



Fall 2024 Case Note

---

## **Racing to the Polls: A Comparative Analysis of Election Administration Systems Between the United States and Canada**

Anna Kuhlman

---

---

# **Racing to the Polls: A Comparative Analysis of Election Administration Systems Between the United States and Canada**

By: Anna Kuhlman\*

Federal elections in the United States are conducted almost entirely at the state-level with no assistance from an electoral management body. The current federal election administration procedures lead to lower voter participation rates compared to other industrialized nations, specifically when considering Canada. Canadian federal elections are administered entirely through a national electoral management body, and Canadian voters are subjected to uniform procedures throughout the country. On the other hand, American citizens living in different states have significantly different voting experiences. By comparing the legal frameworks governing voter registration in both countries, this article will explore how processes such as automatic voter registration in Canada contrast with more restrictive policies in the U.S. Additionally, the article investigates the role of voter identification laws in each country, analyzing their potential effect on voter turnout. Through this comparative analysis, this article attempts to highlight the ways in which registration and identification procedures influence participation rates and the broader implications for the democratic process in the United States. To ameliorate the failures of the current system, this article proposes that the United States create a federal electoral management body and ensure that states have broad voter registration and identification procedures. If these changes can be added to our current system, it is likely the United States will experience an increase in voter participation.

## **I. Introduction**

Voting is essential to democracy and “the fundamental right that underpins all our civil liberties.”<sup>1</sup> By exercising the right to vote, citizens actively participate in and encourage functional democratic systems. However, when comparing American voting trends on a global scale, participation is relatively low. In 2022, only 46.8% of the American voting age population participated in the general election.<sup>2</sup> Canada’s most recent general election was held in 2021 and saw 62.6% participation by their eligible electors.<sup>3</sup> So why is American participation in elections so low?

Considerations in election administration include the process a citizen must undergo to vote, what is required to vote on or before election day, who works at the polls, how the votes are counted, and how the election is certified. Governments around the world have created a multitude of systems to address these issues, yet the American system is unique in several aspects. Critics of the American system argue the confusion created through state specific laws is a key reason for

---

\* J.D. Candidate, SMU Dedman School of Law, 2026; Staff Editor for the International Law Review Association.

<sup>1</sup> *States with Online Voter Registration*, ACLU (Nov. 11, 2018), <https://www.aclu.org/issues/voting-rights/promoting-access-ballot/states-online-voter-registration> [https://perma.cc/PR5Q-BC6K].

<sup>2</sup> U.S. ELECTION ASSISTANCE COMM’N, ELECTION ADMINISTRATION AND VOTING SURVEY 2022 COMPREHENSIVE REPORT (2023).

<sup>3</sup> *Forty-Fourth General Election 2021*, ELECTIONS CANADA, <https://www.elections.ca/res/rep/off/ovr2021app/53/table3E.html> (last visited October 31, 2024) [https://perma.cc/4VN3-6CNV].

low participation in general elections.<sup>4</sup> This case note will discuss the differences in election administration between the U.S. and Canada, compare their voter accessibility laws regarding registration and identification, and suggest avenues the U.S. can take to encourage higher participation.

## II. Background of the Law

### A. WHAT IS ELECTION ADMINISTRATION?

At the basic level, election administration is a jurisdiction's voting policies, procedures, and enforcement.<sup>5</sup> This includes voter registration and identification requirements, poll times, types of ballots offered, how votes are cast and counted, and who can vote under what conditions.<sup>6</sup> "Election administration policies... are a critical factor for the exercise of one's voting rights, and these policies can either promote or impede the right to vote."<sup>7</sup> Under the election administration umbrella, the term "electoral management body (EMB) has been coined" to refer to the entity charged with election administration.<sup>8</sup> The key obligations of any EMB include: "determining who is eligible to vote, receiving and validating the nominations of electoral participants (for elections, political parties, and/or candidates), conducting polling, counting the votes; and tabulating the votes."<sup>9</sup>

### B. ELECTION ADMINISTRATION IN CANADA

In the early twentieth century, the Canadian government recognized the precarious role election administration laws play within a democracy. To protect its citizens' right to vote and ensure accessible voting, in 1920 Canadian Parliament created an independent and non-partisan EMB to administer federal elections, which is known today as Elections Canada ("EC").<sup>10</sup> At its creation, EC employed four positions, and today employs over 700.<sup>11</sup> Elections Canada is heralded as "one of the oldest, most established, and well-regarded institutions of electoral management."<sup>12</sup>

The Chief Electoral Officer, the head of EC, gets appointed by the House of Commons for a 10 year term, reports directly to Parliament and is only removable by the Governor General.<sup>13</sup> Through EC, uniform rules for the administration of federal elections are implemented throughout

---

<sup>4</sup> Denise-Marie Ordway, *How voter registration rules discourage some Americans from voting: An explainer and research roundup*, THE JOURNALIST'S RES. (Mar. 12, 2024) <https://journalistsresource.org/politics-and-government/voter-registration-research/> [https://perma.cc/9CUC-A53D].

<sup>5</sup> *Election administration in Texas*, BALLOTPEDIA (2024), [https://ballotpedia.org/Election\\_administration\\_in\\_Texas](https://ballotpedia.org/Election_administration_in_Texas) [https://perma.cc/42VQ-TTXQ].

<sup>6</sup> See *Election administration in Texas*, *supra* note 5.

<sup>7</sup> Spencer M. Douglas, *Electoral Maintenance*, 103 B.U. L. REV. 2199, 2202 (2024).

<sup>8</sup> *Electoral Management*, ACE PROJECT (2014) <https://aceproject.org/ace-en/topics/em/ema/ema02/default> [https://perma.cc/34P4-R389].

<sup>9</sup> *Electoral Management*, *supra* note 8.

<sup>10</sup> See ELECTIONS CANADA, A HISTORY OF THE VOTE IN CANADA 7 (Chief Electoral Officer Canada ed., 3rd ed. 2021).

<sup>11</sup> See *id.* at 8.

<sup>12</sup> Holly Ann Garnett & Edward Leibel, *Public Perceptions of Electoral Management in Canada*, 1 J. OF ELECTION ADMIN. & RSCH. PRAC. 32, 32 (2022).

<sup>13</sup> See *id.* at 34-35.

the country.<sup>14</sup> The agency “maintains the National Register of Electors . . . provides voter information, carries out research, conducts education programs for students and offers outreach to electors.”<sup>15</sup> The National Register of Electors is a “permanent, continually updated database of Canadians who are qualified to vote in federal elections.”<sup>16</sup> In order to appear on the register, Canadian citizens must register with EC.<sup>17</sup> While EC strongly encourages Canadians to register prior to an election, doing so is not required. During an election, any eligible voter may register at their local election office until 6:00 p.m. on the sixth day before election day or directly at the polling station on an advanced polling day or election day.<sup>18</sup> Additionally, citizens may be automatically added to the National Register of Electors through data collected from governmental agencies, including birth and death records and income tax filings.<sup>19</sup> Canada adopted online voter registration nationwide in preparation for the 2015 federal election.<sup>20</sup> Currently, online registration is available to any eligible Canadian voter through an online portal offered by EC.<sup>21</sup>

Elections Canada oversees issuing voter cards to all citizens listed in the National Register of Electors. When an election is called, the agency prepares supplies to send to pre-selected polling stations in each voting district. The agency distributes and collects mail-in ballots, and those from eligible voters in hospitals and penitentiaries.<sup>22</sup> Elections Canada requires voting polls to stay open for 12 consecutive hours in each district, and EC staff to collect and count all votes during this time.<sup>23</sup> After the vote has closed, EC validates the results, carries out any necessary recounts, and ultimately declares the winner.<sup>24</sup>

### 1. Canadian Voter Identification Requirements

Canadian citizens must be able to prove their identity in order to vote.<sup>25</sup> There are three ways to provide the required identification; the most convenient being a driver’s license or any card issued by the Canadian government that includes a photo, name, and current address.<sup>26</sup> If a Canadian lacks either option, they may provide two other documents, both must include the voter’s name, but only one requires a current address.<sup>27</sup> Finally, if this is not able to be produced, Canadians “can

---

<sup>14</sup> See *id.* at 34.

<sup>15</sup> ELECTIONS CANADA, *supra* note 10, at 8.

<sup>16</sup> *Description of the National Register of Electors*, ELECTIONS CANADA (May 28, 2024), <https://www.elections.ca/content.aspx?section=vot&dir=reg/des&document=index&lang=e> [https://perma.cc/9AM9-DZ7V].

<sup>17</sup> *Registration at the Polls*, ELECTIONS CANADA (Oct. 31, 2023), <https://www.elections.ca/content.aspx?section=vot&dir=bkg&document=ec90525&lang=e> [https://perma.cc/7ZHK-2VZR].

<sup>18</sup> *Registration at the Polls*, *supra* note 17.

<sup>19</sup> Ordway, *supra* note 4.

<sup>20</sup> Holly Ann Garnett, *Evaluating Online Registration: The Canadian Case*, 18 ELECTION L. J. 78, 92 (2019).

<sup>21</sup> See *Online Voter Registration Service*, ELECTIONS CANADA (2024), <https://ereg.elections.ca/> [https://perma.cc/5BSR-KZHL].

<sup>22</sup> See Ordway, *supra* note 4.

<sup>23</sup> See Ordway, *supra* note 4.

<sup>24</sup> See Ordway, *supra* note 4.

<sup>25</sup> *ID to Vote*, ELECTIONS CANADA (July 28, 2024), <https://www.elections.ca/content.aspx?section=vot&dir=ids&document=index&lang=e> [https://perma.cc/68SK-DJ4S].

<sup>26</sup> *ID to Vote*, *supra* note 25.

<sup>27</sup> *ID to Vote*, *supra* note 25.

still vote if [they] declare [their] identity and address in writing and have someone who knows [them] and who is assigned to [their] polling station vouch for [them]. The voucher must be able to prove their identity and address.”<sup>28</sup>

### C. ELECTION ADMINISTRATION IN THE UNITED STATES

Administration of federal elections looks very different in the U.S. Where the federal government has put laws in place affecting election administration, ultimately state and local governments administer federal elections. The Voting Rights Act of 1965 (“VRA”), the National Voter Registration Act of 1993 (“NVRA”), and the Help America Vote Act of 2002 (“HAVA”) were all enacted with the goal of increasing voter participation in American elections.<sup>29</sup> The VRA attempted to eliminate electoral discrimination based on race or previous servitude.<sup>30</sup> NVRA required states to provide citizens with three types of registration opportunities: (1) at motor vehicle agencies, (2) by mail-in application, and (3) “at certain State and local offices, including public assistance and disability offices.”<sup>31</sup> HAVA specifically “addressed concerns about voting integrity, voter access, and voting technology.”<sup>32</sup>

HAVA further established the Election Assistance Commission (“EAC”) to “promote national electoral standards, provide information to electors and candidates, and transfer federal money to state and local governments to upgrade election processes.”<sup>33</sup> The EAC is currently the most similar federal agency in the U.S. compared to Elections Canada. However, the EAC does not qualify as an EMB.<sup>34</sup>

Under the NVRA, each state is required to designate a chief election officer who oversees federal elections conducted in the state.<sup>35</sup> From there, through the Elections Clause of the Constitution, states are permitted to administer elections in the manner of their choosing.<sup>36</sup> Under the chief election officers, there are approximately 8,000 local election officials within the U.S.<sup>37</sup> Scholars argue this decentralization of election administration leads to inconsistent applications of law and vastly different voting experiences depending on where a voter lives.<sup>38</sup>

---

<sup>28</sup> *ID to Vote*, *supra* note 25.

<sup>29</sup> See Ordway, *supra* note 4.

<sup>30</sup> ELECTION LAW PROGRAM, ELECTION LAW MANUAL 9 (Alexandra Amado ed., 2nd ed. 2022).

<sup>31</sup> *The National Voter Registration Act of 1993 (NVRA)*, U.S. DEP’T OF JUST.: C.R. DIV. (August 13, 2024), <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra> [https://perma.cc/RJ4L-9A4V].

<sup>32</sup> ELECTION LAW PROGRAM, *supra* note 30, at 6.

<sup>33</sup> Paul G. Thomas & Lorne R. Gibson, *Comparative Assessment of Central Electronic Agencies*, ELECTIONS CANADA (May 2014), [https://www.elections.ca/res/rec/tech/comp/comp\\_e.pdf](https://www.elections.ca/res/rec/tech/comp/comp_e.pdf) [https://perma.cc/7UUS-FLL9].

<sup>34</sup> See *Electoral Management*, *supra* note 8.

<sup>35</sup> See *Election Administration at State and Local Levels*, NAT’L CONF. OF STATE LEGISLATURES (Dec. 22, 2023), <https://www.ncsl.org/elections-and-campaigns/election-administration-at-state-and-local-levels> [https://perma.cc/CTB2-NZFS].

<sup>36</sup> See U.S. CONST. art. I, § 4, cl. 1.

<sup>37</sup> Thessalia Merivaki & Mara Suttman-Lea, *Can electoral management bodies expand the pool of registered voters? Examining the effects of face-to-face remote, tradition, and social media outreach*, 44 POL’Y STUD. 377, 378 (May 1, 2023).

<sup>38</sup> See *Election Administration at State and Local Levels*, *supra* note 35.

However, decentralization of the electorate is not entirely defective, and finds its roots at the foundation of America. Perhaps the most basic tenant of the original colonies and subsequent states, was to let each govern themselves the way they see fit. It follows “to permit states and their local governments to tailor their election administration to their electorates.”<sup>39</sup> It has further been argued that the complexities within the laws and huge variance among the states in terms of election administration help aid against foreign election interference.<sup>40</sup>

### III. Current State of US Voter Accessibility Laws

#### A. VOTER REGISTRATION

To participate in American elections, the voter must be an American citizen.<sup>41</sup> American voter registration status is typically associated with a citizen’s residential address.<sup>42</sup> However, recent evidence suggests “about 25% of eligible [American] citizens are not registered to vote and about 10% are not registered at their current address.”<sup>43</sup> These figures, and the low rate of participation in elections,<sup>44</sup> can be directly correlated to the fact that the registration process places the substantial burden of registration upon the individual citizen’s shoulders, rather than an EMB.<sup>45</sup>

Contrary to Canada, there is no national list of registered voters or even those eligible to vote.<sup>46</sup> HAVA only requires the state chief election official to implement a statewide voter registration list.<sup>47</sup> Where the EAC provides guidelines for setting up and maintaining this list, states are free to implement their own policies.<sup>48</sup>

##### 1. Automatic Voter Registration

Some states utilize automatic voter registration (AVR) laws, which “take advantage of transactions at government agencies where applicant information can be captured and repurposed to register citizens to vote.”<sup>49</sup> In states with AVR laws, when citizens interact with normal governmental entities, such as the DMV, they are automatically registered to vote unless they actively decline.

---

<sup>39</sup> JUSTIN WEINSTEIN-TULL, *Federal Election Administration Laws*, in THE OXFORD HANDBOOK OF AMERICAN ELECTION LAW 12 (2024).

<sup>40</sup> *Id.*

<sup>41</sup> Terry Ao Minnis & Niyati Shah, *Voter Registration and Today’s Democracy: Barriers and Opportunities*, AMERICAN BAR ASSOCIATION: HUMAN RIGHTS (Feb. 9, 2020), [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/voting-rights/-use-it-or-lose-it--the-problem-of-purges-from-the-registration/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/voting-rights/-use-it-or-lose-it--the-problem-of-purges-from-the-registration/) [https://perma.cc/MQ3N-57DM].

<sup>42</sup> Michael Morse, *Democracy’s Bureaucracy: The Complicated Case of Voter Registration Lists*, 103 B.U. L. REV. 2123, 2127 (Dec. 2023).

<sup>43</sup> *See id.* at 2129.

<sup>44</sup> U.S. ELECTION ASSISTANCE COMM’N, ELECTION ADMINISTRATION AND VOTING SURVEY 2022 COMPREHENSIVE REPORT (2023).

<sup>45</sup> Merivaki & Suttman-Lea, *supra* note 37, at 378.

<sup>46</sup> *See* Ordway, *supra* note 4.

<sup>47</sup> U.S. ELECTION ASSISTANCE COMM’N, VOLUNTARY GUIDANCE ON IMPLEMENTATION OF STATEWIDE VOTER REGISTRATION (2005).

<sup>48</sup> *Id.*

<sup>49</sup> ERIC MCGHEE & MINDY ROMERO, EFFECTS OF AUTOMATIC VOTER REGISTRATION IN THE UNITED STATES 4 (California Civic Engagement Project, 2020).



Currently only twenty-six states and the District of Columbia offer constituents AVR opportunities.<sup>50</sup>

## 2. *Online Voter Registration*

In 2002, Arizona became the first state to legalize online voter registration.<sup>51</sup> Since then, online registration of voters has become increasingly popular as it “allows voters to complete all, or a portion, of the registration process on an online platform.”<sup>52</sup> The financial cost associated with registration is significantly decreased with online registration.<sup>53</sup> Currently forty states within the U.S. have implemented online voter registration.<sup>54</sup> Generally, to utilize online registration, eligible voters need to possess a driver’s license or another form of government-issued identification.<sup>55</sup> Mississippi is one of the remaining states that does not offer the option to register online.<sup>56</sup> As a consequence, in the 2022 general election, Mississippi saw a dismal 31.1% voter participation rate.<sup>57</sup>

## 3. *Same Day Voter Registration*

Some states have removed any time constraints between registration and voting. Currently, twenty-three states and Washington D.C. utilize same-day registration (“SDR”), which allows eligible citizens to register to vote and then vote on the same day.<sup>58</sup> Notably, only twenty states offer Election Day registration, where both registration and voting may take place on Election Day.<sup>59</sup> Studies from states which have SDR find that voter registration and participation increased, specifically in a population of eighteen to twenty-four, relative to states without same-day registration.<sup>60</sup>

## 4. *Provisional Ballots*

To combat voter registration status confusion, when HAVA passed in 2002, it required all states to use provisional ballots.<sup>61</sup> A provisional ballot is given to a person at a polling station on election

---

<sup>50</sup> Theo Menon et al., *The State of State Election Policy in 2024*, BIPARTISAN POL’Y CTR (Sept. 26, 2024), <https://bipartisanpolicy.org/report/the-state-of-state-election-policy-in-2024/> [https://perma.cc/8J4M-K25N].

<sup>51</sup> Elizabeth A. Bennion & David W. Nickerson, *Decreasing Hurdles and Increasing Registration Rates for College Students: An Online Voter Registration Systems Field Experiment*, 44 POL. BEHAV. 1337, 1338 (Sept. 1, 2022).

<sup>52</sup> Garnett, *supra* note 20 at 78.

<sup>53</sup> Bennion & Nickerson, *supra* note 58, at 1338.

<sup>54</sup> *States with Online Voter Registration*, *supra* note 1.

<sup>55</sup> *Voter registration*, MIT ELECTION DATA + SCI. LAB (Jan. 9, 2024), <https://electionlab.mit.edu/research/voter-registration> [https://perma.cc/4NRD-D464].

<sup>56</sup> See Bharath Muppasani et al., *On safe and usable chatbots for promoting voter participation*, 44 AI MAG. 240, 242 (July 17, 2023).

<sup>57</sup> *See id.*

<sup>58</sup> *See Same-Day Voter Registration*, NAT’L CONF. OF STATE LEGISLATURES (Sept. 10, 2024), <https://www.ncsl.org/elections-and-campaigns/same-day-voter-registration> [https://perma.cc/UUZ3-V8TG].

<sup>59</sup> *See id.*

<sup>60</sup> Jacob M. Grumbach & Charlotte Hill, *Rock the Registration: Same Day Registration Increases Turnout of Young Voters*, 84 THE J. OF POL. 405, 414 (2022).

<sup>61</sup> *See Provisional ballots*, MIT ELECTION DATA + SCI. LAB (Mar. 27, 2024), <https://electionlab.mit.edu/research/provisional-ballots> [https://perma.cc/SX9U-MMTV].

day who believes they are registered to vote, but do not show up on the list of registered voters.<sup>62</sup> During the 2022 general election, approximately 700,000 provisional ballots were issued to voters, with around 550,000 ultimately being counted.<sup>63</sup> Critics of provisional ballots argue they are overly burdensome and result in votes being discounted or thrown away.<sup>64</sup> The availability of provisional ballots may encourage local jurisdictions to reduce any efforts to maintain accurate voter lists.<sup>65</sup>

## B. VOTER IDENTIFICATION

In 2008, in *Crawford v. Marion County*, the Supreme Court held Indiana’s voter identification requirement constitutional on the grounds it may increase voter confidence in elections.<sup>66</sup> Currently thirty-six states require showing ID, which is checked against information on file.<sup>67</sup> However, particular identification requirements vary from state to state.<sup>68</sup> Some states require voters to produce a photo-identification; other states accept non-photo identification.<sup>69</sup> Recent legislation in Idaho removed student IDs as a valid form of identification to vote.<sup>70</sup> For any voters in Ohio, the state limited the forms of acceptable identification to an unexpired “Ohio driver’s license, Ohio-issued State ID card, U.S. or state military ID, or U.S. passport.”<sup>71</sup>

State laws requiring some form of identification prior to voting are classified as either strict or non-strict.<sup>72</sup> In states with non-strict laws, voters without the requisite identification may still “cast a [provisional] ballot that will be counted without further action on the part of the voter.”<sup>73</sup> Local election officials are charged with certifying and counting any provisional ballots cast during a federal election.<sup>74</sup> Strict voter identification laws, however, require the voter to both cast a provisional ballot, and then take additional steps to ensure their vote is counted.<sup>75</sup> Here, voters are compelled to return to the election office with valid identification, days after an election, to ensure

---

<sup>62</sup> See *id.*

<sup>63</sup> See *Provisional ballots*, *supra* note 61; see also U.S. ELECTION ASSISTANCE COMM’N, ELECTION ADMINISTRATION AND VOTING SURVEY 2022 COMPREHENSIVE REPORT (2023).

<sup>64</sup> *Data Suggests Same-Date Voter Registration Could Eliminate Need for 99% of 2022 Provisional Ballots*, TARGETED NEWS SERV. (Oct. 25, 2023), <http://proxy.libraries.smu.edu/login?url=https://www.proquest.com/wire-feeds/data-suggests-same-day-voter-registration-could/docview/2881215552/se-2?accountid=6667> [https://perma.cc/C8LJ-D583].

<sup>65</sup> See *Provisional ballots*, *supra* note 61.

<sup>66</sup> See *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008).

<sup>67</sup> *Voter ID Laws*, NAT’L CONF. OF STATE LEGISLATORS (Feb. 2, 2024), <https://www.ncsl.org/elections-and-campaigns/voter-id> [https://perma.cc/4LPZ-RJC4].

<sup>68</sup> *Voter identification laws by state*, BALLOTEDIA (2024), [https://ballotpedia.org/Voter\\_identification\\_laws\\_by\\_state](https://ballotpedia.org/Voter_identification_laws_by_state) [https://perma.cc/833J-8MR2].

<sup>69</sup> *Voter ID Laws*, *supra* note 67.

<sup>70</sup> *Voting Laws Roundup: September 2024*, BRENNAN CTR. FOR JUST. (September 26, 2024), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-september-2024> [https://perma.cc/T2NQ-K7XN].

<sup>71</sup> See *id.*

<sup>72</sup> *Voter ID Laws*, *supra* note 67.

<sup>73</sup> *Voter ID Laws*, *supra* note 67.

<sup>74</sup> *Voter ID Laws*, *supra* note 67.

<sup>75</sup> *Voter ID Laws*, *supra* note 67.



their provisional ballot gets counted.<sup>76</sup> If they do not return, their ballot is thrown away.<sup>77</sup> As of October 17, 2024, 20% of the American population (~66 million people) resided in ‘strict’ states.<sup>78</sup> It is plausible that thousands, if not hundreds of thousands, of voters were not able to return and thus their votes were lost through this system.

#### **IV. Comparison of Election Administration Systems Between Canada and the United States**

##### **A. ELECTIONS CANADA VS. THE ELECTION ASSISTANCE COMMISSION**

While EC and the EAC are both central agencies for their respective countries’ federal election administration, the EAC has significantly limited authority in comparison. As an actual electoral management body, EC directly facilitates every piece of a Canadian federal election including:

[A]dministering electoral legislation; registering political parties and third parties engaged in election advertising as well as electoral district associations, leadership contestants and nomination contestants of registered parties; maintaining the National Register of the Electors; appointing and providing instructions to returning officers . . . ; disclosing contributions to candidates, political parties and third parties, and to electoral district associations, leadership contestants and nomination contestants of registered parties; examining and disclosing their financial returns and reimbursing expenses to candidates and parties according to formulas laid down in the Act; ensuring access to the system for all eligible citizens, through both physical facilities and advertising messages; [and] providing technical, financial and administrative support to the independent commissions responsible for the periodic process of readjusting federal electoral boundaries...<sup>79</sup>

The EAC, on the other hand, plays a much more limited role in the actual administration of elections in the U.S. Instead of actively participating in federal election administration like EC, the EAC “only has responsibility for federal campaign finance.”<sup>80</sup> The agency has significantly limited power to influence state or local action.<sup>81</sup> Currently, the agency has only five listed duties—none of which directly involve voter registration, election administration within any of the states, or ensuring voter accessibility.<sup>82</sup> Instead, the EAC is tasked with administering grants, conducting research and sharing best practices, and encouraging students at universities to serve as poll workers.<sup>83</sup> Compensation of employees is another factor contributing to the ineffectiveness

---

<sup>76</sup> *Voter ID Laws*, *supra* note 67.

<sup>77</sup> *Voter ID Laws*, *supra* note 67.

<sup>78</sup> *Voter Identification Requirements for In-Person Voting*, MOVEMENT ADVANCE PROJECT (Oct. 17, 2024), <https://www.lgbtmap.org/democracy-maps/in-person-voting> [https://perma.cc/DX9U-N4QL].

<sup>79</sup> *The Role and Structure of Elections Canada*, ELECTIONS CANADA (Oct. 9, 2024), <https://www.elections.ca/content.aspx?section=abo&dir=role&document=index&lang=e> [https://perma.cc/529W-6R78].

<sup>80</sup> Grace Gordon, *The Federal Role in U.S. Elections Visualized*, BIPARTISAN POL’Y CTR. (July 24, 2023), <https://bipartisanpolicy.org/explainer/visualize-federal-role-elections/> [https://perma.cc/KV8U-8ZUG].

<sup>81</sup> See Gordon, *supra* note 80; see also CONG. RSCH. SERV., IF10981, THE U.S. ELECTION ASSISTANCE COMMISSION (EAC): AN OVERVIEW (2023).

<sup>82</sup> CONG. RSCH. SERV., IF10981, THE U.S. ELECTION ASSISTANCE COMMISSION (EAC): AN OVERVIEW (2023).

<sup>83</sup> *Id.*

of the EAC. The EAC notoriously struggles to hire and keep valuable executives, and yet it offers “comparatively low salaries under the executive compensation schedule.”<sup>84</sup> Further, salary caps placed on election officials encourage government employees to leave the EAC for more lucrative opportunities.<sup>85</sup>

## B. VOTER REGISTRATION

The American system for voter registration is arguably a large deterrent to any eligible, non-registered voter. Deadlines for voter registration vary widely across the country. In Texas, citizens are required to be registered at least 30 days before election day to vote; Alabama is slightly shorter requiring 15 days, and New York mandates 10 dates prior to election day. There are many reasons why an eligible voter may miss these deadlines and be precluded from voting, including moving into the area and being unaware of the deadline, getting released from prison after the deadline, or perhaps simply noticing an error on the voter registration information after the deadline.<sup>86</sup> States are further increasing the barrier by requiring documented proof of citizenship in order to register.<sup>87</sup> Such documentary proof “disproportionately affects people with disabilities, low-income individuals, the homeless, naturalized citizens, and communities of color.”<sup>88</sup> Additionally, registration associated with geographic location leads to political concerns including gerrymandering, dilution of political power of minority groups, and it “ignores important changes in population mobility and mass communication that allows representatives to connect with their constituents regardless of physical proximity.”<sup>89</sup> It is unsurprising the comparatively low participation rates the U.S. experienced in recent federal elections. However, the removal of such hurdles can improve voter participation rates.<sup>90</sup>

### 1. National List of Registered Voters

One glaring absence in the U.S. is the existence of a national electoral register.<sup>91</sup> Generally, electoral registers “are the master list of who will be able to participate in an election.”<sup>92</sup> In Canada, the National Register of Electors encompasses eligible voters in the country and is updated regularly, and automatically in some circumstances.<sup>93</sup> The country maintains a goal of 90% of qualified Canadian voters to be on the register, and consistently meets this goal.<sup>94</sup> Canadian youths

---

<sup>84</sup> Theo Menon et al., *The Nuanced Challenges of the U.S. Election Assistance Commission* (Jan. 29, 2024), <https://bipartisanpolicy.org/explainer/the-nuanced-challenges-of-the-u-s-election-assistance-commission/> [https://perma.cc/S3Q7-XH77].

<sup>85</sup> *See id.*

<sup>86</sup> Raisa Rubin-Stankiewicz, *New Jersey’s unwillingness to pass same-day voter registration betrays democracy*, UNIV. WIRE (Sept. 8, 2023), <http://proxy.libraries.smu.edu/login?url=https://www.proquest.com/wire-feeds/rubin-stankiewicz-new-jerseys-unwillingness-pass/docview/2862713981/se-2?accountid=6667> [https://perma.cc/X2GN-MWA8].

<sup>87</sup> Minnis & Shah, *supra* note 41; *Voting Laws Roundup: September 2024*, *supra* note 72.

<sup>88</sup> Minnis & Shah, *supra* note 41.

<sup>89</sup> Douglas, *supra* note 7, at 2212.

<sup>90</sup> Bennion & Nickerson, *supra* note 51, at 1350.

<sup>91</sup> *See Description of the National Register of Electors*, *supra* note 16; *see also* Ordway, *supra* note 4.

<sup>92</sup> Toby S. James & Holly Ann Garnett, *The Determinants of Electoral Registration Quality: A Cross-National Analysis*, 60 REPRESENTATION 279, 280 (2024).

<sup>93</sup> *See* Ordway, *supra* note 4.

<sup>94</sup> *Description of the National Register of Electors*, *supra* note 16.

are even afforded the opportunity of joining the list early through the “Register of Future Electors.”<sup>95</sup> The practice of preregistering a nation’s youth leads to positive impacts on future voting.<sup>96</sup>

Having a tangible list eliminates any voter identification confusion and lessens the possibility of voter suppression. Recent evidence suggests “about 25% of eligible [American] citizens are not registered to vote and about 10% are not registered at their current address.”<sup>97</sup> Accurate national registration lists are crucial to plan for an election day, and inaccurate lists can negatively impact voters.<sup>98</sup> Currently, individual states maintain their own voter lists; yet less than twenty-five states share data with one another to keep accurate records.<sup>99</sup> States are not bound to update their voter registration lists at any regular interval, though doing so could dispel “concerns over bloated voter rolls and fraudulent voters.”<sup>100</sup> Considering how mobile humanity is today, it is likely voter registration lists within individual states are not sufficiently accurate. In fact, between 2015 and 2020, approximately 100 million Americans changed residential addresses.<sup>101</sup> Whether an individual can participate in a federal election may come down to the current list in place, notwithstanding the list’s accuracy.<sup>102</sup> It is entirely conceivable that a national list could be compiled in the U.S.—perhaps utilizing the extant state lists—and having an accurate national register may increase overall voter participation in American elections.<sup>103</sup> Congress could create a federal agency tasked with creation and maintenance of a national list of voters. The agency could also develop a preregistration system for youths, who would join the list upon their eighteenth birthday. By doing so, individuals may end up registered who would not have taken the necessary, external steps themselves; effectively increasing the registered voter pool.

## 2. *Automatic Vote Registration*

The Canadian system for automatic voter registration (“AVR”) is a better mechanism than the current system in the US. Currently, Canada, through documents provided to governmental agencies, adds citizens to its National Register of Electors or updates their current registration.<sup>104</sup> The underlying rationale for AVR is that “voter registration should occur *as a matter of course*, unless it is actively declined.”<sup>105</sup> The complicated American voter registration laws actively “discourage[] millions of eligible citizens from voting. . .”<sup>106</sup> To increase the American electorate, a prudent decision would be to mandate AVR, allowing citizens to register simultaneously during

---

<sup>95</sup> *Voter Registration*, ELECTIONS CANADA (Oct. 1, 2023), <https://www.elections.ca/content.aspx?section=vot&dir=reg&document=index&lang=e> [https://perma.cc/8PA5-YG3J].

<sup>96</sup> James & Garnett, *supra* note 92, at 282.

<sup>97</sup> Morse, *supra* note 42, at 2129.

<sup>98</sup> James & Garnett, *supra* note 92, at 281.

<sup>99</sup> See Ordway, *supra* note 4.

<sup>100</sup> Grace Gordon and Rachel Orey, *Prioritizing Achievable Federal Election Reform*, BIPARTISAN POL’Y CTR (Jan. 20, 2022), <https://bipartisanpolicy.org/report/achievable-election-reform/> [https://perma.cc/CPM8-48X7].

<sup>101</sup> Morse, *supra* note 42, at 2127.

<sup>102</sup> James & Garnett, *supra* note 92, at 281-82.

<sup>103</sup> James & Garnett, *supra* note 92, at 282.

<sup>104</sup> *Description of the National Register of Electors*, *supra* note 16.

<sup>105</sup> McGhee & Romero, *supra* note 56, at 24 (emphasis added).

<sup>106</sup> Lisa A. Bryant et al., *The Power of the State: How Postcards from the State of Increased Registration and Turnout in Pennsylvania*, 44 POL. BEHAV. 535, 536 (2022).

routine interactions with governmental facilities. Research focusing on four specific American states (Oregon, Colorado, California, Delaware) that implemented new AVR programs for either the 2018 or 2020 elections found it encouraged “new people to register who would not have done so without AVR.”<sup>107</sup> Moreover, AVR is critical to maintain accurate electoral registers.<sup>108</sup> AVR need not be complicated; Canadian governmental documents which provide for AVR include two check boxes for the individual citizen to check if they wish to register or have their registration updated.<sup>109</sup> This non-intrusive addition to governmental documents could be adopted in the United States at a relatively low cost.

### 3. *Same Day Registration*

American voters would benefit from federally mandated SDR. Nearly every American is deprived the ability to register to vote and then vote in an election, on the same day. Many states close registration several *weeks* before an election.<sup>110</sup> Myriad reasonable reasons exist why Americans may not register to vote in early enough advance of an election including: financial cost, change of address, not visiting a governmental office which provides registration materials, not “yet developed habits of voting,” or simply being unaware of how to register.<sup>111</sup> Implementing same-day registration availability would eliminate these issues in one fell swoop. A recent case study from Massachusetts explained two-thirds of provisional ballots cast in the 2022 election were rejected for administrative reasons; however, with SDR laws, 99% of the rejected ballots could have been counted.<sup>112</sup> If Congress federally mandated SDR, it is likely the country would see an increase in voter participation.

### C. VOTER IDENTIFICATION

While the issue of voter identification laws has become tinged with partisan ideologies, recent evidence suggests the majority of American voters support identification requirements.<sup>113</sup> Proponents of voter ID laws argue they ensure election integrity, protect the overall democratic process, increase voter confidence in election results, and promote fairness in elections.<sup>114</sup> Scholars suggest voter identification laws may eliminate problems with voter fraud, by preventing in-person voter impersonation.<sup>115</sup>

---

<sup>107</sup> McGhee & Romero, *supra* note 56, at 24.

<sup>108</sup> James & Garnett, *supra* note 92, at 292.

<sup>109</sup> *FAQs on Registration*, ELECTIONS CANADA (August 26, 2024), <https://www.elections.ca/content.aspx?section=vot&dir=faq&document=faqreg&lang=e#a7> [https://perma.cc/4PSN-K6RG].

<sup>110</sup> Christian Caron, *Partisan Strategy and the Adoption of Same-Day Registration in the American States*, 22 STATE POL. & POL’Y Q. 140, 140 (2022).

<sup>111</sup> Grumbach & Hill, *supra* note 60, at 414.

<sup>112</sup> *Data Suggests Same-Date Voter Registration Could Eliminate Need for 99% of 2022 Provisional Ballots*, *supra* note 64.

<sup>113</sup> John V. Kane & David C. Wilson, *Controversy and Costs: Investigating the Consensus on American Voter ID Laws*, 43 POL. BEHAV. 397, 398 (2020) (“76% of Americans—including 64% Democrats and 93% of Republicans—support a requirement that all voters show a government-issued photo identification in order to vote...”).

<sup>114</sup> Goodparty.org Politics Team, *Pros and Cons of Voter ID Laws*, THE GOOD PARTY (May 22, 2024), <https://goodparty.org/blog/article/pros-and-cons-of-voter-id-laws> [https://perma.cc/BBD9-Z9SY].

<sup>115</sup> *Voter ID Laws*, *supra* note 67.

On the other hand, some argue, in their extreme, voter identification laws have been applied pre-textually, resulting in minority groups being disproportionately affected.<sup>116</sup> Voter identification laws can “suppress turnout among the poor and minority groups by increasing the costs of registering and voting.”<sup>117</sup> Youthful and elderly voters are less likely to possess identification,<sup>118</sup> potentially eliminating a substantial pool of eligible voters. Contrary to the Supreme Court’s holding in *Crawford*,<sup>119</sup> a recent study found that increased voter ID requirements decrease overall confidence in the electoral system among Black voters.<sup>120</sup>

Based on these concerns, it would be pertinent for states to allow broad interpretations of acceptable forms of ID, as is done in Canada. A few non-strict states currently allow the practice of vouching, where a poll worker or another voter may “vouch” for the identity of a voter under a signed oath.<sup>121</sup> But Congress should consider a federal mandate, as the ultimate last option for voters. In Canada, vouching is a valid form of identification always available to voters.<sup>122</sup> If a citizen is present at the polls on election day intending to vote, albeit lacking identification, it seems counterintuitive to democracy to deny him the right, if someone else at the polls is willing, under threat of perjury, to verify his name and address. As has been shown above, U.S. citizens may not be able to comply with strict identification laws, and allowing for multiple forms may aid in the goal of increasing overall voter participation.

## V. Conclusion

Election administration is the mechanism through which the right to vote is exercised and one of the most fundamental concepts within democracy. Canada achieves comparatively high voter participation rates by administering national elections through Elections Canada, its federal EMB. Canadian voters are afforded ample registration opportunities and allowed to produce multiple forms of identification before voting. Voters in the United States, conversely, are subjected to vastly different voting experiences, due to the decentralization of election administration within the country. While this system is based on historical ideologies, in practice, it leads to lower participation rates in federal elections.

The U.S. may benefit from a federal election management body and expanding registration opportunities for its voters. Establishing a national list of voters can foster more efficient elections administration. If voter identification laws are necessary, it would be prudent to include a broad scope of acceptable forms to avoid eliminating any potential voters. If these changes were adopted, the United States may enjoy higher participation in federal elections.

---

<sup>116</sup> See Alejandra Campos et al., *The Legislative Legacy of Voter Identification Laws*, 86 THE J. OF POL. 1479, 1480 (Oct. 2024).

<sup>117</sup> *Id.*

<sup>118</sup> Grumbach & Hill, *supra* note 60, at 409.

<sup>119</sup> See *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008).

<sup>120</sup> Joseph A. Coll & Christopher J. Clark, *A Racial Model of Electoral Reform: The Relationship between Restrictive Voting Policies and Voter Confidence for Black and White Voters*, 88 PUB. OP. Q. 561, 580 (2024).

<sup>121</sup> *Voter ID Laws*, *supra* note 69.

<sup>122</sup> *ID to Vote*, *supra* note 25.