advertisements is financed using donations or transfers, the true source of those expenditures must be disclosed.
- The true-source identities of the top contributors to a campaign spending above the state threshold must



be displayed on any political advertisements seeking to influence the decisions of voters.

- Information about the true sources of political expenditures must be reported in an electronic format that is searchable and easily accessible to the public.
- An independent, nonpartisan agency must be granted the authority to oversee and enforce compliance with rules surrounding the transparency of political spending.

In 2018, North Dakota voters demanded the “right to know” via a citizen-initiated constitutional amendment, requiring all campaign expenditures over \$200 to publicly disclose their true source. In 2020, Alaska voters passed a measure mandating that independent expenditures over \$2,000 disclose their true sources of funding. In 2022, Arizona voters passed an initiative by an overwhelming majority (over 70 percent) requiring groups making independent expenditures over \$50,000 on statewide races and over \$25,000 on local races to disclose the true sources of contributions above \$5,000.<sup>8</sup> In Oregon, an initiative has been filed to place on the 2024 ballot a measure that would similarly require transparency of the true source of independent expenditures.<sup>9</sup>

North Carolina can join the growing groundswell of public demand for a “right to know” about the special interests secretly influencing politics. To preserve the integrity of our elections, North Carolina can actualize what the U.S. Supreme Court asserted would protect democracy from corruption by unlimited special interest campaign spending: the ability to know who’s really paying for political messages.

– **Jay Costa**, *Voters Right to Know*



# EXPAND OPPORTUNITY WITH VOTER-OWNED ELECTIONS

## BACKGROUND

The relentless pressure to raise money to finance campaigns distorts every aspect of our democracy. The cost of running for office in North Carolina has steadily increased, posing what amounts to a wealth barrier to serving as an elected official. It's not uncommon for candidates to have to raise \$250,000 or more to seek a state House or Senate seat. In 2020, candidate fundraising for the North Carolina Supreme Court averaged almost \$1.2 million, and for the North Carolina Court of Appeals, more than \$269,000.<sup>1</sup>

The rising cost of running for office means candidates spend more time dialing for dollars than talking to constituents about the issues. The wealth barrier hurts the diversity of candidates who seek public office, and creates conflicts of interest when elected officials accept money from special interests whose issues they will be making decisions about in the executive, legislative, or judicial branches.

Polls have repeatedly shown that the public believes that Big Money spending and special interest influence is a problem in need of a solution. For example, a 2018 Pew Research poll found that 74 percent of the U.S. public believes big political donors shouldn't have more influence than others, and 64 percent say new laws are needed to decrease the influence of money in politics.<sup>2</sup>

North Carolina has an opportunity to expand political opportunity for all by ensuring that any candidate with a broad base of support — not just those with a lot of money or access to wealthy donors — can run for elected office.<sup>3</sup>

## RECOMMENDATIONS

To expand political opportunity, increase access to public office, and restore trust in our elections, North Carolina should move to passing voter-owned elections. In voter-owned election programs, candidates who are able to raise money from a broad range of small-donor voters are given money from a public fund to run their campaigns.

At different times, North Carolina has had voter-owned election programs for judicial races, select Council of State races, and even a pilot program for local officials. All of these programs were widely and successfully used by Democratic and Republican candidates, until they were rescinded after pressure from Big Money interests.<sup>4</sup> North Carolina now has an opportunity to build on the success of past programs, while incorporating new innovations in voter-owned elections programs.

Public financing of elections comes in different forms. A matching system offers candidates public funds that multiply the value of small contributions. Another form is block grants that offer candidates a total sum of public money once they qualify while prohibiting them from raising additional private funds. A voucher system provides voters with vouchers worth a specified dollar amount to give to the candidates of their choice, who then receive public funds in that amount. Lastly, there are hybrid programs that use parts of each system.

States and localities across the country have found many creative ways to fund voter-owned public-financing programs. One researcher identified more than 40 examples of bonds, fees, surcharges, and other creative means to collect resources that can be used for public financing.<sup>5</sup> There are four key areas where North Carolina can move forward on expanding opportunity through voter-owned elections:

1. **Local voter-owned elections.** A simple way to start is by allowing North Carolina localities to pass and operate small-donor public financing elections programs, or provide tax credits or rebates for small-donor contributions. Democracy advocates backed House Bill 621 in 2015 which creates authorization for localities with a population of more than 50,000 to implement local voter-owned elections.<sup>6</sup> From here, localities can design and fund their own public financing of elections.

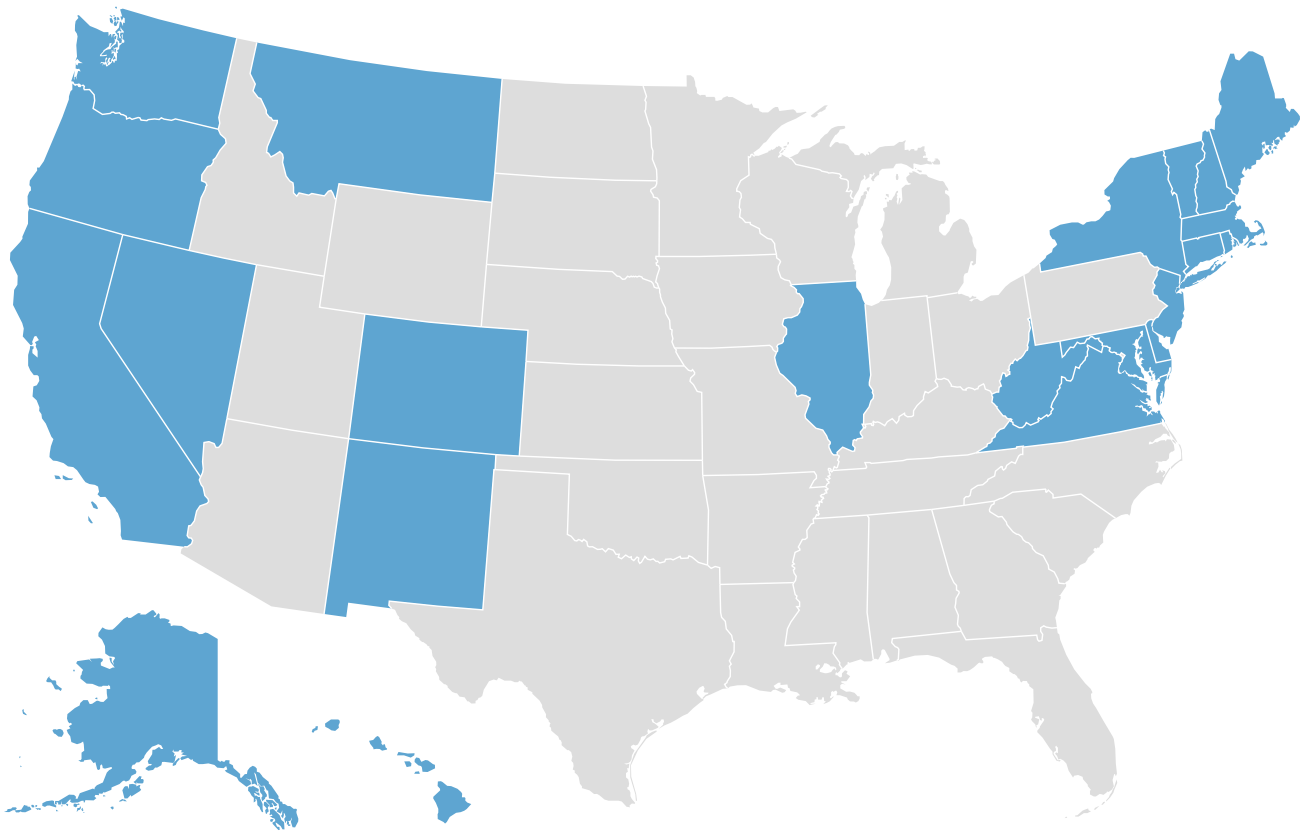


2. **Judicial voter-owned elections.** Another way to create more political opportunity is to reinstate North Carolina's lauded judicial public financing program for statewide judicial elections. Formerly known as the Voter-Owned Elections Fund, this block grant program can be solely funded through a fee on lawyers and/or include a voluntary tax checkoff. The previous version had both a \$50 fee from lawyers and a \$3 voluntary tax checkoff. Democracy advocates in North Carolina backed House Bill 737 in 2015.<sup>7</sup> Under this measure, candidates would need to raise small-dollar qualifying contributions of a set amount in the qualifying period to show they had the public support to receive public financing. A committee would need to be created to decide funding amounts for candidates, which may need to be updated with inflation. The 2015 bill addresses the issue of trigger funds, which are matching grants given to candidates when funds in opposition to the certified candidate or in support of an opponent candidate intervene in an election. Trigger funds were struck down by the U.S. Supreme Court; the 2015 revised bill deals with the lack of trigger funds by increasing total amounts to stay competitive in a post-*Citizens United* environment, when spending by outside committees can alter an election. A hybrid program with an initial block grant to those who qualify, followed by small-donor matching grants, could help create a more level playing field in the current environment.
3. **Executive branch voter-owned elections.** Another option is to enact full executive branch public financing. This can be done through any combination of general funds, a tax checkoff on voter tax forms, or fee-based mechanisms. The 2007 voter-owned election program for commissioner of insurance, state superintendent, and state auditor was highly successful and is a good model to consider and build on.<sup>8</sup> Similar to judicial voter-owned elections programs, one refinement would be to address how to provide increased funds in an environment with post-*Citizens United* outside committee spending.
4. **Legislative voter owned-elections.** Lastly, voter-owned public financing options should be extended to General Assembly races. One model for this program could be the Maine Clean Election Act, passed in 1996 by citizen initiative, and re-affirmed and strengthened in a second citizens' initiative in 2015. Under Maine's program, candidates demonstrate their grassroots support by collecting \$5 qualifying contributions from voters in their district (60 for House, 75 for Senate, and 3,200 for governor), and agree not to raise or spend any private money. They are then given public support from the Maine Clean Election Fund to run their campaigns.<sup>9</sup>

– **Melissa Price Kromm**, *North Carolina Voters for Clean Elections*

## OVERTURN *CITIZENS UNITED*

### States That Have Called for Overturning *Citizens United*



MAP: Olivia Paschal, Institute for Southern Studies, February 2023 • Source: United for the People

## BACKGROUND

A government “of, by and for the people” is the most basic promise of American democracy — but, in 2010, the U.S. Supreme Court’s *Citizens United* decision eroded this promise by ruling it is unconstitutional to limit the amount of money that corporations can spend on elections. Corporations and special interest institutions should not be able to buy control of our democracy. Elected leaders should work together to take unlimited corporate spending out of politics.

The *Citizens United* ruling has given special interests an unfair advantage over citizens. Corporations are not people, and they should not be able to buy political influence through unlimited advertising, or purchase control over public policies. Before *Citizens United*, corporations could spend money on political activities that took a stance on specific issues and stopped short of directly endorsing or attacking candidates. Direct advocacy had to be done through political action committees, which are subject to more oversight and regulation.

Now, corporate interests can funnel contributions directly into groups that don’t have to disclose their donors. These groups, in turn, can buy unlimited amounts of media or other activities directly attacking or supporting candidates. *Citizens United* helped set off a tidal wave of corporate and special interest spending, including a staggering \$7.35 billion by “outside” independent spending groups in federal elections since 2010 alone.<sup>1</sup>



On October 20, 2010, brothers Laird and Robin Monahan finished their cross-country march to mobilize support for Move to Amend. Move to Amend is a grassroots movement to amend the U.S. Constitution, rejecting the U.S. Supreme Court's January 21, 2010 ruling in *Citizens United v. Federal Election Commission* that corporations are persons, entitled by the U.S. Constitution to buy elections and run our government.

## RECOMMENDATIONS

North Carolina can join a growing number of states that have voiced opposition to the *Citizens United* decision and its damaging impact on our democracy. The North Carolina legislature can pass a resolution calling on Congress to overturn the Supreme Court's *Citizens United v. FEC* decision. Neighboring Virginia recently became the 22nd state to pass a resolution supporting a constitutional amendment to overturn *Citizens United*.<sup>2</sup> There is already a groundswell of support for such a measure in the state: So far 15 municipalities in North Carolina have joined 800 cities and towns across the country in passing resolutions calling for an amendment to overturn *Citizens United*.<sup>3</sup>

In North Carolina, several legislative resolutions have been filed with the same goal. In 2015, House Joint Resolution 125 was filed at the legislature requesting that Congress amend the U.S. Constitution and overturn the *Citizens United* decision.<sup>3</sup> North Carolina can act now to join the growing movement against skyrocketing special interest spending and return politics to everyday people.

– **Melissa Price Kromm**, *North Carolina Voters for Clean Elections*

# REFORM THE CITIZEN LEGISLATURE

## BACKGROUND

North Carolina's compensation for legislators is among the lowest in the country. Among Southern states, Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Tennessee, Virginia, and West Virginia all offer a higher base salary to legislators than North Carolina's rate of \$13,951 a year, with a \$104 per diem for expenses.<sup>1</sup> North Carolina legislative pay has not been increased in more than 25 years, and the current per diem rate is based on the 1993 federal reimbursement rate.

The low pay offered to lawmakers presents a significant barrier keeping younger and less wealthy North Carolinians from serving in public office, and skews representation in the legislature towards those who are independently wealthy and/or retired.

Low pay also opens the door to ethical conflicts as lawmakers turn to other sources for financial help. Complaints have been filed against legislators for using campaign funds to cover living expenses, including the costs of housing.<sup>2</sup>

The low pay for North Carolina legislators is excused on the grounds that the General Assembly is ostensibly a part-time legislature, but in reality it is a hybrid legislature moving towards being full-time. North Carolina's legislative sessions don't have set start and end dates, meaning that a session can go on for an indeterminate amount of time. The 2021-2022 long session lasted 15 months, the longest on record. The long and unpredictable schedule is especially difficult for those who have families or work inflexible jobs.

## RECOMMENDATIONS

The first step is for North Carolina to increase the base compensation for members of the General Assembly. Of the 11 states in the South with a base pay rate for legislators, the average is \$24,208, and all but two of those states have a lower cost of living than North Carolina.<sup>3</sup> Due to the political optics of raising pay for politicians, legislators could tie their yearly salary to starting teacher salaries.

Second, reimbursements for per diem and travel expenses must be increased. In 2021, bipartisan legislation was filed to bring the reimbursement rates in line with 2019 federal rates, beginning in 2023, but the bill didn't advance.<sup>4</sup>

Finally, reform is needed to clarify whether North Carolina is a part-time, hybrid, or full-time legislature. If the terms and expectations of serving in a General Assembly seat are clarified, candidates and lawmakers will know what they're signing up for when they serve in elected office.

**– Melissa Price Kromm, North Carolina Voters for Clean Elections**

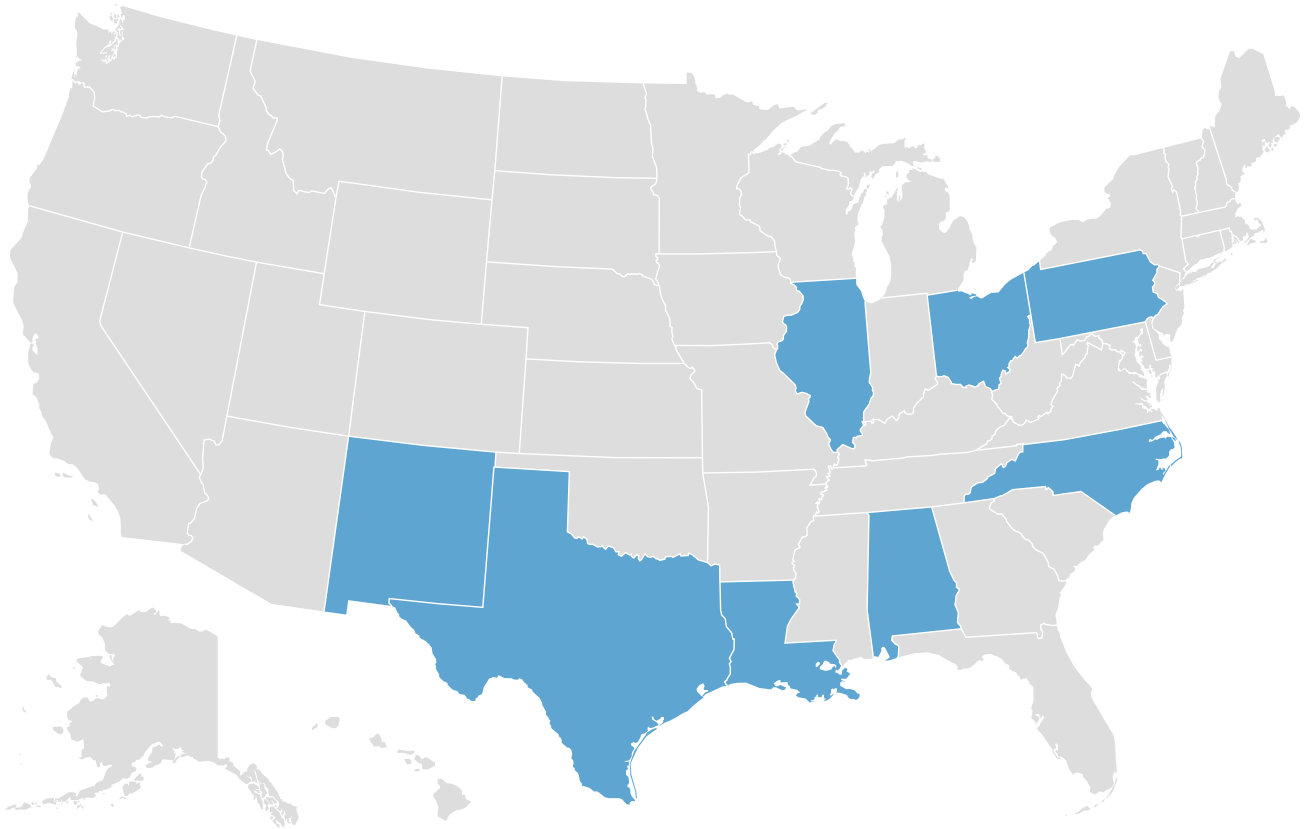




## SECTION VII: ENSURE FAIR AND IMPARTIAL COURTS

### RETURN TO NONPARTISAN JUDICIAL ELECTIONS

#### States with Partisan Judicial Elections



MAP: Olivia Paschal, Institute for Southern Studies, February 2023 • Source: Brennan Center for Justice, Institute for Southern Studies

#### BACKGROUND

During his confirmation hearing for the U.S. Supreme Court in 2017, Justice Neil Gorsuch said, “There’s no such thing as a Republican judge or a Democratic judge.” In theory, this should be true: Partisan politics has no place in the courtroom. However, in 2016, North Carolina became the first state in almost a century to shift from nonpartisan to partisan judicial elections. The shift has left the state out of the mainstream: Only eight states still use partisan elections for their appellate courts.<sup>1</sup>

Judges are not politicians, and making our judicial institutions partisan further threatens the public’s trust in fair and impartial courts. We want judges to decide cases based on the law and the facts, and the role of naked political interest in our courts to be minimized. The integrity of our courts depends on the public’s perception that the judiciary is not simply another political branch of government, but a fair and impartial decision-maker for all.

#### RECOMMENDATIONS

North Carolina can help restore independence to our courts and bolster public confidence in the judiciary by once again making all judicial elections nonpartisan. Nonpartisan judicial elections will help ensure qualified judges seek to serve on courts, not just political operatives, and better insulate courts from political pressure.

– **Melissa Price Kromm**, *North Carolina Voters for Clean Elections*

# REFORM JUDICIAL ETHICS RULES TO MINIMIZE THE ROLE OF WEALTHY DONORS

## BACKGROUND

North Carolina's judicial elections have become more politicized and more expensive in recent years. Millions of dollars have poured into elections for the state Supreme Court, often from special interest groups in Washington, D.C. The Brennan Center for Justice found that in the 2017-2018 election cycle, eight of the biggest spenders in state supreme court elections were groups that don't disclose the source of their money.<sup>1</sup>

Until 2013, candidates for North Carolina appellate court elections could rely on public financing. The candidates could receive public funds by raising a certain number of small contributions and pledging not to accept larger donations. But the legislature ended that program in 2013, leaving judicial candidates to again rely on private contributions, even when it presents a clear conflict of interest. Lawyers and businesses with a stake in the court's rulings often fund the justices' campaigns. Without public financing, candidates in the last five elections for the North Carolina Supreme Court have had no choice but to raise large contributions from wealthy donors.

In North Carolina, unlike most other states with judicial elections, judges can personally solicit campaign contributions. In 2014, an incumbent justice reportedly told a group of wealthy lawyers and corporate executives at a fundraiser that he "looked forward" to seeing them in court.<sup>2</sup>

Legislators must update judicial ethics rules to reflect this new reality. They can keep judges from personally asking wealthy donors for contributions and improve the court's handling of conflicts of interest, such as when lawyers or businesses have donated to the campaign of a judge hearing the case. And they can ensure that, when a litigant asks a judge to sit out a case because of a conflict of interest, someone besides that judge decides if they can hear the case.

## RECOMMENDATIONS

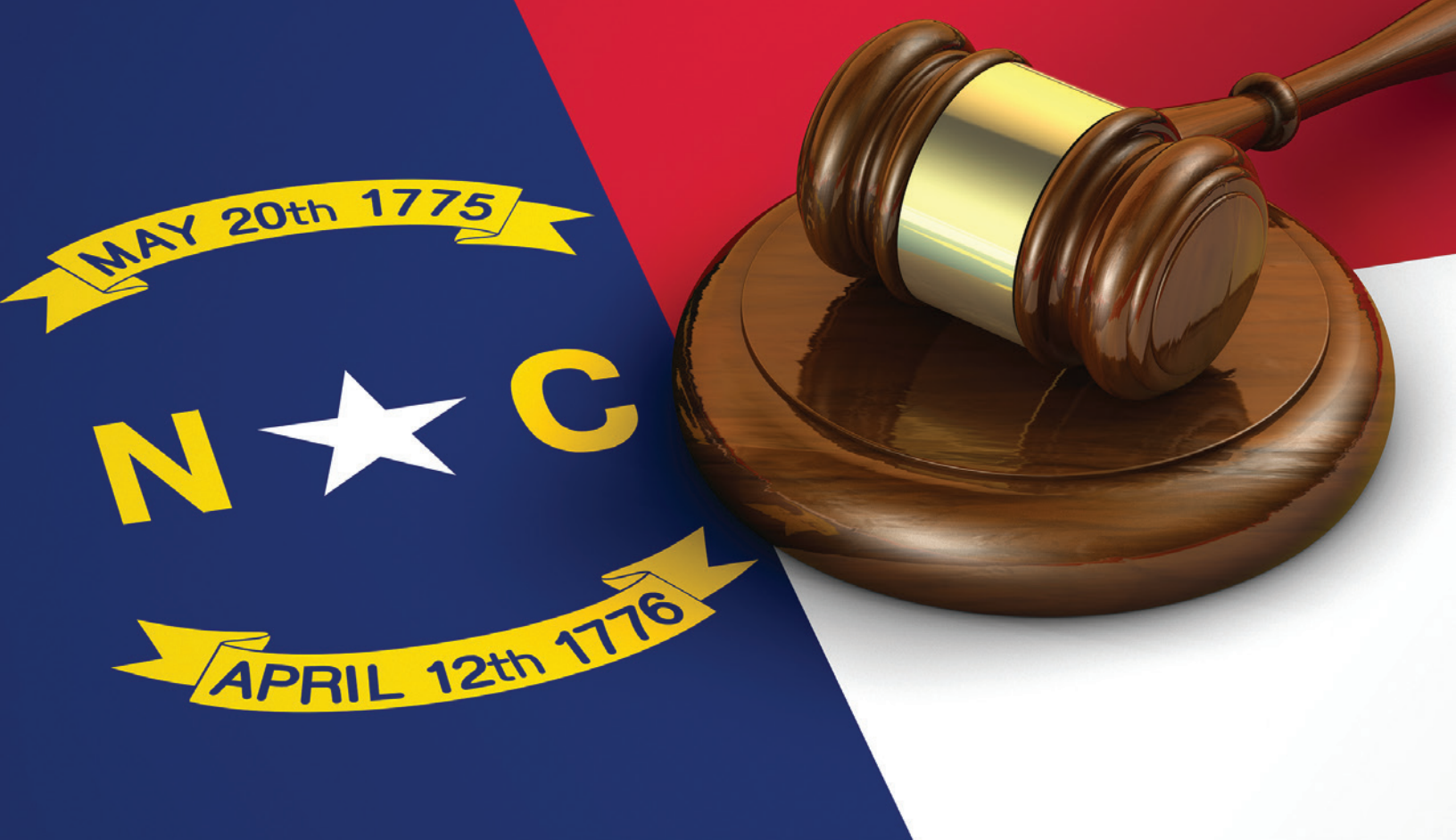
North Carolina could take several steps to reduce the conflicts of interest and politicization of the courts:

1. **Prohibit judicial candidates from personally asking for campaign contributions.** In 30 of the 39 states that elect trial or appellate judges, judicial ethics rules prohibit candidates from directly asking potential donors for campaign cash.<sup>3</sup> Instead, judicial candidates establish committees that solicit contributions on their behalf. Many of these states adopted the approach of the American Bar Association's model judicial ethics rules.<sup>4</sup> These rules impose limits on political activities, including the personal solicitation or acceptance of campaign contributions.

The North Carolina legislature should prohibit judicial candidates from personally asking for campaign contributions. The vast majority of states with judicial elections ban personal solicitation, due to the risk that the public will perceive judges as beholden to campaign donors. Additionally, changes to the Judicial Code of Conduct could implement these changes administratively.

The legislature or Court could also go further and prohibit judges from soliciting contributions to independent groups supporting their campaign, from coordinating with independent groups that spend to support them, and from speaking at events of groups that spend to support their campaigns.

The bans on personal solicitation have received support from judges across the political spectrum. For example, Justice Ruth Bader Ginsburg and Chief Justice John Roberts both joined the U.S. Supreme Court's 2015 decision to uphold Florida's ban on personal solicitation. Roberts wrote the decision and emphasized that "judges are not politicians." Roberts said, "Judges, charged with exercising strict neutrality and independence, cannot supplicate campaign donors without diminishing public confidence in judicial integrity." He discussed the pressure that lawyers could feel to contribute when "the same person who signed the fundraising letter might one day sign the judgment" in their case.<sup>5</sup>



In upholding Florida’s ban, the Court noted judicial candidates are “free to discuss any issue with any person at any time,” including through letters, speeches, billboards, and in person. The only thing they cannot say is, “Please give me money.”

2. **Improve recusal procedures.** North Carolina’s judicial ethics rules require each judge to sit out all cases “in which the judge’s impartiality may reasonably be questioned.”<sup>6</sup> In other words, anytime there’s a “reasonable question” about potential bias, the judge shouldn’t hear the case. But when it comes to the state Supreme Court, the justices themselves decide when the rules require them to sit out a case.

Legislators can pass a law ensuring that, when a party asks a judge to sit out a case due to a conflict of interest, their request receives fair and independent consideration. Most importantly, the process should include independent review. In other words, someone besides the challenged judge should get to decide whether recusal is appropriate.

In 2019, the North Carolina Supreme Court took the decision of whether to recuse out of the hands of individual justices. But when recusal motions were filed in the fall of 2021, the court debated whether to let individual justices or the remaining justices decide on recusal. In December 2021, the court voted to let the individual justices decide. The justices did, however, require that recusal decisions be made public. And they left individual justices with the option to refer the issue to their colleagues.<sup>7</sup>

Lawmakers can undo the court’s ruling and reinstate the system of independent consideration of recusal. The justice with a potential conflict of interest shouldn’t make the final decision on whether to hear the case.

Fifteen states allow for independent review of motions to recuse supreme court justices, including Texas, Tennessee, Georgia, Louisiana, and Mississippi.<sup>8</sup> The states have different processes for handling recusal requests. If a party asks a justice of the Texas Supreme Court to step aside, the justice must either remove themselves from the case or submit the matter to the remaining justices. In Alaska, anytime a justice denies a request for their recusal, the request is transferred to the rest of the justices for a final decision.<sup>9</sup>



3. **Independent consideration of ethics complaints.** For decades, the N.C. Judicial Standards Commission investigated ethics complaints against justices of the state Supreme Court, and a panel of N.C. Court of Appeals judges determined whether the justices violated their ethical obligations. But in 2013, the legislature changed this system to give the state Supreme Court the sole power to decide when judges violated ethics rules.<sup>10</sup> The bill overturned a system that had been unanimously approved by the high court. The justices themselves now decide whether a member of the court violated ethics rules. And unless the court decides to impose a sanction, the process isn't public.<sup>11</sup>

Judge John Martin, who led the commission that regulates judicial ethics, warned lawmakers that the changes would impair the enforcement of ethics rules. "It will create potential conflicts of interest within our judiciary and muddle the transparency and availability of public records related to judicial misconduct," Martin warned. Then-Rep. Rick Glazier (D) warned that the new system threatened "the integrity of the judicial system of the state of North Carolina, and we owe a higher obligation to ourselves and our state than to our politics."<sup>12</sup>

Legislators should repeal the 2013 change and reinstitute the three-judge panel to adjudicate ethics complaints against high court justices. Justices shouldn't be asked to police the ethics of their colleagues.

4. **Require attorneys and parties to disclose campaign contributions.** In order for conflict-of-interest rules to be effective, lawyers or parties before a judge must be aware of conflicts of interest. Weak disclosure rules make it difficult to know when a lawyer or a party before a judge has spent money to support them. The legislature can pass a law requiring attorneys and parties to disclose this information.

North Carolina law can require attorneys and parties before a judge to file a disclosure affidavit listing any of their campaign contributions, independent expenditures, or contributions to independent spenders to benefit the judge. These disclosures could resemble those that corporations must make in federal court about corporate relationships that may not be immediately apparent.

The Brennan Center for Justice recommends imposing "rigorous disclosure standards on litigants and their counsel" to ensure that judicial ethics rules can prevent conflicts of interest. In a 2011 report, the group provided recommended language for a disclosure affidavit.<sup>13</sup>

The Court can add a rule to the Rules of Appellate Procedure requiring attorneys and parties to file a disclosure affidavit listing any campaign contributions, independent expenditures, or contributions to independent spenders, made to benefit the judge. These disclosures would resemble the disclosures that corporate entities must make in federal court about corporate relationships that may not be immediately apparent.

– **Melissa Price Kromm**, *North Carolina Voters for Clean Elections* and **Billy Corriher**

# CREATE A GUBERNATORIAL JUDICIAL NOMINATING SYSTEM FOR VACANCIES

## BACKGROUND

While North Carolina elects judges, appointments are still important. When a judge steps down in the middle of their term, the state constitution empowers the governor to unilaterally fill the vacancy, and many judges first reach the bench via this appointment process. In the 22 states that use contested judicial elections, 45 percent of judges first reached the bench through an appointment.<sup>1</sup> Four of North Carolina's 15 Court of Appeals judges were appointed before running in an election. These appointments have a lasting impact on state law.

North Carolina can take steps toward de-politicizing the judiciary by creating a judicial nominating commission that includes members appointed by all three branches of government. The state's courts have been caught in a political tug-of-war in recent years. A new system for choosing judges could give other election officials, in addition to the governor, a role in filling vacant judicial seats. And it would ensure that diverse, well-qualified judges reach the bench.

Despite recent progress, North Carolina's courts do not reflect the public they serve. A 2016 study found that North Carolina ranked 37 out of 50 states in terms of how well the bench reflects the racial and gender demographics of the state. While women of color comprise 19 percent of the state population, for example, they made up only 9 percent of judges.<sup>2</sup>

At the highest levels, the bench needs diverse voices and perspectives. For example, the state's most powerful courts lack crucial professional diversity — none of the state's 22 appellate judges has spent time as a public defender.

These perspectives both inform the courts' decisions and are crucial to ensuring the courts are legitimate in the public's eye. While people of color make up 40 percent of the state's population, only two justices of color serve on the seven-member state Supreme Court, and as recently as 2016 the court had only one justice of color.

## RECOMMENDATIONS

A nominating commission with diverse members, empowered to evaluate and recommend judges to the governor, can ensure that governors use their appointment power to build a bench that reflects the public it serves and includes key perspectives. A nominating commission can make the process more transparent and less susceptible to special interests. Thirty-three states and the District of Columbia already use a nominating commission to select at least some of their highest judges.<sup>3</sup>

But the devil is in the details. A poorly designed nominating commission can give the illusion of independence to a selection process that is actually politicized and no more likely to build a more representative bench.

A nominating commission that improves judicial selection in North Carolina should have:

- A meaningful role in the selection process. The nominating commission should be empowered to vet and recommend a short list of applicants to the governor. The commission should be authorized to conduct affirmative outreach to build a more diverse applicant pool, instructed to prioritize diversity, and required to collect demographic data on its applicant pool. Whether the legislature opts to establish a commission by statute or constitutional amendment may determine whether the list is binding, requiring the governor to choose one of the recommended candidates, or merely advisory, leaving the governor the authority to choose from outside the list if they deem it necessary.

- Diffuse appointment power. Dispersing the power to appoint commissioners will ensure the commission is not just an extension of the governor’s existing power or dominated by the institutional interests of the legislature. No single person or body (the governor or legislature, for example) should appoint a majority of nominating commissioners. The state bar association and the judicial branch are key voices, though elected officials may appoint a majority of commissioners to ensure democratic input and accountability.
- Bipartisan membership. To avoid single party dominance, representation by both major parties and independents can be achieved by establishing caps on party membership, or by having an application and screening process for commissioners that includes consideration of party affiliation.
- Measures to ensure representation of underrepresented groups. A model nominating commission will have many relevant perspectives at the table. Yet our research shows that when there are no guarantees of professional diversity authorities predominantly appoint lawyers representing powerful financial interests. Appointing authorities should be required to consider race, gender, sexual orientation, and other demographic factors in selecting commissioners. Affinity bar associations and professional associations for key interests, such as public defenders and family law attorneys, for example, should have the power to appoint commissioners. To counter the legal community’s self-interest, non-lawyers should comprise a substantial portion of the commission.
- Transparency measures. Because a nominating commission will be unelected and have significant power in the judicial selection process, the commission structure and rules must foster public confidence. There should be an open application process through which the public can apply to be commissioners. Commissioners should serve staggered terms, with term limits, to preserve institutional memory and prevent the formation of voting blocs.

Many states implement some of the elements discussed above, though no state has incorporated all of these best practices. By adopting an exemplary commission, North Carolina can both guarantee the quality of its judicial branch for years to come and serve as a model for the nation.

– **Douglas Keith**, *Brennan Center for Justice*

# INCREASE DISCLOSURE OF JUDICIAL FINANCIAL CONFLICTS

## BACKGROUND

On Sept. 28, 2021, the Wall Street Journal reported that it had identified 131 federal judges who failed to recuse in 685 cases between 2010 and 2018 in which they held a financial interest in one of the parties. Two of these judges — one appointed by Reagan and another by Obama — preside over courts in North Carolina. Congress acted swiftly to pass a new law cracking down on these conflicts of interest.<sup>1</sup>

While the Journal's investigation and subsequent congressional legislation have focused on the federal courts, state courts should also provide these measures of public transparency. State and federal courts both derive their power from the public's faith in their impartiality, so the public requires sufficiently meaningful access to the information necessary to confirm that judges are not using their offices for financial benefit.

Luckily, the North Carolina State Ethics Commission already posts online lower court judges' and Supreme Court justices' annual financial disclosure reports, called Statements of Financial Interest, within a reasonable timeframe and in an easy-to-use, searchable database. That's rare among the 50 states.

## RECOMMENDATIONS

In addition to online disclosures, North Carolina's judges and justices should post a near-contemporaneous transaction report online — within 45 days — whenever they buy or sell a stock. That way judges can be more cognizant of their conflicts of interest, and litigants and the public can better assess any potential judicial biases.

To do so, we recommend a small change to the Public Disclosure of Economic Interests section (Chapter 138A, Article 3) of the N.C. General Statutes. Rather than editing existing text to incorporate new periodic transaction reporting requirements, we suggest adding the requirement as its own subsection at the end of the article. The proposed draft legislative language could read as follows:

- A) Chapter 138A of the North Carolina General Statutes is amended —
  - 1) By striking the text of §138A-29; and
  - 2) By inserting the following after §138A-29:

Periodic Transaction Reporting Requirement For Judicial Officers.

    - (a) Judicial officers shall file a stock transaction statement with the State Ethics Commission within 45 days of any purchase or sale of stock.
    - (b) The Commission shall issue forms to be used for the stock transaction statement and shall revise the forms from time to time as necessary to carry out the purposes of this Chapter.
    - (c) Stock transaction statements will be processed as public records by the Commission in the same way that Statements of Economic Interest are processed under §138A-23.

There is national momentum for heightening judicial disclosure. In October 2021, a bipartisan bill called the Courthouse Ethics and Transparency Act was introduced in both the U.S. House and Senate requiring the federal judiciary to post judges' annual financial disclosures online within 90 days of the filing deadline and requiring judges to file a publicly accessible report within 45 days of any stock sale or purchase over \$1,000. The bill passed the Senate in February 2022 and the House two months later. President Biden signed it into law on May 13.<sup>2</sup>

Republican Sen. John Cornyn, a former Texas Supreme Court justice, noted that the bill applies to judges the same rule that applies to members of Congress, saying that exempting judges from these disclosure requirements had "resulted in conflicts of interest that erode public trust in our judiciary."<sup>3</sup>

– **Gabe Roth and Tyler Cooper**, *Fix the Court*



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