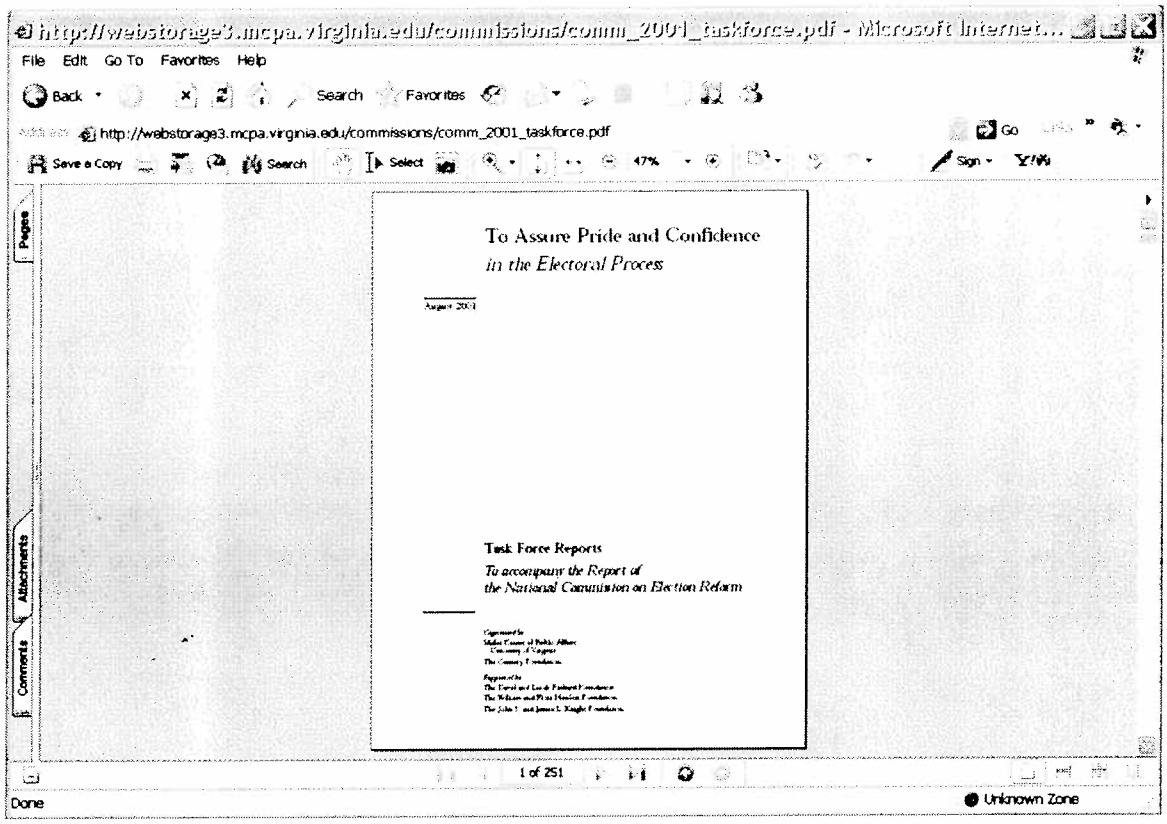
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To Assure Pride and Confidence
in the Electoral Process
August 2001
Task Force Reports
To accompany the Report of
the National Commission on Election Reform
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To Assure Pride and Confidence
in the Electoral Process

August 2001

Task Force Reports

To accompany the Report of
the National Commission on Election Reform

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The Century Foundation

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Reports of

The Task Force on the Federal Election System

Mark Hansen, Coordinator

Preface to the Reports of the Task Force on the Federal Election System

The National Commission on Federal Election Reform charged the Task Force on the Federal Election System with two responsibilities, first to provide information about current practices in federal elections and second to analyze the effects of current practices and the possibilities for reform. With a substantive mandate that ranged from voter registration to polling hours, the work of the Task Force seemed best divided into a series of reports on discrete topics. Accordingly, the final product of the Task Force comprises nine reports. The longest address voter registration and early, mail, and unrestricted absentee voting; the shortest consider felony disfranchisement and verification of voter identity in polling places. All of the reports combine a description of current practice with an overview of the best scholarly research into election systems and voter behavior.

The Task Force enjoyed the cooperation of numerous scholars, analysts, and election officials who took our phone calls, answered our e-mails, and in some cases plied us with data. Often they did not realize that in so doing they became Task Force participants. Raymond E. Wolfinger of the University of California at Berkeley, Stephen Ansolabehere of the Massachusetts Institute of Technology, Tracy Warren of the Constitution Project, and Conny McCormack, the Registrar-Recorder and County Clerk of Los Angeles County, made sustained contributions to our work. We especially thank about 20 people who took time from busy schedules on short notice to participate in a critically informative conference on voter registration, conducted jointly with the Task Force on Election Administration. Nothing has been more valuable in this work than to see elections from the vantage point of the people who administer them. We have emerged with a new appreciation of their talents, and their patience.

The staff of the Task Force on the Federal Election System tracked and compiled and culled and summarized and helped to figure it all out. The chief responsibilities for implementing our inquiry fell to Michael A. Neblo, now a Robert Wood Johnson Fellow in Health at the University of Michigan and Assistant Professor at the Ohio State University. Neblo helped to shape every Task Force report with his research and his critical eye, and he authored one himself. Meredith Rolfe and Nealon Scoones provided careful and timely assistance with the research. Thad Hall and Tova Wang of the Century Foundation and Leonard Shambon of Wilmer, Cutler & Pickering contributed significant help and insight.

Finally, the University of Chicago and especially its Provost, Geoffrey R. Stone, allowed us the time to contribute to an effort that will, we hope, make elections work a little better.

John Mark Hansen,
Coordinator

John Mark Hansen is now Professor of Government at Harvard University. Until 2001, he was the William R. Kenan Jr. Professor in Political Science and the College at the University of Chicago, where he also served as Associate Provost for Research and Education. Hansen studies interest group politics, legislative politics, public opinion, and political participation. He is the author of two books, *Gaining access: Congress and the farm lobby, 1919-1981,* and *Mobilization, participation, and democracy in America* (with Steven J. Rosenstone), and numerous articles. He is also a member of the Board of Overseers of the American National Election Studies. Hansen received his B.A. in Political Science and Economics at the University of Kansas in 1981 and his Ph.D. in Political Science from Yale University in 1987.

I. Sizing the Problem

Sizing the Problem

Task Force on the Federal Election System
John Mark Hansen
July 2001

Summary of conclusions

1. If an election for which the margin of victory is less than a percentage point is within the current technological margin of error, then elections within the error margin are common occurrences. In an average presidential election, the results in two or three states are within the margin of error. Razor-close races for the Senate are just as common, and extremely close contests for governor are even more common. In the last half century, every state but two has had at least one federal or gubernatorial election that was within the one-percent margin of error.

2. Elections that are within the margin of error tax the legitimacy of the federal election system. Overall, Americans express levels of satisfaction with the conduct of democracy that are among the highest in the democratic world. Americans are much less convinced, however, that elections in the United States are conducted fairly. In 2000, in fact, Americans' rating of the fairness of the election was nearly the lowest in all the democratic countries. Unsurprisingly, the perceived fairness of the election is influenced by partisanship. But substantial numbers of Republicans questioned the fairness of the 2000 election, as did women and a majority of blacks. Large margins of error in close elections put a strain on the electoral system that undermines public confidence in the electoral process.

The frequency of close federal and statewide elections

The 2000 presidential election exposed to the nation what local election administrators have long known, that the process of casting and counting ballots is riddled with error. In most circumstances, the error is inconsequential because it is too small to have any plausible effect on the outcome. Most elections in the United States are simply not very close. In a very tight election, however, even a small margin of error in the balloting can mean the difference between winning and losing, as it was in Florida in the 2000 presidential contest.

In Florida and after, the nation learned that a voter's choice cannot readily be determined from something between 1.5 and 2.5 percent of the ballots cast in federal elections. The technical problems involve choices that did not register—the "undervote"—and multiple choices that did—the "overvote." As a matter of determining the election outcome, neither problem would be very worrisome if the candidate preferences of voters ensnared by technical problems in the balloting simply paralleled

the preferences of all the other voters.[1] But the events in Florida and other analyses suggest otherwise. No matter what the method of balloting, less educated voters will find it harder to cast a ballot correctly than better educated voters. Moreover, depending upon the type of balloting and the availability of assistance, marking a ballot correctly will present special problems for language minorities, the elderly, and persons with physical disabilities.

As a way to size the problem of Election Day mistakes in casting and counting ballots, let us adopt one percent as the level of error that might be consequential in federal elections. If the true "residual vote" (undervote plus overvote) is 1.5 percent, a one percent margin of victory might produce an incorrect outcome if the people whose votes were not counted preferred one candidate over the other by a ratio of five to one. If the true residual vote is 2.5 percent, a one percent margin of victory might produce an incorrect outcome if people affected by the undervote and overvote preferred one candidate over the other by a ratio of 3 to 2. Supposing, then, that an election decided by less than one percent of the votes cast is within the technical margin of error, how widespread is the potential problem?

As the table following shows, the incidence of federal elections decided by less than a percentage point is far more widespread than Florida in 2000. Since 1948, elections for presidential electors have been decided by less than one percent of votes cast 31 times (and by less than two percent 70 times). In 1968, 1972, and 1988, presidential electors were chosen in no states by a margin of less than one percent, but in 1960 six were and in 1948 and 2000 five were. In the 14 presidential elections since 1948, 22 states have seen presidential contests decided within a percentage point (and 40 states have had presidential contests within two points). In a given year, there is a 90 percent likelihood that at least one state will have a presidential election within the one-percent technical margin of error. Presidential elections within the one-percent technical margin of error occur all the time.

Federal and statewide elections decided by less than two percent and less than one percent (bold) of votes cast, 1948–2000

State	Presidential	Senatorial	Congressional	Gubernatorial
Alabama	1980	1962, **1986**	**5**, 6	**1994**
Alaska	1960		**0**, 0	1960, **1974**
Arizona	**1964**, 1992	1980	**2**, 1	1950, 1970, **1974, 1990, 1994**
Arkansas	**1980**		**0**, 0	
California	**1948**,**1960**, 1976	1986	**9**, 20	1982
Colorado	1996	**1956**, 1972, 1980, 1986	**5**, 3	**1998**
Connecticut	1948	**1988**	**10**, 7	**1948**, 1950, **1952**
Delaware	1948, 1960	1960, 1972	**2**, 1	1968
Florida	1992, **2000**	**1988**	**2**, 5	1994
Georgia	**1992**, 1996	1980, 1986, 1992, 1996	**3**, 1	**1966**

[1] As a matter of public satisfaction with the electoral process, even randomly distributed errors in the balloting may be consequential. People who have gone to the trouble of voting do not like to hear that their votes may not have been counted.

Hawaii	**1960**, 1980		**2**, 0	1998
Idaho	1964	1948, **1980**	**3**, 1	1958, 1982, **1986**
Illinois	**1948**, **1960**, 1976	1984	**11**, 8	**1956**, 1972, **1982**
Indiana	**1948**	**1962**, **1970**	**13**, 7	1960
Iowa	1976, **2000**	**1968**	**4**, 6	
Kansas		1974	**1**, 4	1974
Kentucky	**1952**, 1980, **1996**	**1956**, **1984**	**5**, 3	1963
Louisiana		**1996**	**0**, 1	
Maine	**1976**		**3**, 0	**1962**, **1970**
Maryland	1948, 1968	1958	**3**, 2	**1994**
Massachusetts	**1980**	1954	**4**, 2	**1952**, **1962**, **1964**
Michigan	1948	1952, 1954, 2000	**7**, 6	**1950**, **1952**, 1960, 1970, **1990**
Minnesota	1960, **1984**		**6**, 6	1960, **1962**
Mississippi	1976, 1980		**0**, 2	
Missouri	1952, **1956**, **1960**, 1968	1982	**4**, 4	**1976**, **2000**
Montana		**1954**, 1960	**1**, 5	1952
Nebraska			**2**, 1	**1958**, 1982, **1990**
Nevada	1996	**1964**, **1974**, **1998**	**2**, 1	
New Hampshire	1992, 2000	**1974**	**2**, 0	1970
New Jersey	**1960**	**1954**	**2**, 5	1961, **1981**, **1993**, 1997
New Mexico	**1960**, **2000**		**6**, 2	**1958**, **1960**, **1968**, 1974, 1978
New York	**1948**	1970, 1980, 1992	**11**, 9	
North Carolina	1956, **1992**	**1980**	**7**, 7	
North Dakota		**1974**, **1986**	**2**, 4	**1962**
Ohio	**1948**, **1976**, 1992	**1964**	**4**, 10	**1974**, 1978
Oklahoma	1976	**1974**	**2**, 1	**1970**
Oregon	**1976**, **2000**	**1954**, **1968**	**2**, 2	
Pennsylvania		**1956**, 1964	**15**, 11	1958
Rhode Island	1952		**0**, 2	**1956**, **1962**, **1970**
South Carolina	1952, 1980		**0**, 0	
South Dakota	1976	1956, **1962**	**1**, 0	1960
Tennessee	**1952**, **1956**, **1980**		**1**, 4	
Texas	1968	**1978**	**2**, 2	**1978**
Utah		**1978**	**2**, 2	1988
Vermont		1980	**0**, 0	**1958**, 1984
Virginia	1976, 1996	**1978**	**5**, 9	1973
Washington	1988	1986, **2000**	**6**, 4	1960
West Virginia		**1978**	**2**, 0	1968
Wisconsin	1976, **2000**	1980	**0**, 5	**1962**, 1964
Wyoming		1958, **1988**	**1**, 1	**1954**, 1978
Total				
Less than 1% margin	**31** elections in 22 states	**32** elections in 26 states	**182**	**41** elections in 25 states
Less than 2% margin	70 elections in 40 states	63 elections in 40 states	365	75 elections in 40 states

Razor-close elections are no less common in elections for other federal offices or for governor. Over 50 years, about 4 percent of all senatorial elections, and about 2 percent of all congressional elections, have been decided by less than one percent of the

popular vote.[2] Over 50 years, about 5 percent of gubernatorial elections have had victory margins below one percent. In any given election year, the likelihood that there is at least one election within the one-percent technical margin of error is 71 percent for senatorial elections and more than 99 percent for congressional elections. In the last half century, only two states, Mississippi and South Carolina, have not had a federal or gubernatorial election decided by less than one percent of ballots cast. It is frequently the case in federal and statewide elections that technical problems in the balloting could be consequential to the outcome.

The effect of close elections on the legitimacy of the federal election process

Of course, what was unusual in the 2000 presidential election was not only that the contest in Florida was so excruciatingly close but also that the 2000 election pivoted on Florida and its 25 electoral votes. The 2000 presidential election revealed nearly every imperfection in the federal election system to the nation. What effect did the news have on the American people and their confidence in the democratic process in the United States?

As it happens, Americans as a people express an unusual level of satisfaction with the conduct of their democratic government. As the following table shows, Americans stand near the top of the world's democracies in the pleasure they express in the way their government works. Although the less fortunate tend to feel less satisfaction with American democracy than the most fortunate, Americans nonetheless express high levels of satisfaction across class, race, and gender lines. The difficulties of the 2000 election had no real effect on Americans' attitudes toward their democratic system as a whole. Events such as occurred in Florida seem not to have had any bearing on the American people's regard for the democratic system, at least in the short run.

Satisfaction with the democratic process in 19 democracies

Nation	Percent Satisfied or Fairly Satisfied	Percent Satisfied
Norway	90.3	28.2
Netherlands	88.3	13.0
United States, 2000	80.7	32.1
United States, 1996	80.5	27.7
Australia	78.0	30.9
Great Britain	74.8	16.4
New Zealand	68.5	19.3
Japan	63.5	5.3
Germany	63.4	6.4

[2] The counts for senatorial, congressional, and gubernatorial elections do not include special elections, which tend to be more competitive than scheduled elections because they almost never involve an incumbent.

Poland	63.1	5.8
Spain	62.8	13.9
Czech Republic	61.1	3.7
Israel	53.4	26.8
Republic of China	46.9	36.7
Romania	43.9	20.4
Argentina	42.4	10.1
Hungary	42.2	1.4
Mexico	41.6	9.7
Lithuania	34.5	12.9
Ukraine	9.2	2.2

Source: Comparative Study of Electoral Systems and American National Election Studies, 1996 and 2000.

Americans' confidence in the electoral process is a different matter. In 1996, three quarters of the public expressed confidence that the last election was conducted "fairly," and only 10 percent described it as having been "unfair." In 2000, on the other hand, barely a majority of the electorate concluded that the election had been very fair, and 37 percent decided that it had been unfair.[3] The events in Florida had a clear impact on the faith Americans have in the electoral process.

Was the last election in the United States conducted fairly?

	1996	2000
Very fair	49.3	22.7
Somewhat fair	26.0	29.3
Neither fair or unfair	15.0	10.9
Somewhat unfair	6.1	21.8
Very unfair	3.6	15.3
Total	100.0%	100.0%
(N)	(1513)	(1418)

Source: American National Election Study, 1996 and 2000.

To be sure, one part of people's perception of fairness was agreement with the outcome. In 1996, Democrats were about nine percentage points more likely to conclude that the election was fair than Republicans, presumably because the Democratic candidate had won. In 2000, the partisan divisions turned the other direction, but much more sharply, with Republicans 24 percentage points more likely to think the election fair than Democrats. But Republicans had their qualms about the fairness of the process in 2000 also. In 1996, just 12 percent of Republicans branded the election unfair; in 2000, nearly twice as many did.[4] Among Independents, concerns about fairness increased more than threefold.

Fairness of the last United States election, by partisanship

[3] The questions were asked as part of the 1996 and 2000 American National Election Studies, a nationwide sample of eligible voters. In both years, the interviews were completed in November and December.
[4] We do not know, however, whether Republicans, Democrats, and Independents all thought that the election was unfair in the same way.

VI. Verification of Identity

Verification of Identity

Task Force on the Federal Election System
John Mark Hansen
July 2001

Summary of conclusions

1. States use three methods to verify voter identity in the polling place. The largest number require voters to sign their names in an official registry or on a ballot application; just over than half also require that poll officials check signatures against those provided at the time of registration. About a third of the states demand that voters produce some form of identification. Finally, all states rely upon the familiarity that election officials and partisan judges have with the residents of precincts, and 11 states rely upon their efforts exclusively.

2. States that have histories of strong party organization and election improprieties employ more rigorous methods of identity verification: signature validation and official proof of identity. Among the states with more rigorous requirements, northern states by and large validate signatures while southern states also require proof of identity in addition.

3. Signature validation imposes some significant costs on election administrators. Proof of identity places burdens on voters, especially voters who are poorer and urban. At least five percent of the voting age population does not have photo identification. Identification requirements might also be applied selectively in polling places.

In the United States, there is a long and well-developed notion of an individual right to privacy. The commitment to privacy is the traditional barrier to proposals for the issue of national identity cards, which are common in most of the world. Abroad, national identity cards are sufficient proof of identity for purposes of participation in elections. In the United States, with its different traditions, states have had to verify the identities of voters in different ways.

Methods of verification of identity

In polling places, there are essentially three ways in which voters' identity is verified. One widespread method is the provision of a signature. In 39 states and the District of Columbia, voters must sign their names on an official registry or on a ballot application. In most states, the signature completes an affidavit sworn under penalty of law. In an additional 17 states voters' signatures are compared to signatures provided at the time of registration; in three other states voters' signatures may be compared.

Fourteen states require voters to produce a form of identification, and an additional six allow local election officials to ask for it. All but four of the states that require a form of identification also require a signature. In most states, the specified type of identification is broad, from driver's licenses to employee ID cards to (in some instances) birth certificates and Social Security cards, and where the requirements could be ascertained only Florida seemed to specify identification with a photograph. Several of the states that require identification, for example Virginia and Louisiana, also allow voters who lack it to vote after signing an

affirmation of identity. The states that require identification are disproportionately in the South, but not only in the South.

Finally, every state relies upon the efforts of poll workers and partisan election judges to challenge voters whom they believe not to be qualified electors. Seven states, all but one lacking major urban centers, rely solely upon poll officers' familiarity, demanding neither identification nor signature.

In sum, very few states have chosen to rely solely upon the knowledge of polling place officials to verify voters' identity. But at the same time, few states have seen it necessary to require voters to produce identification. Most states depend upon voters' positive affirmation of their identity with a signature.

State histories and verification of identity

The states that have adopted more rigorous methods for verifying voter identity have instructive similarities. The states that require voters to show identification or that check voters' signatures are disproportionately states with histories of strong party organizations based in patronage and able to control nominations. David Mayhew of Yale University has researched party organization in the states and assigned each a score ranging from 1, for minimal organization, to 5, for very strong organization. As the following table shows, almost all of the states with histories of any party organization at all—80 percent of them—require either identification or signature verification. Of the states with histories of powerful party organization, TPO scores 5 or 4, only Maryland and Rhode Island do not. States that need to exercise greater care, because they have historically been vulnerable to election improprieties, have adopted more stringent methods for certifying voter identity.

Histories of strong party organization and verification of voter identity

State	Requires identification	Verifies signature
Very powerful party organizations (5)		
Connecticut	Yes	
Illinois		Yes
Indiana		Yes
Maryland		
New Jersey		Yes
New York		Yes
Pennsylvania		Yes
Rhode Island		
Powerful party organizations (4)		
Delaware	Yes	Yes
Kentucky	Yes	
Missouri	Yes	Yes
Ohio		Yes
West Virginia	After mail registration	Yes
Significant party organization (3)		
Louisiana	Yes	Yes
Modest party organization (2)		
Arkansas	Yes	Yes
Georgia	Yes	
New Mexico		
Tennessee	Yes	Yes
Texas	May	May
Virginia	Yes	
Weak party organization (1)		
30 states	Require: 5 May require: 7	Require: 6 Varies: 2

Source: Federal Election Commission and David R. Mayhew, *Placing parties in American politics* (Princeton University Press, 1986).

The other pattern in the table is the contrast between the northern states and the southern and border states. Whatever their experience with party organization, the southern states as a group require more stringent methods of verification than the northern states. The list of weak organization states that require proof of identity or signature verification or both includes every southern and border state in the category except for Alabama and Mississippi. Among states with histories of at least modest strength of party organization, the northern states favor signature verification for establishing voter identity—Connecticut is the exception—while the southern and border states demand identification in addition.[1]

[1] In most statistical analyses of voter turnout, residence in the South has a significant negative impact on voter participation. Wolfinger and Rosenstone found that southerners were about 6 percent less likely to turn out in 1972, even after taking account of personal characteristics like education and systemic characteristics like registration laws. Rosenstone and Hansen estimed that southerners were between 10 and 16 percent less likely to participate in the period from 1952 to 1988, controlling for an even broader array of individual, systemic, and social characteristics. Analysts

The costs of methods of identity verification

Identification requirements and signature verification have clearly been strategies states have adopted to deter election fraud. Each has its downside, however. For signature verification, election administrators must make signatures (or facsimiles) from voter registration available for comparison at polling sites. At the polls, signature verification slows the process of voting, as poll workers search through the registry and make the comparison, potentially lengthening lines. Finally, signatures change over time, making signature verification an inexact art, placing a great deal of responsibility and discretion in the hands of officials at the polls. The costs of signature verification are primarily administrative, but they potentially affect voters through slower lines.

Identification requirements present two problems for voters. First, the costs of proof of identity fall more heavily upon the voters themselves. Even if states do not require it, those that demand identification clearly prefer photo IDs. But photo identification is not universal. In the early 1990s, the United States Department of Transportation estimated that 87 percent of the voting age population held a driver's license and another 4 percent held an identification card issued by a state driver's license agency. A Gallup Poll in October 2000 found that 93 percent of Americans over age 16 held a motor vehicle operator's license, an estimate that comports with the ratio of driver's licenses issued to the voting age population of the United States, 92 percent. Accordingly, some 6 to 10 percent of the American electorate does not have official state identification, and while other kinds of photo identification are available—student IDs, military IDs, employee IDs, passports—they probably broaden the number of holders of photo identification only slightly. We have not been able to locate information about the characteristics of adults who lack driver's licenses but they probably parallel the characteristics of people who do not own automobiles: they are poorer (and cannot afford a car) or urban (and do not need a car).

Consequently, while photo IDs are certainly more secure, to require them for voting would be to impose an additional expense on the exercise of the franchise, a burden that would fall disproportionately on people who are poorer and urban. The expense and trouble of obtaining a photo identification card could be a significant deterrent to their participation in the electoral process, unless states were to issue official identification at state expense and on state initiative.

A second drawback to the requirement that voters present identification is the possibility of selective enforcement in polling places. Poll workers with the best of motives might still dispense with the requirement when voters are known to them. Poll workers with the worst of motives might deliberately use the requirement to confront and intimidate "strangers." Either way, voters who were asked to show identification when others were not might come to feel that they were singled out.

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have long attributed lower turnout in the South to the cultural residuum of Jim Crow: culturally, voter participation was not very much encouraged in the South. But it is also possible that lower turnout in the South traces to the accumulation of minor barriers to voting, like identification requirements, that do not amount to much individually but sum to substantial.

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Identity verification, by state

State	Voter required to show identification	Voter required to give signature	Voter's signature verified
Alabama		Yes	
Alaska	Yes	Yes	
Arizona		Yes	
Arkansas	Yes	Yes	Yes
California		Yes	
Colorado		Yes	Varies
Connecticut	Yes		
Delaware	Yes	Yes	Yes
D.C.		Yes	
Florida	Yes	Yes	Yes
Georgia	Yes	Yes	
Hawaii	Yes	Yes	
Idaho		Yes	
Illinois		Yes	Yes
Indiana		Yes	Yes
Iowa	May	Yes	
Kansas		Yes	
Kentucky	Yes	Yes	
Louisiana	Yes	Yes	Yes
Maine			
Maryland		Yes	
Massachusetts	May		
Michigan		Yes	Varies
Minnesota	May	Yes	For absentees
Mississippi		Yes	
Missouri	Yes	Yes	Yes
Montana		Yes	
Nebraska		Yes	
Nevada		Yes	Yes
New Hampshire			
New Jersey		Yes	Yes
New Mexico		Yes	
New York		Yes	Yes
North Carolina			
North Dakota			
Ohio		Yes	Yes
Oklahoma	May	Yes	Yes
Oregon		Yes	Yes
Pennsylvania		Yes	Yes
Rhode Island		Yes	
South Carolina	Yes	Yes	Yes
South Dakota			
Tennessee	Yes	Yes	Yes

Texas	May when voter does not present valid voter's registration certificate	Yes	May
Utah	May	Yes	
Vermont			
Virginia	Yes		
Washington		Yes	
West Virginia	Yes, for first election after mail registration	Yes	Yes
Wisconsin	May		
Wyoming			
United States	14 states yes and 6 may	39 states + District	17 states yes, 1 may, 2 varies, 1 absentee only

Source: Federal Election Commission

VII. Provisional Balloting