"Use it or Lose it"
Analysis of a Texas Voter Bill and
Impacts on North Texas Voters
September 2024

Dr. Andrea K. Barreiro and Robin Lederer
National Coalition for Voter Rights[1]

The National Coalition for Voter Rights serves as a central research and communication hub with three primary objectives:

1. **Conduct research on voter laws and proposed legislation**: Focus on assessing how existing voter rights laws and proposed legislation affects voters. Texas is a key state to pilot this type of research for expansion to other states. This research will help inform public policy and support advocacy efforts to protect and enhance voter rights across the state.
2. **Manage an informative website**: This platform provides crucial information on the role of voters in voter list maintenance to support them to stay active participants in voting. It will communicate to Texans the impacts to voters and their voting rights from current Texas law and proposed Texas legislation.
3. **Work with organizations** to enhance their voter education programs by using the insights from the voter research.

Three reasons for this work:

1. **Improve understanding of the election system**: When 95,000 voter applications in Texas are rejected, it highlights critical flaws that need to be addressed. This work aims to uncover and resolve such systemic issues.
2. **Identify affected communities**: Identify the districts where Texans live that are most impacted by Texas election law and proposed election bills. Create targeted voter education programs with organizations.
3. **Reinstate oversight on voter legislation**: Hold elected officials accountable for how election bills could affect constituent voter participation. Revive historical preclearance oversight through the analysis of legislation and communicate the impacts broadly.

---

[1] Dr. Andrea Barreiro, Associate Professor of Math, SMU. Contact: abarreiro@mail.smu.edu
 Robin Lederer, CEO UniBeacon Group, Marketing Consultant. Contact: info@ncvr.org

Introduction

Many organizations focus attention on registering voters; others on getting out the vote (GOTV). In comparison, little attention is paid to the *process* of maintaining voter rolls, which includes the removal of names of those who are deemed to no longer be valid voters. In Texas, these removals can occur when a voter dies, is convicted of a felony, or moves to a new address, among other reasons.

Although relatively unknown to the public, these voter list maintenance (VLM) practices have a huge impact on Texas voters. In the same period (2020-2022) as 2.9M new voters were registered in Texas, 1M voters had their registration status cancelled due to the "suspense cancellation" process, which we describe more fully below. A further 1.8M voters were in "Suspense" status at the end of 2022, and 2.1 million in March 2024. (See Appendix C for Infographic). This means the voter will be removed from the rolls if they don't vote in any election including the next two federal elections. Moreover, VLM processes are continually changing, as legislators propose multiple bills each session to further regulate this process.

The goal of our research is to understand how VLM practices affect voters. Do they affect some voters more than others; i.e. are there differential effects based on race, income, or other demographic characteristics? How will PROSPECTIVE legislation affect voters?

One urgent piece of prospective legislation for the Texas legislative session in 2025 is a so-called "use it or lose it" bill, which triggers adverse actions based on the failure to participate in an election. The effect of this bill, which was first introduced as SB260 in 2023, would be to add a new pathway to "Suspense" status, which puts a voter in danger of having their registration cancelled. Today, a voter is put into "Suspense" (vs. "Active") status when the voter registrar receives information indicating the voter has moved: typically, this is a piece of undeliverable mail or a positive match on the National Change of Address (NCOA) database. If the voter does not respond, and then does not vote in the next two Federal general elections, the voter's status is updated to "Cancelled" and the voter is removed from the voter list (see Appendix C for a review of this process). Under SB260, a voter will be put into "Suspense" simply for having failed to vote for 25 months, even if there is no reason to call their address into question (see Appendix A for full text of bill).[2]

History of "Use it or Lose it"

In the 2023 session, SB260 ("Relating to Confirmation of a Voter's Residence by a Voter Registrar") was filed in December 2022 and passed in April 2023 in the Senate on a party line vote, but failed to advance in the House. The "Use it or Lose it" bill was introduced again by Sen. Kolkhorst of SD18 (represents constituents in 17 counties and parts of Ft. Bend and Harris County) during two special sessions in the Fall of 2023, as SB75 and then as SB33. Companion bills with identical language were filed by Rep. Jetton of HD26 (represents constituents in Ft. Bend County) in December 2022, as HB1134, and November 2023, as HB105. The repetition strongly suggests that similar bills will be filed for the 2025 session.

As noted by the Bill Analysis of SB260 produced by the Texas Senate Research Center (see full text in Appendix A – The Legislation, Analysis, Fiscal Impact), Texas legislative language appears to mirror the "Supplemental Process" adopted by Ohio. Under this process, the board of elections in each Ohio county compiled a list of registered voters that had not had any defined voter activity for a period of two years. Voters were removed from the voter rolls if they failed to vote within the subsequent four-year period and if they failed to either reregister to vote or respond to the notice from the county board of elections. That process was in place in Ohio for many years and challenged in 2015, found unconstitutional by the Sixth Circuit, but ultimately upheld by the US Supreme Court in *Husted v A. Philip Randolph Institute* in 2018.

If this bill becomes law in Texas, the potential impact to voters is unprecedented. On a comparison basis, as of 2024 Ohio has 7.9M registered voters[3] and Texas has 17.9M registered voters[4].

---

[2] When a voter is in "Suspense", they cannot vote before filling out a Statement of Residence form, which is essentially a new voter registration form. This introduces additional inconvenience and delay into the voting process. One necessary entry on the form is a TX driver's license number or Social Security number; if the voter arrives at the poll without at least one of those numbers, they will be unable to fill out the form completely.

[3] Source: Ohio Secretary of State, https://www.ohiosos.gov/elections/election-results-and-data/historical-election-comparisons/voter-turnout-in-general-elections/

[4] Source: Texas Secretary of State, https://www.sos.state.tx.us/elections/historical/70-92.shtml

Overall Impacts of "Use it or Lose it"

Even before the detailed data analysis was performed here, we could foresee extraordinary impacts on Texas voters. As the bill and analysis make clear, the proposed legislation targets voters who are in "Active" status on the voter list and decided not to exercise their right to vote in the past 25 months. It creates a fast runway to put "Active" voters in "Suspense" status and on the pathway to purging (Indeed, elections officials refer to the biennial removal of current "Suspense" voters after the even-year general elections as the "Purge"). If this bill becomes law, any registered Texan in "Active" voter status, who did not vote in any election during the previous 25 months, would be sent a notification and put on the pathway to purging.

The state already has an effective suspense-to-purge process for voters who are suspected to have moved[5], received a notification from County Elections, put in suspense status, do not update their voter record and do not vote in any election including two subsequent federal elections as defined in the National Voter Registration Act.

The following table summarizes historic Texas voter list maintenance results as reported by Texas to the Election Assistance Commission for the EAVS survey and on the Texas Secretary of State Election website:

Texas/Year	Citizen Voting Age Population Total	Reported Registrations	Active Registrations	Inactive (Suspense) Registrations	Inactive Regs (% of total regs)	Cancelled/ Purged (Nov 30 - June 1)
2024 Jan-March	NA	17,948,242	15,831,573	2,116,669	11.8%	NA
2022	19,375,866	17,672,143	15,847,341	1,824,802	10.3%	478,023
2020	18,875,542	16,955,519	15,279,870	1,675,649	9.9%	574,375
2018	18,174,345	15,615,925	13,790,247	1,653,986	10.6%	512,179

In December 2024, the next "purge" will start. It will remove voters who moved after November 2020, were mailed a notification from County Elections, were put into Suspense status, didn't respond to the notice, and didn't vote in any election since then, including the 2022 Federal election, *and don't vote in November 2024.* These voters will *not* receive a notice that they are no longer eligible to vote. If they reregister in the future, they can begin the process online but must print, sign and mail the form to their county elections department; and they will be subject to the 30-day waiting period that all Texans face when they register to vote or change their address.

---

[5] In fact, voters maybe be put on suspense for many reasons. The following anecdote will illustrate how easily this can occur, especially in a large county where the voter registrar employs a large staff with distributed responsibilities. One of the authors was placed on suspense while she was on sabbatical in Rhode Island, because a voter certificate (mailed yearly) was returned as undeliverable to her (permanent) home address. The mail was returned because the author had a temporary forwarding address with her post office. The return triggered an automatic notification and status change to "Suspense". The author had submitted (and had had approved) an absentee ballot application detailing her absence from the county on the dates in question, but that was not cross-referenced with the list maintenance process.

If this prospective bill becomes law in the regular session in 2025, and takes effect September 1, 2025, presumably the Secretary of State could advise county elections to begin the process of sending notifications to Active voters after the general election in November 2025.

In addition, there are other factors about Texas that will amplify the voter impacts from this prospective bill: (1) a history of low voter turnout; (2) its high "cost of voting", compared to other states; and (3) its rapid and diverse population growth. In the November 2022 election, Texas had 41.8% turnout. In the November 2020 election, Texas had 60.8% turnout and still ranked 7th from the bottom in turnout by a state's voting-eligible population for a Presidential election (*US Elections Project, University of Florida, 2023*).

Texas landed in 46th place in a 2022 study of "cost of voting", even worse than its 45th showing in 2020. The authors note that Texas "does relatively better than four other states, principally, because it provides citizens a full 13 days of early voting." (Schraufnagel, Pomante II, & Li, 2022).

Finally, the eligible voting population in Texas is 18.7M while the citizen population under 18 is 7.1M[6], placing Texas among the fastest growing states. Thus, any barrier that negatively impacts the ability of Texans to vote, will impact a greater percentage of the US population than similar barriers erected in nearly any other state.

Texas Population & Demographic change
- 2022 population: 30 million
- State gains **1,100 new residents per day**
- 2010-2023 growth 20.7%. – 3rd highest in nation
- Texas growth from other states – 55.3%
  … from other countries – 7.5%

Citizen Population of Texas				
	Voting age (18+ years of age)		Not yet 18 years of age	
	#	%	#	%
White	9,363,000	50%	2,287,000	32%
Non-white	9,367,000	50%	4,893,000	68%
Total	18,730,000	100%	7,180,000	100%

Source: US Census Bureau CVAP Report, February 2023

Motivation behind "Use it or Lose it"

These wide-ranging impacts belie the dull and technical nature of the change, which seems designed to be overlooked by voters. As noted not long after the resolution of litigation surrounding the Ohio law (Manheim & Porter, 2019),

> No one tried to sell *Husted v A. Philip Randolph Institute* as a thriller. The case involved the interpretation of a federal statute – the National Voter Registration Act (NVRA) – that regulates how states manage the logistics of voter registration. The Court interpreted the statute to permit a regime in Ohio in which the state

---

[6] Source: US Census Bureau, Citizen Voting Age Population (CVAP) Report, February 2023

presumes that voters have moved and accordingly purges them from the rolls, if they engaged in no voting activity for six years, and if they fail to return a postcard to the state confirming their address. What, you might reasonably ask, is the big deal? The premise of *Husted* would make an exceedingly dull horror movie.

The same authors noted that while there is a lack of evidence that removal sanctioned by Husted actually correlate with voter ineligibility, there *is* evidence that such "reforms" disproportionately affect minority and low-income voters (Culliton-Gonzalez & Brenson, 2018). One of the attorneys representing purged voters in Husted argued in a later article that "there is every reason to be concerned that this practice continues because it has a political skewing effect. Failure to vote regularly correlates with lower socioeconomic status and, at least in some places, with being a member of a racial minority." (Smith, 2020). This relationship is supported by recent Brennan Center research confirming that the Black-white gap in turnout has grown since 2012, especially in jurisdictions (such as Texas) formerly in preclearance before the 2013 *Shelby* decision (Morris & Grange, 2024).

> "The most disturbing result of *Shelby County* is that the **turnout gap has grown** between white voters and voters of color throughout the country, which represents hundreds of thousands of missing voices in our democracy. We spent much of the last year doing pathbreaking research on this very question. Senior Research Fellow Kevin Morris compiled a database with 1 billion pieces of data. We believe it is the most comprehensive pool of voter records in the country. It shows that the racial turnout gap has increased nationwide since 2013. However, in preclearance jurisdictions, the gap has grown twice as fast. This finding suggests strongly that *Shelby County* made things far worse in much of the country." Kareem Crayton, June 2024

What motivates "Use it or lose it" legislation?

According to some observers there has been a "successful propaganda campaign – driven by politically motivated advocates – to persuade legislators and the public that rampant voter fraud demands suppressive voting restrictions" (Manheim & Porter, 2019). However, Texas does not have rampant voter fraud. A review of Texas Attorney General court cases by television station Austin KXAN in 2020, showed 150 people charged with voter fraud since 2004. The Heritage Foundation website also keeps track of a "sampling" of cases across the state, and as of 2022 had listed 97 cases in Texas. This is several orders of magnitude smaller than the 1.3M voters that could be affected in North Texas alone, should a "use it or lose it" bill become law.

In this paper, we study the demographic impact of "Use it or Lose it" bills by analyzing voter history files from four North Texas counties, which include roughly 4M of the state's 17.9M voters. This study goes beyond previous research and the established public surveys from the U.S. Election Assistance Commission (EAC), in that we project how many voters will be impacted *before* the legislation becomes law and is implemented.

We chose the four most populous counties of the 13 counties in the North Texas region (as defined by the North Texas Commission[7]): Collin (home of the city of McKinney), Dallas (including the city of Dallas), Denton (including the city of Denton), and Tarrant (including the city of Fort Worth). They form

---

[7] https://www.ntc-dfw.org/

the core of North Texas – the fourth largest region in the United States – with a total population of 6.9M, and approximately 4.0M registered voters. We will show that in these four counties, over 1.3M North Texans (32.5% of total registered) with Active status on the voter list are vulnerable to the new "runway to suspense status" if they do not vote in November 2024. When we further refine our estimate based on the likelihood of voting in 2024, we project that between 13-22% of "Active" voters would have been impacted, if the law were in place today; in particular, that 13.9% of "Active" voters meet the criteria in the law and are unlikely to vote in November 2024.

We calculate the percentages on a district-by-district basis for US Congressional districts, TX Senate districts, and TX House of Representative districts, and show that wide variation exists in the percentage of voters impacted. Furthermore, we will show that the percentage of impacted voters has a strong positive correlation with the percentage of non-Anglo residents of the district, across all three district maps.

Our findings should sound an alarm bell for all Texans – elected officials and residents. We have projected that if this law were in place today, 13.9% (nearly 500K) of "Active" status voters in North Texas would be sent 'Suspense' notices if this bill becomes law: if that percentage holds steady throughout the state, we can expect many millions of Texans to be impacted statewide.

With additional resources, we can research the impacts for every Texas county.   If you are interested in learning more about our work, please contact Robin Lederer: (info@ncvr.org).

Methods

To assess the impact of this legislation on North Texas voters, we obtained recent voter history files from Collin, Dallas, Denton and Tarrant Counties. These files contain the list of all registered voters in the county, and their voting history in the last 40 elections (in the case of Denton County, the last 60 elections). All the files included the primary election of March 2024.

Using these files, we can simply count the number of voters that are in "Active" status and meet the criteria that would cause them to be impacted by the "use it or lose it" law. We determined a voter was "Vulnerable" if:

   (1a)   The voter was eligible to vote on 11/8/2022 (the date of the last even-year November General Election), AND
   (1b)   The voter did not vote in that election, or any election thereafter

Otherwise, we determined the voter was "Not at risk".

Although we refer to these voters as "Vulnerable", of course the law would only be triggered if they did not vote in November 2024. Predicting voter behavior is tricky, and we can't know for sure whether any individual voter will choose to participate in an election. However, overall turnout numbers strongly suggest that many voters ONLY vote in Presidential elections; e.g. November 2020 or November 2024. Therefore, we made a further division of the "Vulnerable" voters. We determined a voter was a likely Presidential year voter if:

(2)   The voter is "Vulnerable", AND voted in the general election of November 2020.

Otherwise, we determined the voter was an unlikely Presidential year voter and therefore "Likely at Risk". This gives us a more conservative estimate how many voters are likely to be impacted by the law. *But what if they did not vote in November 2020?* Although we can say they did not vote in their current county, we cannot be sure they did not vote in another county, another state, or that they were simply not registered at that time. A stronger indicator of their tendency to vote in a Presidential year is if they were eligible to vote in November 2020, but *chose not to do so*. Therefore, we applied a final set of a criteria, determining a voter was "At High Risk" if:

(3) The voter is "Likely at risk", AND was registered to vote in the general election of November 2020.

These voters are "at high risk" of being identified in a future purge: they meet the statutory definition of the law, and we have verified that they chose not to vote in a recent Presidential election, despite being eligible to do so.

We could choose to add other criteria and further narrow the list. For example, we currently check only the voter's voting history *in the county in which they are currently registered*. Arguably, we could check whether the voter was registered, and voted, in a previous county in Texas. In principle, this information is accessible to county voter registrars through the SOSTX TEAMS database. However, we do not know whether it is practical for a county to access TEAMS at this scale (i.e. submitting a query for 300K voters), nor whether registrars would do this in practice. Finally, no reference is made to the statewide database in the text of the bill in question, much less a requirement to use such a database.

To obtain demographic data about each district, we used "District Population Analysis with County Subtotals" released by the Texas Legislative Council in 2021 for C2193, S2168, and H2316, for the Congressional, Senate, and State House maps respectively[8]. The numbers were assigned by the legislature to the maps that were eventually enacted. These enumerate, for each district, the population intersection *with each county* as well as the intersection in broad racial and ethnic groups as identified by the US Census. These numbers were derived from the 2020 decennial Census, which was released in August 2021.

Results

Projected "Use it or Lose it" impacts vary widely by district

Using recent vote history files from four counties (Collin, Dallas, Denton and Tarrant), we tabulated how many voters would be likely to be affected by SB260 were it to be in place in November 2024. To identify a voter as "likely at risk" we checked the conditions listed in the law (in "Active" status, no voting history from November 2022), the implicit condition that the voter should have been registered during that time (i.e. was eligible to vote in November 2022), and a predictor that the voter was

---

[8] https://data.capitol.texas.gov/organization/tlc

unlikely to vote in a Presidential Year general election (did not vote in November 2020). To identify a voter as "at high risk" we also checked that the voter was registered to vote in the current county on election day in November 2020.

We first view how the number of affected voters varies across county, in Table 1. The percentage of currently "Active" voters that would be "likely at risk" varies 16.3% (Collin) to a 25.8% (Dallas). The percentage of currently "Active" voters that would be "at high risk" ranges from a minimum of 8.6% (Collin) to a maximum of 18.2% (Dallas). In short, Collin County voters are the least affected by both metrics; Dallas County voters are the most affected. The impact on Denton County voters is similar to Collin County (17.1% likely at risk, 9% at high risk); the impact on Tarrant County voters is similar to the all-county average (22.1% likely at risk, 14.2% at high risk). Overall, 21.6% of voters across the four counties are "likely at risk", and 13.9% are "at high risk".

Table 1: Affected voters across 4 North Texas counties. The column "Percent of Voters Likely at Risk" contains the percentage of "Active" voters who were eligible to vote in November 2022, have not voted since before November 2022, AND did not vote in November 2020 (see Methods). The column "Percent of Voters at High Risk" contains the percentage of "Active" voters who were eligible to vote in November 2022, have not voted since before November 2022, did not vote in November 2020, AND are confirmed to have been eligible to vote in November 2020 (see Methods).

North Texas County	Total "Active" Voters on File	Voter Not at Risk (1)	Voter Vulnerable (2)	Voter Likely at Risk (3)	Voter at High Risk (4)	Percent of Voters Likely at Risk	Percent of Voters at High Risk
Collin	633,096	435,512	197,584	103,287	54,726	16.3%	8.6%
Dallas	1,275,842	726,630	549,212	328,789	232,779	25.8%	18.2%
Denton	550,472	379,024	171,448	94,014	49,394	17.1%	9.0%
Tarrant	1,116,260	688,175	428,085	246,281	158,359	22.1%	14.2%
Total	3,575,670	2,229,341	1,346,329	772,371	495,258	21.6%	13.9%

(1) Voter Not at Risk - voted during or **after** Nov 2022 election.

(2) Voter Vulnerable - has not voted since **before** Nov 2022

(3) Voter Likely at Risk - has not voted since **before** Nov 2022, **and did not vote in Nov 2020 presidential election**

(4) Voter at High Risk - has not voted since **before** Nov 2022, did not vote in Nov 2020 presidential election, **and is confirmed to have been eligible to vote in Nov 2020**.

We next tabulated the results for each US Congressional district that intersects at least one of the 4 counties and report them in Table . The percentage of currently "Active" voters that would be "likely at risk" varies strikingly by district, from a minimum of 15.6% (USCD 24) to a maximum of 33% (USCD 33). The percentage of currently "Active" voters that would be "at high risk" ranges from a minimum of 8% (USCD 4) to a maximum of 23.8% (USCD 33).

Table 2: Affected voters across 4 North Texas counties, by US Congressional District (USCD), ordered by "Percent of Voters at High Risk" from highest to lowest. The column "Percent of Voters Likely at Risk" contains the percentage of "Active" voters who were eligible to vote in November 2022, have not voted since before November 2022, AND did not vote in November 2020 (see Methods). The column "Percent of Voters at High Risk" contains the percentage of "Active" voters who were eligible to vote in November 2022, have not voted since before November 2022, did not vote in November 2020, AND are confirmed to have been eligible to vote in November 2020 (see Methods).

SB260 Will Make it Easier for Texas to Remove Voters from the Voter List									
North Texas County	North TX USCD	Current Represent-ative	Total "Active" Voters on File	Voter Not at Risk (1)	Voter Vulner-able (2)	Voter Likely at Risk (3)	Voter at High Risk (4)	Percent of Voters Likely at Risk	Percent of Voters at High Risk
All 4	33	Marc Veasey	295,761	142,761	153,000	97,625	70,296	33	23.8
All 4	30	Jasmine Crockett	399,414	212,297	187,117	114,889	83,599	28.8	20.9
All 4	5	Lance Gooden	214,554	118,344	96,210	56,481	40,145	26.3	18.7
All 4	6	Jake Ellzey	139,629	77,152	62,477	37,132	24,710	26.6	17.7
All 4	32	Colin Allred	348,379	208,291	140,088	83,109	55,283	23.9	15.9
All 4	25	Roger Williams	203,757	125,540	78,217	44,034	28,962	21.6	14.2
All 4	12	Kay Granger	365,870	229,100	136,770	78,161	48,792	21.4	13.3
All 4	13	Ronny Jackson	73,726	49,661	24,065	13,708	8,094	18.6	11
All 4	24	Beth Van Duyne	474,700	333,624	141,076	73,826	45,062	15.6	9.5
All 4	26	Michael Burgess	428,358	296,564	131,794	71,843	37,234	16.8	8.7
All 4	3	Keith Self	434,197	299,156	135,041	70,102	37,349	16.1	8.6
All 4	4	Pat Fallon	197,325	136,851	60,474	31,461	15,372	15.9	8
	Total	12 of 38 US Reps	3,575,670	2,229,341	1,346,329	772,371	495,258	21.6	13.9

(1) Voter Not at Risk - voted during or **after** Nov 2022 election
(2) Voter Vulnerable - has not voted since **before** Nov 2022
(3) Voter Likely at Risk - has not voted since **before** Nov 2022, **and did not vote in Nov 2020 presidential election**
(4) Voter at High Risk - has not voted since **before** Nov 2022, did not vote in Nov 2020 presidential election, **and is confirmed to have been eligible to vote in Nov 2020**.

Likewise, there are striking differences across TX Senate districts (

Table 3). The percentage of currently "Active" voters that would be "likely at risk" ranges from a minimum of 16.2% (SD 12) to a maximum of 28.7% (SD 23). The percentage of currently "Active" voters that would be "at high risk" ranges from a minimum of 8.8% (SD 8) to a maximum of 21% (SD 23).

Table 3: Affected voters across 4 North Texas counties, by TX Senate District (TX Senate), ordered by "Percent of Voters at High Risk" from highest to lowest. The column "Percent of Voters Likely at Risk" contains the percentage of "Active" voters who were eligible to vote in November 2022, have not voted since before November 2022, AND did not vote in November 2020 (see Methods). The column "Percent of Voters at High Risk" contains the percentage of "Active" voters who were eligible to vote in November 2022, have not voted since before November 2022, did not vote in November 2020, AND are confirmed to have been eligible to vote in November 2020 (see Methods).

SB260 Will Make it Easier for Texas to Remove Voters from the Voter List

Texas County	North TX Senate District	North Texas Senator	Total "Active" Voters on File	Voter Not at Risk (1)	Voter Vulnerable (2)	Voter Likely at Risk (3)	Voter at High Risk (4)	Percent of Voters Likely at Risk	Percent of Voters at High Risk
All 4	23	Royce West	490,159	260,978	229,181	140,745	102,745	28.7	21
All 4	16	Nathan Johnson	412,635	228,278	184,357	112,391	79,695	27.2	19.3
All 4	10	Phil King	309,675	184,983	124,692	73,036	49,660	23.6	16
All 4	2	Bob Hall	270,294	163,270	107,024	61,270	41,568	22.7	15.4
All 4	22	Brian Birdwell	170,126	98,950	71,176	40,952	25,647	24.1	15.1
All 4	9	Kelly Hancock	528,035	331,053	196,982	112,865	71,353	21.4	13.5
All 4	12	Tan Parker	534,499	374,406	160,093	86,333	48,933	16.2	9.2
All 4	30	Drew Springer	339,181	229,058	110,123	59,805	30,028	17.6	8.9
All 4	8	Angela Paxton	521,066	358,365	162,701	84,974	45,628	16.8	8.8
	Total	9 of 31 Senators	3,575,670	2,229,341	1,346,329	772,371	495,258	21.6	13.9

(1) Voter Not at Risk - voted during or **after** Nov 2022 election
(2) Voter Vulnerable - has not voted since **before** Nov 2022
(3) Voter Likely at Risk - has not voted since **before** Nov 2022, **and did not vote in Nov 2020 presidential election**
(4) Voter at High Risk - has not voted since **before** Nov 2022, did not vote in Nov 2020 presidential election, **and is confirmed to have been eligible to vote in Nov 2020**.

Next, we estimate the number of affected voters for each district in the Texas House of Representatives (Table). Here, most districts are entirely contained within the county in question. We ordered the

districts by the percentage of voters "at high risk". Within Collin and Denton counties, the differences are modest. Within Dallas and Tarrant counties, the differences are stark. In Dallas County, the percentage of voters "likely at risk" ranges from 11.8% (HD 108) to 40.6% (HD 110); the percentage of voters "at high risk" ranges from 6.9% (HD 108) to 32.3% (HD 110). In Tarrant County, the percentage of voters "likely at risk" ranges from 13.6% (HD 98) to 33.6% (HD 90); the percentage of voters "at high risk" ranges from 7.6% (HD 98) to 24.7% (HD 90).

Table 4: Affected voters across 4 North Texas counties, by TX House of Representative district (TX House), ranked by % of voters "at High Risk" within each county. The column "Percent of Voters Likely at Risk" contains the percentage of "Active" voters who were eligible to vote in November 2022, have not voted since before November 2022, AND did not vote in November 2020 (see Methods). The column "Percent of Voters at High Risk" contains the percentage of "Active" voters who were eligible to vote in November 2022, have not voted since before November 2022, did not vote in November 2020, AND are confirmed to have been eligible to vote in November 2020 (see Methods).

County	TX House District	Current Represent-ative	Total "Active" Voters on File	Voter Not at Risk (1)	Voter Vulner-able (2)	Voter Likely at Risk (3)	Voter at High Risk (4)	Percent of Voters Likely at Risk	Percent of Voters at High Risk
Collin	89	Candy Noble	124,079	82,769	41,310	22,000	12,325	17.7	9.9
Collin	33	Justin Holland	46,231	30,984	15,247	8,186	4,402	17.7	9.5
Collin	67	Jeff Leach	121,168	82,041	39,127	20,750	11,189	17.1	9.2
Collin	70	Mihaela Plesa	95,296	67,178	28,118	14,806	8,487	15.5	8.9
Collin	66	Matt Shaheen	121,469	85,640	35,829	18,559	9,276	15.3	7.6
Collin	61	Frederick Frazier	124,853	86,900	37,953	18,986	9,047	15.2	7.2
Dallas	110	Toni Rose	76,866	30,388	46,478	31,236	24,864	40.6	32.3
Dallas	100	Venton Jones	76,237	34,762	41,475	27,291	21,123	35.8	27.7
Dallas	104	Jessica González	78,235	36,389	41,846	26,968	20,411	34.5	26.1
Dallas	107	Victoria Neave Criado	74,796	34,727	40,069	25,485	19,148	34.1	25.6
Dallas	111	Yvonne Davis	99,745	54,182	45,563	27,083	20,316	27.2	20.4
Dallas	113	Rhetta Andrews Bowers	94,845	50,722	44,123	25,720	18,527	27.1	19.5
Dallas	105	Terry Meza	71,911	38,043	33,868	20,544	13,847	28.6	19.3
Dallas	103	Rafael Anchía	79,180	44,373	34,807	21,375	14,944	27	18.9
Dallas	109	Carl Sherman Sr.	102,858	56,323	46,535	26,923	19,481	26.2	18.9
Dallas	102	Ana-Marie Ramos	80,771	45,181	35,590	21,202	14,197	26.2	17.6

County	District	Representative						
Dallas	114	John Bryant	100,173	64,197	35,976	21,055	13,323	21	13.3
Dallas	112	Angie Chen Button	117,700	79,093	38,607	20,806	13,528	17.7	11.5
Dallas	115	Julie Johnson	95,411	62,066	33,345	18,097	10,282	19	10.8
Dallas	108	Morgan Meyer	127,114	96,184	30,930	15,004	8,788	11.8	6.9
Denton	64	Lynn Stucky	70,636	49,653	20,983	12,023	7,088	17	10
Denton	63	Ben Bumgarner	109,487	74,714	34,773	19,242	10,705	17.6	9.8
Denton	57	Richard Hayes	114,352	77,395	36,957	20,023	10,723	17.5	9.4
Denton	65	Kronda Thimesch	126,960	88,342	38,618	20,794	10,635	16.4	8.4
Denton	106	Jared Patterson	129,037	88,920	40,117	21,932	10,243	17	7.9
Tarrant	90	Ramon Romero Jr.	81,531	39,308	42,223	27,396	20,110	33.6	24.7
Tarrant	95	Nicole Collier	88,786	46,057	42,729	26,798	18,700	30.2	21.1
Tarrant	101	Chris Turner	94,414	51,611	42,803	24,793	16,207	26.3	17.2
Tarrant	92	Salman Bhojani	73,411	42,553	30,858	18,566	11,046	25.3	15
Tarrant	99	Charlie Geren	106,350	64,817	41,533	24,324	15,679	22.9	14.7
Tarrant	91	Stephanie Klick	100,526	62,517	38,009	21,851	14,492	21.7	14.4
Tarrant	96	David Cook	114,740	73,024	41,716	22,804	14,654	19.9	12.8
Tarrant	94	Tony Tinderholt	105,329	70,026	35,303	19,084	12,487	18.1	11.9
Tarrant	93	Nate Schatzline	116,324	73,237	43,087	23,786	13,226	20.4	11.4
Tarrant	97	Craig Goldman	113,950	76,586	37,364	20,457	12,629	18	11.1
Tarrant	98	Giovanni Capriglione	120,899	88,439	32,460	16,422	9,129	13.6	7.6
	Total	36 Reps of 150	3,575,670	2,229,341	1,346,329	772,371	495,258	21.6	13.9

(1) Voter Not at Risk - voted during or **after** Nov 2022 election
(2) Voter Vulnerable - has not voted since **before** Nov 2022
(3) Voter Likely at Risk - has not voted since **before** Nov 2022, **and did not vote in Nov 2020 presidential election**
(4) Voter at High Risk - has not voted since **before** Nov 2022, did not vote in Nov 2020 presidential election, **and is confirmed to have been eligible to vote in Nov 2020**.

"Use it or Lose it" will disproportionally impact minority districts

We next investigate demographic characteristics of each district, and whether these may correlate to the impact of "Use it or lose it" bills on voters. First, we note that Congressional and Senate districts overlap county lines, including counties which are not included in this study. Thus, we first establish what percentage of the total population lies within the four-county area; this is helpfully provided in Texas Legislative Council reports.

- For US Congress, districts 24, 30, 32 and 33 were entirely contained within the four counties.
    - Districts 3, 12, and 26 had at least 85% of their population included in the study.
    - The remaining districts (4,5,6,13, and 25) had between 18-55% of their population included.
- For TX Senate, districts 9, 16, and 23 were entirely contained within the four counties.
    - Districts 8 and 12 had at least 85% of their population included in the study.
    - The remaining districts (2,10, 22, and 30) had between 37-64% of their population included.

Table 5: Within-study area population and demographic features of each north Texas US county area" give the absolute number and percentage of that district's population that resided in Collin, Dallas, Denton, or Tarrant counties at the time of the 2020 US Census. The "% non-Anglo in 4-county area" column gives the percentage of that population that is non-Anglo, at the time of the 2020 Census. (This percentage may differ from the percentage for the district at large).

North TX District	Total Population	Total Pop. in 4-County area	% Total Pop in 4-County area	% non-Anglo in 4-County area	% Likely at Risk	% At High Risk
3	766987	680661	89%	45%	16.1	8.6
4	766987	358477	47%	53%	15.9	8
5	766987	421027	55%	69%	26.3	18.7
6	766987	317266	41%	72%	26.6	17.7
12	766987	650081	85%	49%	21.4	13.3
13	766987	137298	18%	46%	18.6	11
24	766987	766987	100%	38%	15.6	9.5
25	766987	382999	50%	57%	21.6	14.2
26	766987	679309	89%	45%	16.8	8.7
30	766987	766987	100%	82%	28.8	20.9
32	766987	766987	100%	68%	23.9	15.9
33	766987	766987	100%	87%	33	23.8

For the TX House of Representatives, the Texas State Constitution contains a provision which limits county splits (Section 26, Article III). Very populous counties can typically share only one split district; the remaining districts must be wholly contained within the county. Here, only two districts are not entirely contained within the 4-county study: HD64 has 64% of its population in Denton County, and HD33 has 43% of its population in Collin County. Dallas County is divided into 14 districts, all entirely contained within the county; Tarrant County is divided into 11 districts, all entirely contained within the county.

Table 6: Within-study area population and demographic features of each north Texas US Congressional district. The "Total population in 4-county area" and "% Total population in 4-county area" give the absolute number and percentage of that district's population that resided in Collin, Dallas, Denton, or Tarrant counties at the time of the 2020 US Census. The "% non-Anglo in 4-county area" column gives the percentage of that population that is non-Anglo, at the time of the 2020 Census. (This percentage may differ from the percentage for the district at large).

North TX District	Total Population	Total Pop. in 4-County area	% Total Pop in 4-County area	% Non-Anglo in 4-County area	% Likely at Risk	% At high Risk
2	957994	516624	54%	62%	22.7	15.4
8	963125	851005	88%	47%	16.3	8.8
9	964126	964126	100%	50%	21.4	13.5
10	935869	601874	64%	63%	23.6	16
12	960904	892272	93%	47%	16.2	9.2
16	963453	963453	100%	73%	27.2	19.3
22	960493	359569	37%	68%	24.1	15.1
23	963305	963305	100%	82%	28.7	21
30	965445	582838	60%	50%	17.6	8.9

From the same source of data, we obtained the demographics breakdown of the population into the different major groups used by the US Census. As a simple divider, we used the "Anglo vs. non-Anglo" for total population provided in the same table. (These numbers are provided for voting age population (VAP) as well, but not broken down by county). We included the resulting "%non-Anglo" in Tables 5-7.

County	North TX District	Total Pop. in 4-County area	% Total Pop in 4-County area	% Non-Anglo in 4-County area	% Likely at Risk	% At High Risk
Collin	33	82720	43%	55%	17.7	9.5
	61	202295	100%	49%	15.2	7.2
	66	198718	100%	45%	15.3	7.6
	67	200888	100%	48%	17.1	9.2
	70	185574	100%	54%	15.5	8.9
	89	194270	100%	48%	17.7	9.9
Dallas	100	184691	100%	89%	35.8	27.7
	102	187686	100%	74%	26.2	17.6
	103	184639	100%	78%	27	18.9
	104	185500	100%	85%	34.5	26.1
	105	191644	100%	79%	28.6	19.3
	107	184603	100%	81%	34.1	25.6
	108	187178	100%	24%	11.8	6.9
	109	184600	100%	85%	26.2	18.9
	110	184614	100%	93%	40.6	32.3
	111	184755	100%	88%	27.2	20.4
	112	185204	100%	45%	17.7	11.5
	113	185211	100%	72%	27.1	19.5
	114	184649	100%	54%	21	13.3
	115	198565	100%	65%	19	10.8
Denton	57	186531	100%	45%	17.5	9.4
	63	202319	100%	50%	17.6	9.8
	64	124230	64%	42%	17	10
	65	202249	100%	48%	16.4	8.4
	106	191093	100%	44%	17	7.9
Tarrant	90	202379	100%	83%	33.6	24.7
	91	186760	100%	47%	21.7	14.4
	92	188309	100%	73%	25.3	15
	93	195785	100%	49%	20.4	11.4
	94	185756	100%	46%	18.1	11.9
	95	203993	100%	81%	30.2	21.1
	96	188593	100%	47%	19.9	12.8
	97	189469	100%	42%	18	11.1
	98	184798	100%	33%	13.6	7.6
	99	194917	100%	47%	22.9	14.7
	101	189881	100%	77%	26.3	17.2

(Previous page) *Table 7: Within-study area population and demographic features of each north Texas House of Representatives district. The "Total population in 4-county area" and "% Total population in 4-county area" give the absolute number and percentage of that district's population that resided in Collin, Dallas, Denton, or Tarrant counties at the time of the 2020 US Census. The "% Non-Anglo in 4-county area" column gives the percentage of that population that is non-Anglo, at the time of the 2020 Census. (This percentage may differ from the percentage for the district at large).*

Then, we produced scatter plots of "% Non-Anglo" vs. "% Voters Likely at risk" in Figures 1-3. There is a striking and clear correlation between the two variables in all three chambers. We show US Congressional districts and TX Senate districts together in Figure 1.
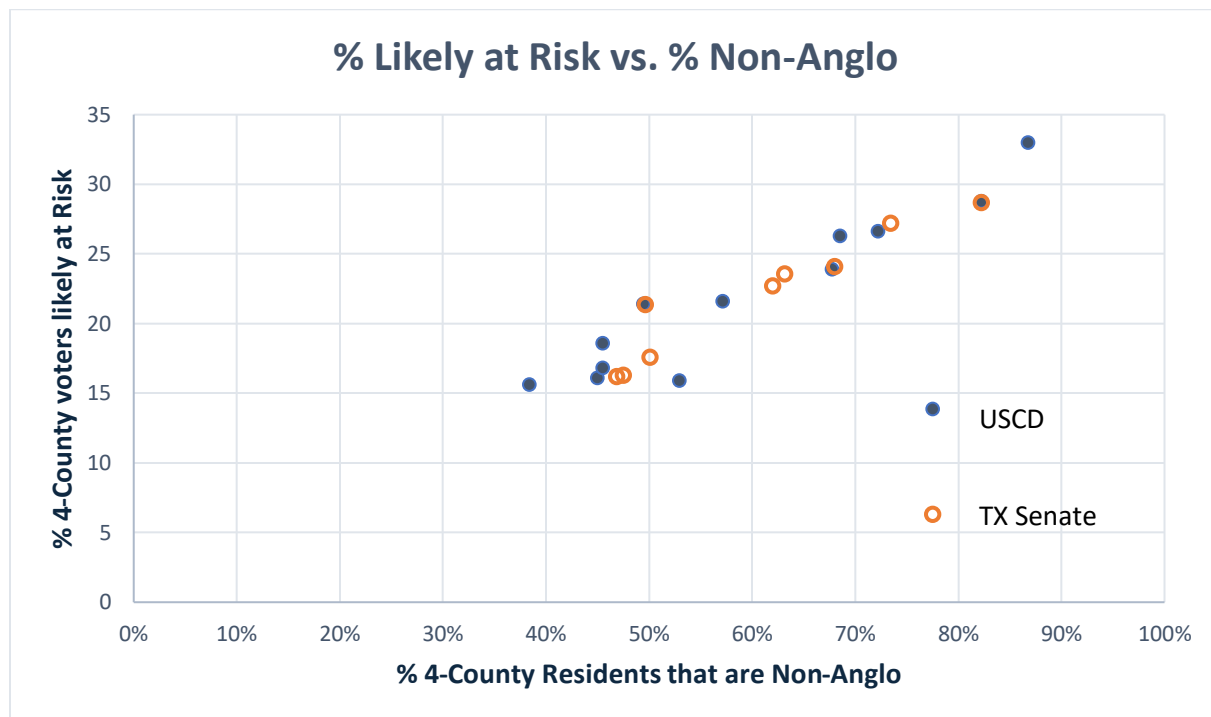
Figure 1: % of Active voters Likely at risk, vs. % Non-Anglo population for North Texas Congressional districts (USCD; blue) and Texas Senate districts (TX Senate; orange outline).

In the TX House districts, there is also a positive correlation (Figure 2); but it is particularly pronounced within the two urban counties, Dallas and Tarrant (these are highlighted with red and gray, respectively, in Figure 3). Within Denton and Collin counties, the house districts appear to be relatively homogeneous, both ethnically (at least by this crude metric) and in terms of how many voters would be affected by this law.
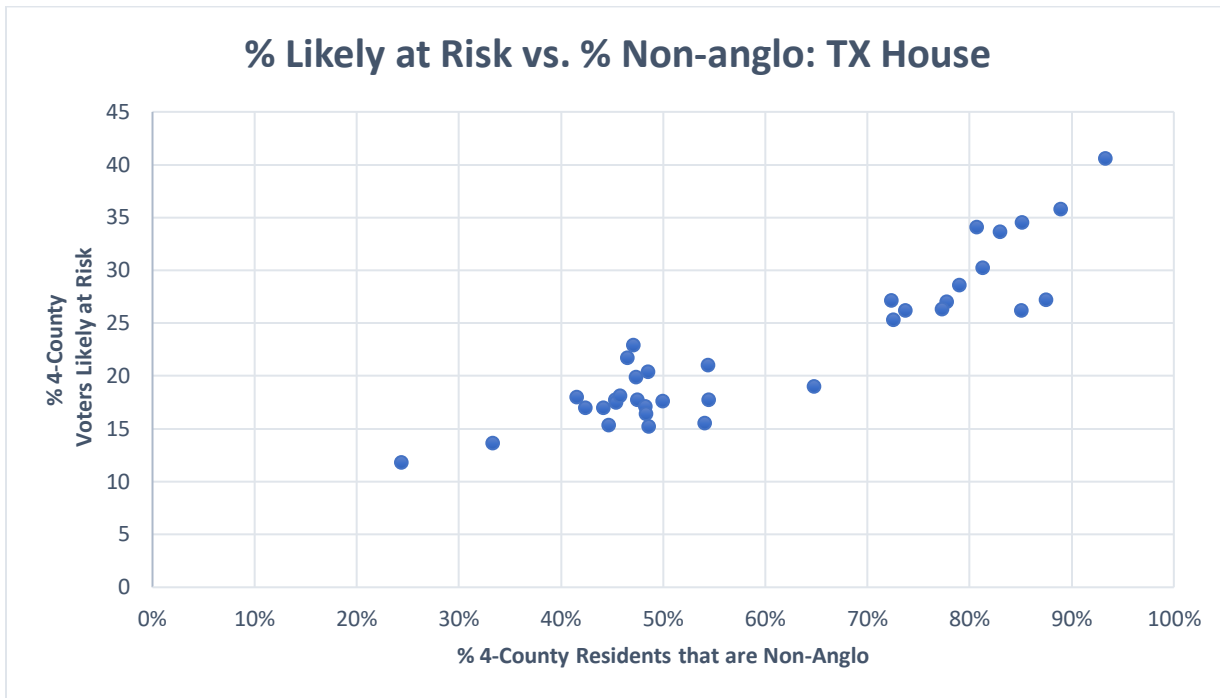

Figure 2: % of Active voters Likely at risk, vs. % Non-Anglo population for North Texas House districts (blue).
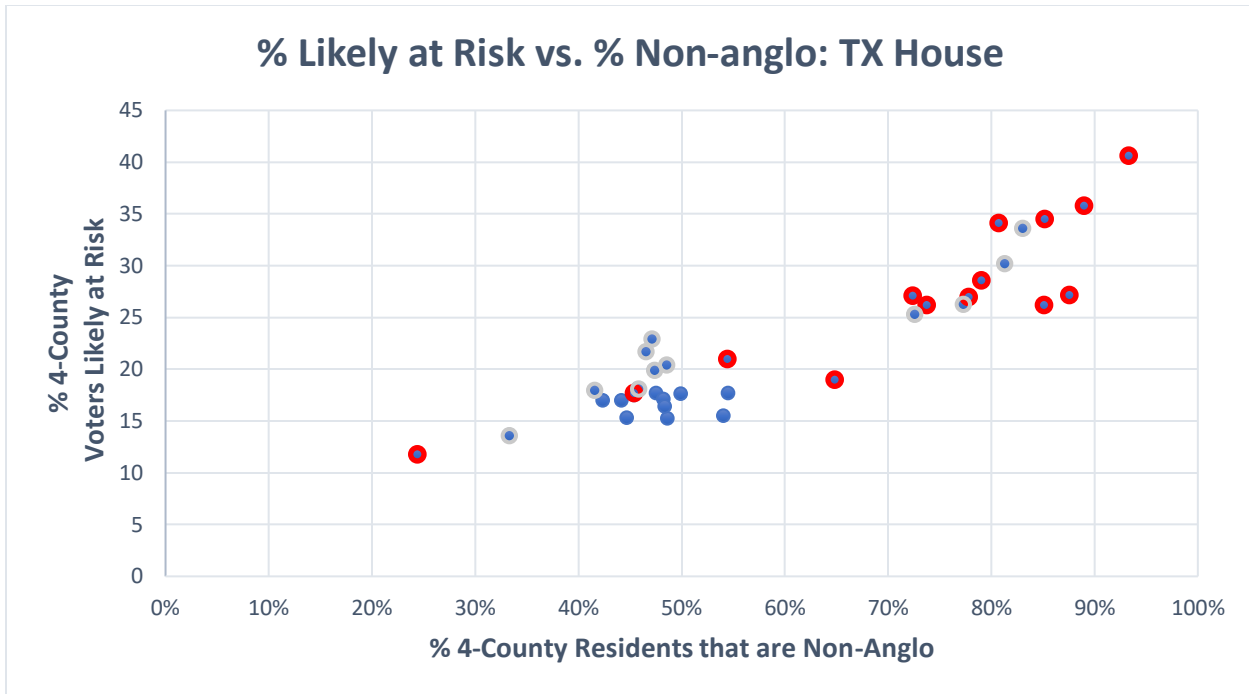
Figure 3: % of Active voters Likely at risk, vs. % Non-Anglo population for North Texas House districts (blue). Districts from Dallas County (red) and Tarrant County (gray) are highlighted separately, showing the clear relationship within each urban county
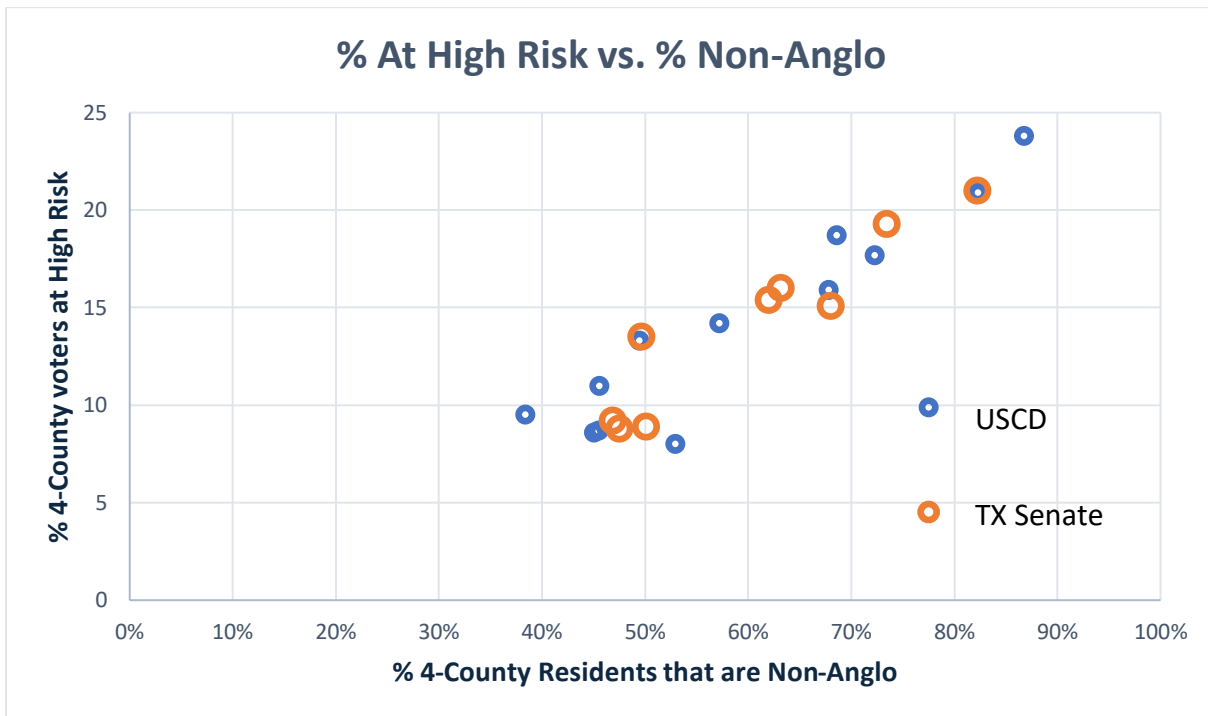

Figure 4: % of Active voters at High Risk, vs. % Non-Anglo population for North Texas Congressional districts (USCD; blue) and Texas Senate districts (TX Senate; orange outline).

We next show the corresponding scatter plot for "at high risk" vs. "% Non-Anglo" for Congressional and Senate districts in *Figure 4*. There is a striking positive correlation in both chambers; that is, the higher the number of non-Anglo citizens in the district, the greater a percentage of active voters are at high risk due to this legislation. There is also a strong relationship in House districts (*Figure 5*), with a particularly strong relationship within each urban county. In most cases, the relative impact (across districts) is substantially similar for both ways of quantifying risk (i.e. "likely at risk" vs. "at high risk").

Of particular concern, the most minoritized district in each chamber also has the largest fraction of voters at risk with respect to either metric. In the USCD, this is CD33 (represented by Marc Veasey); in the Senate, district 23 (represented by Royce West).
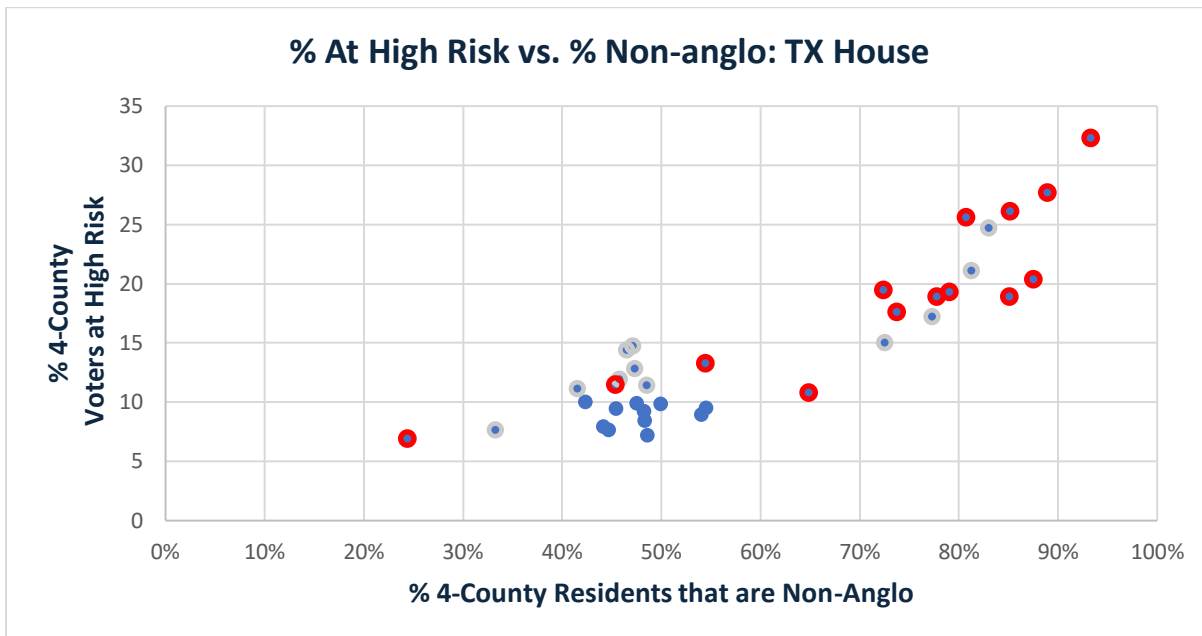

Figure 5: *% of Active voters at High risk, vs. % non-Anglo population for North Texas House districts (blue). Districts from Dallas County (red) and Tarrant County (gray) are highlighted separately, showing the clear relationship within each urban county*

Discussion

In this paper, we studied the demographic impact of "Use it or Lose it" bills by analyzing voter history files from four North Texas counties, which include roughly 4M of the state's 17.9M voters. These laws, which impose adverse effects on voters for simply not voting (usually, putting voters on the "Suspense" list) and are an increasingly popular tool for states to manage their voting lists. Because a "Use it or lose it" law was repeatedly proposed during Texas legislative sessions in 2023, we expect it to reappear during the next session (2025).

We chose the four most populous counties of the 13 counties in the North Texas: Collin, Dallas, Denton, and Tarrant. They form the core of North Texas – the fourth largest region in the United States – with a total population of 6.9M, and approximately 4.0M registered voters. We showed that in these four counties, over 1.3M North Texans (32.5% of total registered) with Active status on the voter list are vulnerable to the new "runway to suspense status" if they do not vote in November 2024. When we further refined our estimate based on the likelihood of voting in 2024, we projected that between 13-22% of "Active" voters would have been impacted, if the law were in place today; in particular, that 13.9% of "Active" voters meet the criteria in the law and are unlikely to vote in November 2024.

We calculated the percentages on a district-by-district basis for US Congressional districts, TX Senate districts, and TX House of Representative districts, and showed that wide variation exists in the percentage of voters impacted: for the TX House of Representatives, the percentage of "at high risk" voters (these are voters who have not voted since November 2022, and did not vote in November 2020, although they were registered) varies from a low of 6.9% (HD 108, represented by Morgan Meyer) to a high of 32.3% (HD 110, represented by Toni Rose). Furthermore, the percentage of impacted voters has a strong positive correlation with the percentage of non-Anglo residents of the district, across all three district maps. We note that HD 108 is a highly affluent, majority white district that includes wealthy North Dallas neighborhoods, as well as the cities of University Park and Highland Park; HD 110 is a lower-income, heavily minoritized district (34% Black, 59% Hispanic) in southeast Dallas.

To add insult to injury, these disparate impacts would exacerbate the existing difference in registration rates between Anglo and non-Anglo areas; according to the same TLC map report we used to obtain demographic data, in 2020, HD 108 had a voting age population (VAP) of 150K, of which 127K (84.7%) were registered to vote and in "Active" status; HD 110 had a VAP of 128K, of which only 77K (60.1%) were registered to vote and in "Active" status. Thus, penalizing registered voters for not voting will further reinforce racial gaps in registration and turnout.

Projecting presidential year turnout

As with any legislation, projecting whether any particular people will be impacted depends on events that will take place in the future; in this case, the most proximate and impactful event is whether a voter will choose to participate in the November 2024 presidential election. It is generally true that voter turnout is highest for such elections (vs. gubernatorial elections, primary elections, or local/municipal elections); however, it can still vary significantly both on a statewide level (66% in 2020, vs. 59% in 2016; in recent years it has been as low as 52% in 2000, and as high as 73% in 1992)

and county by county (in 2020, turnout was 75% in Collin, but only 52% in El Paso). For this reason, it is prudent to examine multiple scenarios and factors that may affect turnout.

In this paper, we attempt to gauge, based on past voting history, whether each voter is a "likely" or "unlikely" presidential year voter and thus likely vs. unlikely to vote in November 2024. In the absence of a more sophisticated predictive model, we look back at what the voter did in November 2020. If the voter *did* vote in November 2020, then we project they will vote in November 2024.

But what if they did not vote in November 2020? We considered two scenarios here. In the first scenario, we assumed that these voters were not likely presidential year voters and thus should be considered "likely at risk". In the second scenario, we consider the voter "at high risk" only if they were eligible to vote in November 2020, but chose not to do so. The difference is in how we assess voters for whom their registration status in November 2020 is unknown or uncertain; we can either consider them to be "likely" or "unlikely" presidential voters by default; the former gives a more restrictive set of voters. With either assumption, there is a wide range of outcomes across districts, and a strong correlation with how non-Anglo the district is.

Another complication is that the vote history files contain copies of the county-level database, but do not have any information about voting activity elsewhere in the state. For example, a voter who voted in November 2020 while she resided in Harris County, but then moved to Dallas County in 2022, would not have the 2020 voter activity reflected in our file. In this study, we address this concern by automatically "ruling in" any voters who were not eligible to vote in November 2022; they are automatically assumed to be "not at risk". Thus, any "at risk" voters have been continuously registered in a single county at least since November 2022, but have not voted since that date. This *under*estimates the number of voters that will be impacted in the future, because some of the "not at risk" voters will be infrequent voters and thus likely to be caught up in future voter purges.

"Use it or Lose it", nationwide

Processes similar to "Use it or Lose it" are already in place across the United States; as of this writing, 22 states had some kind of pathway to put voters on Suspense for not voting (see Appendix B: "Use it or Lose it", nationwide). It is of obvious interest to study the impact these laws, for example by comparing cancellation rates before and after the practice started. This is made challenging by the fact that until the 2024 survey, the U.S. Election Assistance Commission did not keep track of cancellations due to non-voting; thus there is no nationwide, centralized database tracking the practice. Identifying cancelled voters, and determining whether the cancellations were non-voting related, will have to proceed through state-specific or county-specific FOIA mechanisms. Furthermore, separating "before" from "after" depends on definitively identifying when non-voting cancellations began; in Ohio, for example, removals for non-voting had been underway since 1994, but only came to widespread public attention with the court case that became Husted.

However, this data is available in principle; a 2016 Reuters article obtained cancellation data from Cuyahoga (Cleveland), Hamilton (Cincinnati), and Franklin (Columbus) counties, and found that there were sharp disparities in the percentage of voters cancelled for inactivity between Democratic vs.

Republican precincts, as well as between majority African-American and majority white precincts (Sullivan & Smith, 2016).

Future Work

Our work suggests that conservatively, 20% of Texans would be impacted by any legislation that adversely affects infrequent voters; our immediate next goal is to extend our study to the 13-county North Texas region, and then to the entire state. Because urban metro areas are both populous and more ethnically diverse, our most urgent concern is to understand whether the disparate impacts we observed in this study extend to the other large metro areas of Texas: Houston and San Antonio-Austin. The main logistical challenge is data acquisition and cleaning; voter history files differ in formatting, price, and the acquisition process across the 254 counties of Texas. The Texas Secretary of State can supply a statewide vote history file but at a high price (about $8,000) which is hard to justify as anything other than an intentional disincentive.[9]

A personal message from the authors

Why are we focused on voter list management? Three key reasons:

1. We had no insight into the "system" of election administration.

    As volunteers, we were familiar with voter registration and turnout data, but not voter registration rejections and the 1M voters purged from the voter list. When we volunteered to register voters, we turned in voter applications and assumed voters were registered. When we knocked on doors or made phone calls to encourage people to vote, we didn't ask them to check their voter status.

    We started researching the only detailed public source of information on election administration across the country – the U.S. Election Assistance Commission's biennial report of the states (Election Administration and Voting Survey or EAVS study). We were alarmed by the significant number of Texans whose voter registrations were rejected and the number of voters who were cancelled due to the suspension process.

2. We know that voter education has the potential to increase registrations and reduce the numbers of voters in suspension and cancelled. These education programs can be even more effective, when combined with research to identify where the education investment is most needed across Texas.

3.   For more than a decade, Texas has not been subject to the Department of Justice's preclearance requirement, which reviewed proposed changes to election laws to prevent discrimination against voters of color.

---

[9] Per email from Kate Fisher, Executive Assistant, Elections Division Office of the Texas Secretary of State (January 5, 2023).

Under preclearance, Texas was required to analyze its proposed changes and demonstrate that they would not have discriminatory impact. For over a decade, this type of analysis has not been publicly shared, if it has been done by the Texas legislature.

Without preclearance, the ownership for this type of research has shifted to "others".

With research resources, we intend to provide analysis of the voter impacts of key election bills while they are in review in the legislature. The intent is to introduce into the legislative record the research and analysis. Many Texas election laws end up in court challenges. Some of those court cases use research. We have also found Texas election procedures and list maintenance practices differ from other states, often in a way that seems designed to discourage and suppress voting.

Furthermore, media reports indicate that well-funded organizations are attacking voting lists nationwide, by compiling lists of voters who are supposedly not eligible to vote, and filing challenges with their local elections offices. The effort to educate voters about keeping their voter record up to date could help in this situation. According to a Texas Tribune article, *Texas election officials are dealing with a flood of challenges to voter registrations, BY NATALIA CONTRERAS, VOTEBEAT AND THE TEXAS TRIBUNE, AUG. 16, 2024:*

> "The vast majority of them are challenging the residence of a registered voter," said Bruce Sherbet, Collin County elections administrator. He added other challenges included voters who may have listed a commercial address as their residence and voters who may have died. But Sherbet said his office has already taken action on most of the residency-based challenges through routine voter list maintenance, with some voters being placed on a "suspense" list until they confirm their address.

It's time to invest in a comprehensive study of Texas election administration that goes beyond analyzing registration and turnout data. Voters need support to take control of their voter records and proactively counter efforts to suppress voting, in Texas and nationwide. With sufficient resources, our research can provide vital analysis to elected officials and the public. By evaluating the potential impact of election laws *before* they are enacted, we can help restore the accountability that was lost when preclearance ended.

Please contact Robin Lederer for more information on the research (info@ncvr.org).

Bibliography

Culliton-Gonzalez, K., & Brenson, L. (2018). *An Assessment of Minority Voting Rights Access in the United States.* United States Commission on Civil Rights, Office of Civil Rights Evaluation.

Manheim, L. M., & Porter, E. G. (2019). The Elephant in the Room: Intentional Voter Suppression. *The Supreme Court Review, 2018*, 213-255.

Morris, K., & Grange, C. (2024, March). *Growing Racial Disparities in Voter Turnout, 2008–2022.* Brennan Center for Justice at NYU School of Law. Brennan Center for Justice at NYU School of Law.

Schraufnagel, S., Pomante II, M. J., & Li, Q. (2022). Cost of Voting in the American States: 2022. *Election Law Journal, 21*(3).

Smith, P. M. (2020). "Use It or Lose It": The Problem of Purges from the Registration Rolls of Voters Who Don't Vote Regularly. *Human Rights Magazine, 45*(1).

Appendices

Appendix A – The Legislation, Analysis, Fiscal Impact

Full text of "Use it or Lose it", SB260

By: Kolkhorst, Bettencourt   S.B. No. 260
    Springer

A BILL TO BE ENTITLED

AN ACT

relating to confirmation of a voter's residence by a voter registrar.

        BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

        SECTION 1. Section 15.051(a), Election Code, is amended to read as follows:

        (a) The [If the registrar has reason to believe that a voter's current residence is different from that indicated on the registration records, or that the voter's residence address is a commercial post office box or similar location that does not correspond to a residence, the] registrar shall deliver to a [the] voter a written confirmation notice requesting confirmation of the voter's current residence if:

                (1) the voter's residence address is a commercial post office box or similar location that does not correspond to a residence;

                (2) on November 30 following a general election:

                        (A) the voter's name is not on the suspense list; and

                        (B) the voter has not voted in any election during the previous 25 months; or

                (3) the registrar has any other reason to believe that a voter's current residence is different from that indicated on the registration records.

        SECTION 2. This Act takes effect September 1, 2023.

Figure 6: Text of SB260, first introduced in 2023, with color to highlight the changes that would be made to the election code.

Full text of SB260 analysis

For many bills filed in the Texas Legislature, the Texas Senate Research Center performs analysis intended to assist legislators in their deliberations. The bill analysis of SB260 (88R3914 JON-D) reads as follows, in its entirety:

"As Texas law exists today in Section 15.051, Election Code, a voter registrar must send a confirmation notice to a voter if the registrar notices that the voter's registration address is a commercial post office box (as added by Senator Bettencourt's S.B. 1111 in 2021), or if the registrar has any reason to believe the voter's current residential address is different from that indicated on records. If a voter does not properly respond to the confirmation notice they are placed on the Suspense List and marked with an "S" next to their name. They are unable to cast a ballot without proving residence using a form described by Section 15.054.

In addition to this procedure, S.B. 260 would require a voter registrar to send a confirmation notice to a voter who on November 30th following a general election had not voted in the previous 25 months. This would mirror Ohio legislation, in that in that it would cancel a voter's registration if the voter fails to respond to a confirmation notice and has not voted or updated the voter's registration two general elections occurring after the confirmation notice was mailed. The language of S.B. 260 follows closely to that of Ohio which was upheld by the United States Supreme Court in Husted vs Randolph Institute argued before the court in 2018.

As proposed, S.B. 260 amends current law relating to confirmation of a voter's residence by a voter registrar."

We noted that while the analysis discusses the constitutionality of the legislation, it does not appear to address the practical impact of the legislation in terms of how many voters would be affected, nor how much cost and administrative overhead would be incurred by the county voter registrars that implement the legislation. Nor does it appear to address any purpose for the change.

Budget Impact of SB260

The following graphic contains the budgetary analysis provided by the legislature, in its entirety.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 29, 2023

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB260** by Kolkhorst (Relating to confirmation of a voter's residence by a voter registrar.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

There could be an impact on certain counties related to delivering residence confirmation notices to voters who have not voted in any election during the previous 25 months.

Appendix B – "Use it or lose it" nationwide

Many states have enacted laws to add additional "Use it or lose it" processes, meaning that a voter will be put into Suspense after not voting for a certain length of time. As mentioned, the proposed Texas bill would mirror Ohio's law and send notifications after 25 months of not voting.

This is what Ohio calls the "Supplemental Process" and they have used this process since 1994 (it is so named because it "supplements" the process of sending notifications to voters who have moved). The voters who receive this notification haven't voted in a set period of time, and if they don't vote in any election including two Federal elections, they will be purged (4 yrs). It is a similar process to notifications for moving, except that the Suspense status change is triggered simply by the voter not voting, not because the State has any reason to believe the voter moved.

According to the Voting Rights Lab[10], 22 states have some kind of process whereby voters can be placed on the suspense/inactive list of voters after some prescribed period of not voting (see Figure 7 below). However, only Mississippi also lacks online registration *and* imposes an onerous 30-day waiting period, as Texas does (credit Voting Rights Lab).[11] Therefore, enacting this legislation in Texas would place this among the most restrictive states for voter registration.

For the 2024 survey, the EAC has added new survey questions to capture the reasons for sending confirmation notices to voters. This question: "Voter failed to vote in the two most recent federal general elections" will improve our ability to do research into the impact of these practices. However, for previous years, identifying cancelled voters, and determining whether the cancellations were non-voting related, will have to proceed through state-specific or county-specific FOIA mechanisms.

---

[10] State Voting Rights Tracker, tracker.votingrightslab.org

[11] The National Council of State Legislatures(NCSL) reports that "nine of the states that use voter inactivity to initiate the process of canceling a voter registration also offer registration on Election Day, and Montana permits registration throughout the early voting period. A voter whose registration was canceled for inactivity in these states would have the option of reregistering on Election Day (in Montana, during early voting) and casting a ballot. Voters in the other states would have to meet the state deadline for registration prior to the election."

For deadline registration requirements, Texas and Mississippi stand out as they both have a 30-day window for registration before an election and they do not support a complete online voter registration process. Printing, signing, and mailing the form is still required.
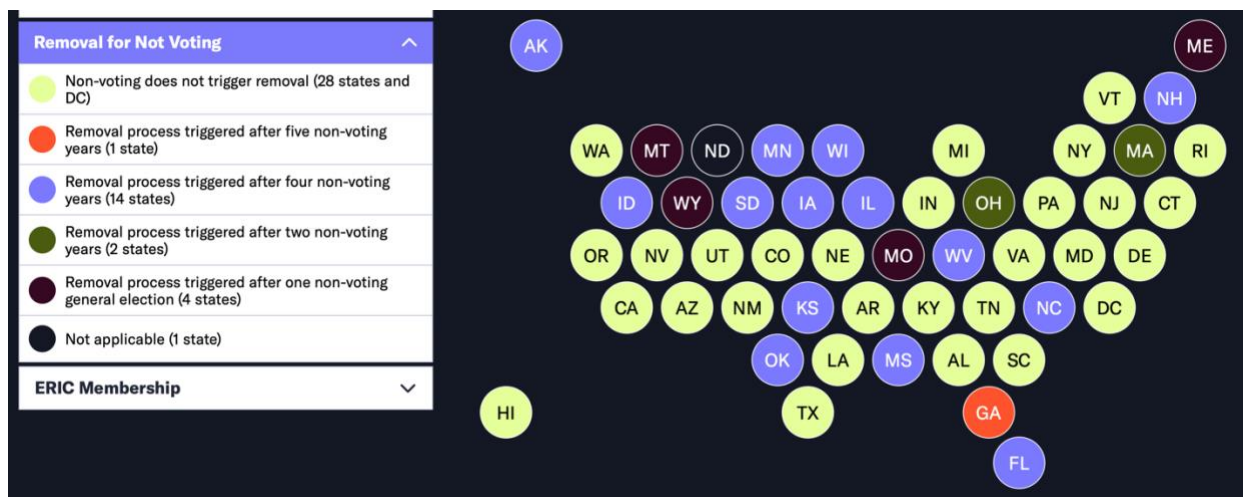
Appendix C: Brief Review of Voter List Maintenance and Suspension process

"Voter list maintenance is the process state and county election officials use to maintain accurate and up-to-date voter rolls. Officials must follow appropriate state and federal laws to determine whether a voter should be removed from the rolls."

This definition is from the U.S. Election Assistance Commission (EAC), an independent federal agency that is charged with helping voters participate in the electoral process and election officials improve the administration of elections.

It was established by the Help America Vote Act of 2002 (HAVA) as part of Congress's response to problems with the administration of the 2000 elections. The legislation created a process for the EAC to conduct a biennial survey of the states on election administration practices. This survey is the key source for public data on state election administration processes.

The National Coalition for Voter Rights prioritizes voter list maintenance due to its significant impact on voter accessibility across the country. Many voters are unaware of their role in this process and are disengaged from it.

Your voter record has a "Status" indicator that is used in every state as part of Voter List Maintenance:
(1) Active, (2) Suspended/Inactive and (3) Cancelled/Purged

Voters that are in Active and Suspense status can vote.

Voters move from Active to Suspense status when they change their address and do not update their voter record with the new address. This is a major practice that states use to maintain accurate voter lists.

In Texas, county election departments mail a notification to the new address based on information from the post office. However, a voter must respond and confirm the new address for the voter record to be updated.

In Texas, a voter can complete an online transaction to update their address. If you are in suspense status and do not vote in any election, including for two federal elections (4 years), you are cancelled/purged from the voter list. You will need to reregister. You will not receive a letter from County Elections telling you that you are not eligible to vote.

There were 2.1 million Texans in Suspense status as of March 2024; 1 million Texans were cancelled/purged from the voter rolls from 2020-2022.

According to the guidance at VoteTexas.gov, "If your voter registration record is on 'suspense,' it means your county of registration has received information that you no longer live at the address on your current voter registration record. You can use the link above to update your address or information on your voter registration record."

First, this can happen when the post office returns a voter's registration certificate to the county voter registrar. The voter is then sent a notification and put in Suspense status immediately. The status of the voter goes back to Active when they return the notification, update their address online or vote in an election before the passing of two federal elections.

Second, county registrars can also use the National Change of Address (NCOA) database to review address information. A notification can be triggered from this review and the voter has 30 days to respond to county elections before being put into Suspense status. The notification informs a voter that they need to update their address with the voter registrar. If the voter does not respond, and then does not vote in any election including the next two Federal general elections, the voter's status is updated to "Cancelled" and the voter is removed from the voter list.

A voter in Texas must proactively manage their voting record to stay in Active status on the voter list. For example, if the county registrar receives a returned registration certificate from the USPS with the sticker with a new address, the notification will go to the new voter address. However, the voter must confirm the new address with the registrar for the voter record to be updated. The voter record will *not* be updated by the information from USPS.

Here is a fact sheet from the U.S. Election Assistance Commission. FACT SHEET: Voter Registration List Maintenance

Texas Voters churn in the machinery of voting and lose their right to vote

The Mechanics of Voting
(Each County)

Advocacy Groups

Registers

Help citizens register

?

Get out the vote

Gets to vote

NATIONAL COALITION FOR VOTER RIGHTS

Voter List Management
Election Laws & Advisories, Staff

➢ Receive applications

➢ Check applications
Complete? Errors?

➢ Record changes
Moves, death, duplicates, etc

➢ Decide status
Active, Suspend, Purge

➢ Voter list
To polling place

TEXAS
2020-2022
New voters
2,900,000
Churning Voters
2,800,000*

17.6 m registered

2020-2022
95,000
Rejected

November 2022
1,800,000
In Suspense

2020-2022
1,000,000
Purged

Dallas County
Nov 2022
43,731
Purged

*Change of address notice starts Suspense status