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# Rationalizing Voter Suppression: How North Carolina Justified the Nation's Strictest Voting Law

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**RATIONALIZING VOTER SUPPRESSION:  
HOW NORTH CAROLINA JUSTIFIED THE NATION'S STRICTEST VOTING  
LAW**

by

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**SUBMITTED TO SCRIPPS COLLEGE IN PARTIAL FULFILLMENT OF THE  
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## **Abstract**

In recent years, there has been a dramatic increase in instances of Republican-dominated state legislatures proposing changes to election law that some see as protecting electoral integrity and others understand as intended to suppress votes of traditionally Democratic constituencies. This thesis is a detailed collection of the rationales used to justify these changes, as examined through a case study of North Carolina's enactment of the omnibus Voter Information Verification Act of 2013 (VIVA). By also including the arguments proffered during the legislative process by opponents of the law, and after evaluating the merits of the arguments on both sides, I find the rationales used to justify the law's provisions to be unconvincing and misleading. This study confirms the speculation that new election law restrictions are first and foremost a Republican attempt to gain partisan advantage. Given this conclusion, I offer suggestions as to what factors might eventually shift the current era of election law legislation from one of restrictions, to one focused on creating efficient, accessible, modernized electoral systems that inspire citizen confidence regardless of partisanship.

Keywords: Voting Rights, North Carolina, Voter Suppression, Rationalization, Election Law, Electoral Reform

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## Chapter 1

### Introduction

In 2013, thirty-three state legislatures introduced bills tightening restrictions on voting.<sup>1</sup> Among these, North Carolina enacted one of the strictest and most comprehensive sets of new controls on state elections. This controversial law, the Voter Information Verification Act of 2013 (VIVA), was passed by the state legislature in July and signed by Governor Pat McCrory in August of that year.<sup>2</sup> Defending the new law, McCrory claimed, “We’re just ensuring one person one vote, and that’s the law of the land, and I’m very proud of this way that we’ve framed a bill also in making sure that we don’t have the corruption in North Carolina politics that we’ve had in the past.”<sup>3</sup> Almost immediately and not surprising to anyone, U.S. Attorney General Eric Holder announced that the Department of Justice (DOJ) had filed suit challenging the North Carolina law.<sup>4</sup>

In a public statement, Holder asserted, “The Justice Department expects to show that the clear and intended effects of these changes would contract the electorate and

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1. “Voting Laws Roundup 2013,” *Brennan Center for Justice*, December 19, 2013 <http://www.brennancenter.org/analysis/election-2013-voting-laws-roundup>.

2. Voter Information Verification Act, S.L. 2013-381 (2013), <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2013&BillID=h+589&submitButton=Go>.

3. Jeremy, Hobson, “NC Gov. McCrory Defends New Vote ID Law,” *Here and Now*, NPR, Aug. 23, 2013, <http://hereandnow.wbur.org/2013/08/13/voter-id-mccrory>.

4. Josh Gerstein, “Justice Department challenges North Carolina voter ID law,” *Politico*, Sept. 30, 2013, <http://www.politico.com/story/2013/09/justice-department-north-carolina-voter-id-law-97542.html>.

result in unequal access to participation in the political process on account of race.”<sup>5</sup> The North Carolina law and the federal response illustrate the immense gap in how the political leadership in these two governments diverge in their assessments of appropriate protection and promotion of the citizenry’s right to control and direct government through elections. The parties to these debates also differ markedly on the purposes and rationales underlying their positions. These differences presage a contentious, largely partisan, battle over voting rights that has both developed from, and acted as a catalyst for, the wave of recent restrictive legislation across the nation.

The issues and positions that gave rise to the federal vs. state battle over North Carolina’s laws are repeated again and again in other state legislatures. As in the lawsuit between North Carolina and the DOJ, state interests and positions tend strongly to divide along party lines. Generally, “Democrats gravitate to the view that the most important value is empowering people to exercise their democratic rights,” while “Republicans tend to pay more attention to the rule of law and the standards and procedures that govern elections.”<sup>6</sup> Or more crudely, voting rights is a battle of “the Republicans claiming fraud and the Democrats claiming voter suppression and intimidation.”<sup>7</sup> This partisan disagreement defines today’s era of heightened contention over electoral law, which began with the technology and administrative problems that occurred in Florida during

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5. Ibid.

6. John Fund, *Stealing Elections: How Voter Fraud Threatens Our Democracy*, (San Francisco: Encounter Books, 2004), 12-13.

7. Curtis Gans and Matthew Mulling, *Voter Turnout in the United States 1788-2009*. (Washington, DC: CQ Press, 2011), 20.

the 2000 presidential election.<sup>8</sup> In the decade that followed, the number of election-related lawsuits more than doubled when compared with the previous decade.<sup>9</sup> Those same issues and partisan concerns raised in the courts are actively and passionately debated in other public policy forums: by the press, in state and national legislatures, in academia, in public policy institutes, and among citizens. This is an era of high profile and widespread debate over how to ensure both the integrity of the voting process and high participation levels of the electorate.

Through a case study of VIVA, this thesis provides a detailed inventory and analysis of the different ways in which politicians and other political influencers publicly rationalize recent restrictive changes to the electoral system. This catalogue of public rationales provides necessary evidence to help answer the following questions: do these laws, as explained by their supporters, truly improve the efficiency and integrity of electoral systems? Do the rationales justify the laws' potential negative effects on certain constituencies and the electorate at large? And ultimately, are the justifications offered in support of these laws sufficient in disproving the assertion that such legislation is primarily intended to achieve partisan electoral advantage?

#### Thesis Preview

To answer these questions, the specific case of North Carolina's VIVA was chosen for several reasons. North Carolina's law is one of the strictest and most comprehensive pieces of voting legislation passed in recent years: Its several provisions encompass almost all of the most hotly-debated legislative reforms of today's voting

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8. Election reform catalyzed by the 2000 election is the subject of Richard Hasen's book, *The Voting Wars: From Florida 2000 to the Next Election Meltdown*, (New Haven: Yale University Press, 2012).

9. Hasen, *Voting Wars*, 4.



rights battles. As a consequence, it is nationally one of the highest-profile voting rights debates, for reasons detailed in Chapter Two. The stated rationale for increased voting restrictions differs only slightly from state to state, and therefore, a case study of North Carolina's law closely tracks the dialogue in other states and in the nation at large. The uptick in restrictive voting regulations in the majority of states across the country was not coincidental, but part of an interconnected effort on the part of Republican lawmakers. Accordingly, since these legislators share common goals, they also share common justifications for promoting such laws. So, while a case study of North Carolina's law may not capture each and every rationale for increasing various voting restrictions around the country, it does reflect the majority of publicly expressed positions from the states actively involved in electoral reform.

The reasons for my focus on state, rather than national legislative action are simple. First, while the federal government has passed major voting rights legislation, such as the Voting Rights Act of 1965 (VRA), the National Voter Registration Act of 1993 (the "Motor Voter Act"), and Help America Vote Act of 2002 (HAVA), changes to election laws occur by and large at the state level.<sup>10</sup> States have substantial discretion in establishing voting procedures--- and even more so since the Supreme Court decision in *Shelby County v. Holder*.<sup>11</sup> Because of current partisan polarization at the state level, who wins elections makes a huge difference in state government policy in controversial areas from implementation of Medicaid expansion, to abortion regulations, to gay marriage and including election law itself. And of course, state election rules can have determinative

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10. Voting Rights Act of 1965 (42 U.S.C. §§ 1973 to 1973aa-6), National Voter Registration Act of 1993 (42 U.S.C. 1973GG-1 et seq.), Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.).

11. *Shelby County v. Holder*, 000 U.S. 12-96 (2013).

effects on outcomes of federal elections--indeed that is conditioner of equal importance driving the current spate of reform proposals. As the possibility of returning to a period of consensus politics appears slim, the power of a political party to be both referee and player in elections is increasingly effective, and politicians continue to capitalize on this opportunity.

In addition to the high volume of legislation proposed at the state level, the current media age is one in which local stories easily become national, and vice versa, providing a plethora of information on state legislation at both state and national levels. National interest groups become involved in state political debates, and state politicians have ties to other state and national legislators around the country. Therefore, focusing on state legislation in North Carolina does not limit source availability to those produced only at the state and local levels: Instead, there are numerous local *and* national reactions available.

Importantly, the central foci of this thesis are the rationales and opinions of those supporting and opposing controversial voting laws, not the merits of such claims. The volume of literature on the legitimacy of voting fraud claims, the impact of restrictions on voter turnout, and the partisan effects of tightening and loosening voting regulations is extensive, and such writings, studies, and debates reveal that these issues remain contentious. But still, for the most part, data supporting the claims are absent. Consensus has not been reached as to determine, with confidence, either the scale of the problems restrictive legislation aims to solve or the actual impact of these measures. Rather than directly joining that discourse, I use it as a starting point for my research. Regardless of the merits or data supporting either side of this ideological and partisan battle, the

rationale for electoral reform is a worthy topic in its own right. State legislators must not only convince their assemblies of the necessity of such laws, but their allied interest groups and electorates as well. With an ever-growing media presence at all levels of politics, and consequential heightened scrutiny of politicians' actions, simple statements of "protecting the integrity of the vote" are not the end of the discussion on voting rights. And concurrently, because of the close tie between state and federal politics today, rarely are major changes to state election laws strictly local.<sup>12</sup>

The battle over voting rights today is inherently framed by a long history of evolving election laws and practices in the United States. The process that has resulted in election law as it stands has been one dominated by a political and societal struggle of ensuring all citizens, first, the right to vote, then, the ability to exercise that right. The history of rationales for state and federal level election laws, ranging from blatantly racist, to more implicitly discriminatory, to clear or subtle attempts at partisan advantage, has not only led to the current state of election laws, but also has a lasting legacy on the way the debate is framed. Situating the current status of electoral law in its relationship to past laws and practices is necessary in understanding the intent of legislators pushing any kind of electoral reform today—be it expanding voting access, tightening existing voting laws or improving the efficiency of our systems.

#### Election Law: Key Historical Precedents

While state governments have broad latitude in establishing electoral policies and procedures, they are constrained in doing so by the United States Constitution, court

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12. Heather K. Gerken, "States Get Things Done, Affecting National Policy," *The New York Times*, July 16, 2013, <http://www.nytimes.com/roomfordebate/2013/07/16/state-politics-vs-the-federal-government/states-get-things-done-affecting-national-policy>.

interpretation, and federal legislation. The 1870 passage of the 15<sup>th</sup> Amendment, which removed suffrage restrictions based on race, and the 19<sup>th</sup> Amendment's adoption in 1920, which gave women the right to vote, were—in intent and eventually in practice—monumental changes increasing electoral participation in state and federal elections. Still, states retained substantial authority to determine voting requirements and procedures and consequently, to adopt, as many states did, restrictive electoral practices that had long-term effects on voter participation. This state legislation and administrative action that created or increased barriers to broader participation in state and federal elections had a significant impact on the history of American suffrage.

Even after the ratification of the 15<sup>th</sup> Amendment, a situation of “formal denial of African American voting rights that Alabama started in 1891 was soon emulated by other southern states.”<sup>13</sup> Restrictions such as grandfather clauses, literacy tests, poll taxes, and candidate eligibility requirements for primary elections pervaded state legislatures, especially in the South. These restrictions were eventually dismantled one by one through federal legislation and judicial action. In 1915, grandfather clauses were found in violation of the 15<sup>th</sup> Amendment.<sup>14</sup> Next, the practice of holding all-white primaries was ruled unconstitutional in 1943.<sup>15</sup> Through the influence of the civil rights movement of the 1960's, most other explicit tactics of voter suppression were federally prohibited. In 1964, the 24<sup>th</sup> Amendment was passed, outlawing the use of poll taxes in all federal

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13. Gans and Mulling, *Voter Turnout*, 6.

14. *Guinn v. U.S.*, 238 U.S. 347 (1915).

15. *Smith v. Allwright*, 321 U.S. 649 (1943).

elections.<sup>16</sup> In 1966, the Supreme Court's ruling in *Harper et. al. v. Virginia Board of Elections* determined the use of a poll tax in any election to be in violation of the Equal Protection Clause.<sup>17</sup> The use of literacy tests was prohibited in all states with the 1970 renewal of the Voting Rights Act of 1965.<sup>18</sup> But even though, "since the great victories of the civil rights movement, it has no longer been easy or acceptable to suppress voting through the use of terrorism or violence, or with poll taxes or literacy tests," restrictions have not disappeared, but rather have changed form.<sup>19</sup>

State legislation and administrative action that had the effect of restricting voting rights have been taken advantage of by both political parties. During the mid-nineteenth century, Republicans in the North employed practices intended to keep immigrants from the polls, while Democrats "were the ones manipulating votes in the South and keeping African Americans from the polls."<sup>20</sup> The political realignments of the 1960s and 1970s led to greater affiliation by black voters with the Democratic Party and by southern white (former) Democrats with the Republican Party. This shift in party affiliation is the foundation for the current dynamic of partisan battles over election laws, wherein Republican interests advance most of the proposals for restrictive changes to election

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16. Robert E. DiClerico, *Voting in America*. (Santa Barbara: ABC-CLIO, Inc., 2004), 25.

17. *Ibid.*, 25.

18. Voting Rights Act of 1965 (42 U.S.C. §§ 1973 to 1973aa-6).

19. Lorraine C. Minnite, *The Myth of Voter Fraud*, (Ithaca: Cornell University Press, 2010), 88.

20. Tova Andrea Wang, *The Politics of Voter Suppression*, (Ithaca: Cornell University Press, 2012), 19.

law.<sup>21</sup> As Richard Hasen characterized the current uptick in voter ID legislation, the trend of proposing new restrictions is “basically a one-party affair”—one that began 50 years ago, and only continues to become more polarized.<sup>22</sup>

### The Modern Era of Voting Regulations

As U.S. election law now stands, state governments still have general jurisdiction over the requirements, processes and procedures that control who is eligible to vote, how voting is accomplished, and where and when voting takes place. States that seek to improve the efficiency and integrity of the election process, the reliability of outcomes, or the active participation of the electorate will adopt or modify aspects of this system. For sake of clarity, I refer to the policies which make voting more convenient and accessible as “expansive,” and those which are likely to make voting more difficult for the electorate at large or specific constituencies as “restrictive.” In the current era of active state legislative efforts to reform or control voting and voting outcomes, state legislatures have considered drawing upon one, some, or all of a common set of reforms. Based on my research, the following is a composite of those provisions most frequently discussed and employed today:<sup>23</sup>

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21. Wang, *Politics of Voter Suppression*, 33.

22. Hasen, *Voting Wars*, 43.

23. “Elections Laws and Procedures Overview,” *National Conference of State Legislatures*, <http://www.ncsl.org/research/elections-and-campaigns/election-laws-and-procedures-overview.aspx>, “Voting Laws Roundup 2014,” *The Brennan Center for Justice*, February 6, 2014, <http://www.brennancenter.org/analysis/voting-laws-roundup>, John Fortier, Thomas Mann, & Norman Ornstein, *Hope and Experience: Election Reform through the Lens of the AEI-Brookings Election Reform Project*, (AEI Brookings Election Reform Project: Washington, D.C., 2010), <http://www.aei.org/files/2010/06/29/ERPHopeExperience2010.pdf>.

- Voter identification at registration
- Other voter registration requirements
- Same day registration
- Voter identification in voting
- Early voting
- Online registration
- Absentee ballots
- Extent of polling hours
- Number and location of polls<sup>24</sup>

Like VIVA, the national trend in election law changes for the past decade or so has been dominated by a Republican-led constriction of the policies listed above.<sup>25</sup> But notably, there has been a very recent trend on the part of generally Democratic state legislatures in proposing laws expanding voting access.<sup>26</sup> In the current polarized political atmosphere, such a response is expected on the part of Democrat-controlled state governments to counteract Republican action. This Democratic pushback is likely not occurring mainly because of an ideological or moral commitment to ensuring universal

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24. Note that each of these can be the focus of efforts to increase voting participation or to ensure the integrity of the vote. A simple example, just to clarify the typology: Some legislators will propose expanding early voting with the intention of increasing voters choice in when they vote. Some will propose reducing early voting in order to ensure that all voters are relying on the same information at the time the ballot is cast.

25. Sarah Childress, “‘Unprecedented’ Number of Restrictive Voting Laws being Introduced,” *Frontline*, May 31, 2012, <http://www.pbs.org/wgbh/pages/frontline/government-elections-politics/unprecedented-number-of-restrictive-voting-laws-being-introduced/>.

26. “Voting Laws Roundup 2014,” *Brennan Center for Justice*.

suffrage, but because of concern of electoral success. As I will explain in Chapter 3, there is insufficient evidence on the actual electoral impact of implementing restrictions to the election laws listed above: some think there will be a substantial impact on certain subsets of the electorate, while others claim the impact will be minimal. But those subsets most likely to be negatively impacted by the laws are the ones that are most strongly aligned with the Democratic Party.<sup>27</sup> Another indication of a future shift from restrictive to expansive electoral reform came in January 2014 when the nonpartisan Presidential Commission on Election Administration released a comprehensive national report on current election law, providing a series of policy recommendations to expand voting access in a variety of ways.<sup>28</sup> While such initiatives do indicate a possible legislative turn to expanding voting access, they have not slowed the proposals of various restrictive, and contentious, election reform bills across the country.

Legislators proposing new restrictions use a variety of rationales to explain why their implementation is necessary, but seldom (i.e., rare off-the-record instances) do they *publicly* allow that such legislation is intended to disenfranchise anyone, particularly and

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27. See, for example, Keith G. Bentele and Erin E. O'Brien, "Jim Crow 2.0? Why states consider and adopt restrictive voter access policies," *Perspectives on Politics*, 11, no. 4. (2013): 1088-1116, <http://dx.doi.org/10.1017/S1537592713002843>, Emily Schultheis "Study finds voter ID laws hurt young minorities," *Politico*, March 12, 2013, <http://www.politico.com/story/2013/03/study-finds-voter-id-laws-hurt-young-minorities-88773.html>, Jamelle Bouie, "North Carolina's Attack on Voting Rights," *The Daily Beast*, August 8, 2013, <http://www.thedailybeast.com/articles/2013/08/13/north-carolina-s-attack-on-voting-rights.html>.

28. *The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration*, (Presidential Commission on Election Administration: Washington, 2014), <https://www.supportthevoter.gov/>.



especially minorities or low-income individuals.<sup>29</sup> Nor do these legislators admit to seeking lower voter turnout for partisan electoral advantage. Instead, as VIVA exemplifies, every election law modification, regardless of its effect of restricting voting access, is almost always promoted in terms of intent to increase efficiency and election integrity. The frequency, formulation, and quantitative and analytic support of these rationales are the focus of my research.

### Key Scholarship on Voting Rights

Current scholarship on voting rights generally mirrors the polarization that dominates political and legislative debate on the subject. Accordingly, conservative election law scholars tend to focus on “voter integrity” as their rationalization of increased restrictions stemming from a framing of the current electoral system as one lacking confidence of the people and generally open to fraud.<sup>30</sup> One such commentator who exemplifies the voter integrity side of the debate is John Fund, who writes on the

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29. For an amusing and disheartening example of one of these rare admission of racial and partisan motives, see, Don Yelton interviewed by Aasif Mandvi, “Suppressing the Vote,” *The Daily Show*, 5:31, October 23, 2013, <http://thedailyshow.cc.com/videos/dxhtvk/suppressing-the-vote>.

30. See generally, Horace Cooper, “Voter fraud is real: Why the Voting Rights Act should be used to fight election fraud.” *National Policy Analysis*, August 2012, <http://www.nationalcenter.org/NPA636.html>, “Voter identification laws are trouble for Democrats,” *Investors Business Daily*. November 13, 2012, <http://news.investors.com/ibd-editorials/111312-633313-voter-fraud-is-a-problem.htm>. Bruce Walker, “How to handle Voter Fraud” *American Thinker*. February 25, 2012, [http://www.americanthinker.com/2014/02/how\\_to\\_handle\\_voter\\_fraud.html](http://www.americanthinker.com/2014/02/how_to_handle_voter_fraud.html), Peter McGinley and Hans A. von Spakovsky “Voter ID: Protecting the Integrity of Our Elections,” *The Foundry*, March 10, 2014, <http://blog.heritage.org/2014/03/10/voter-id-protecting-integrity-elections/>, Connie Hair, “Rush Limbaugh: Vote Fraud Essential to Democrats,” *Human Event*, October 28, 2010, <http://www.humanevents.com/2010/10/28/rush-limbaugh-vote-fraud-essential-to-democrats/>, John Fund and Hans A. von Spakovsky, *Who’s Counting: How Fraudsters and Bureaucrats put your vote at risk*, (New York: Encounter Books, 2012).

dangers of voter fraud and the imminence of electoral disaster if restrictions are not imposed. In his 2004 book *Stealing Elections: How Voter Fraud Threatens Our Democracy*, Fund claims that “the United States has a haphazard, fraud-prone election system befitting an emerging Third World country rather than the world’s leading democracy.”<sup>31</sup> Further, he declares, “Election fraud, whether it’s phony voter registrations, illegal absentee ballots, shady recounts or old-fashioned ballot-box stuffing, can be found in every part of the United States;” and “is probably spreading.”<sup>32</sup> If one agrees with Fund’s analysis of the gravity of voter fraud, the upsurge of voting restrictions may seem justified as an attempt to reduce instances of fraud. To support this claim, Fund assures his readers, “After extensive research, I can report that...voting irregularities are common.”<sup>33</sup> However, the majority of his evidence of voter fraud is largely anecdotal.

By writing of electoral “fiascos,” a “Mystery of the Missing Bush Ballots,” and deeming Texas “the capital of Stolen Elections,” Fund’s book read less as an objective report on the status of voting rights in our country, and more as an alarming but entertaining collection of peculiar incidents.<sup>34</sup> Like the majority of scholars and citizens interested in the topic of voting rights, Fund recognizes the partisan nature of the discourse, explaining that “Democrats gravitate to the view that the most important value is empowering people to exercise their democratic rights,” while “Republicans tend to

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31. Fund, *Stealing Elections*, 1.

32. *Ibid.*, 5.

33. *Ibid.*, 7-8.

34. *Ibid.*, 39, 71.

pay more attention to the rule of law and the standards and procedures that govern elections.”<sup>35</sup> While Fund claims to be an independent voice in the debate over voting rights, he perpetuates the reasons for increasing voting restrictions commonly put forth by Republican legislators and conservative scholars, and for this reason he has gained respect and influence among conservatives supportive of laws such as VIVA. Adhering to this generally Republican framework of election law requires accepting two central arguments: First, that acts of fraud and/or the possibility of them *is* widespread. Second, that more restrictions will remedy the problems that concern these legislators and scholars. Neither of these conditions is supported by conclusive evidence.

In 2012, the American Bar Association (ABA) published *America Votes! A Guide to Modern Election Law and Voting Rights*, a collection of essays and studies intended as a “resource for lawyers, professors, and election official and administrators.”<sup>36</sup> The ABA authors explain that, while “[t]he party line presented by those proposing the laws are that they are necessary to preserve the integrity of the electoral process and to prevent fraud and voter impersonation at the polls... there is no statistical evidence or real data that supports these thin claims.”<sup>37</sup> Further contradicting the claims such as Fund’s that a substantial voter fraud problem in the United States, the data collected within the book asserts that few people have been convicted of voter fraud, and that most of those cases,

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35 Ibid., 12-13.

36. *America votes! A Guide to Modern Election Law and Voting Rights*, Edited by Benjamin E. Griffith, (Chicago: American Bar Association, 2012), Back Cover.

37. Ibid., 41.

in any event, could not have been prevented by restrictive measures such as photo identification requirements.”<sup>38</sup>

In the same year, The Brookings Institution published *Election Fraud: Detecting and Deterring Election Manipulation*, a book that reached similar conclusions about the legitimacy of voter fraud claims.<sup>39</sup> As supported by their own studies, the publication concludes, “Actual cases of election fraud explicitly intended to affect the outcome of a federal election are almost nonexistent.”<sup>40</sup> Instead, “the actual targets of the fraud are almost always state or local races.”<sup>41</sup> However, as we have observed in recent election cycles, especially since the 2000 Presidential election, voting rights/voter fraud debate is often discussed on a national level, and seems most alarming when it is posited to affect national elections, rather than local and state elections.

Clearly, these publications and their cited studies contradict certain conclusions reached by John Fund and by other conservative voices in voting rights. Based on such findings, Democrats generally condemn new restrictive proposals as unnecessary and almost certainly harmful to voter participation. Those worried about voter suppression argue that since claims of voter fraud are not based on reliable evidence, voting restrictions are proposed for other reasons. According to the generally Democratic side of the debate, the real motive for adopting new restrictions on voting has been and continues to be suppressing votes and ultimately disenfranchising voters.

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38. Ibid.

39. R. M. Alvarez, Thad E. Hall and Susan D. Hyde, *Election Fraud: Detecting and Deterring Electoral Manipulation*, (Washington, D.C.: The Brookings Institution, 2008).

40. Ibid, 97.

41. Ibid.

Representative of scholars in general opposition to the Fund-esque voter fraud school of thought is Lorraine C. Minnite, whose work is focused on proving that proclamations of widespread voter fraud as a rationale for new legislation is itself fraudulent. Minnite highlights inconsistencies in Republican rationales of restricting voting, a theme echoed throughout scholarship similarly concerned with voter disenfranchisement.<sup>42</sup> In 2010, Minnite published *The Myth of Voter Fraud* as a direct refutation of John Fund's work. As the title makes clear, Minnite's research concludes that most "voter fraud claims...collapse when scrutinized," including cases discussed by John Fund himself.<sup>43</sup> Instead of viewing voter fraud as a real and widespread problem, Minnite claims, "we can assume that partisans make fraud allegations to gain leverage in electoral contests or to influence electoral policy in ways they perceive will work to their benefit."<sup>44</sup> This is what she refers to as *voter fraud politics*: "the use of spurious or exaggerated voter fraud allegations to persuade about the need for more administrative

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42. See generally, Spencer Overton, *Stealing Democracy: The New Politics of Voter Suppression*, (New York: WW Norton & Co, 2004), Margaret Groarke, Lorraine C. Minnite, and Francis F. Piven, *Keeping down the black vote: Race and the demobilization of American voters*, (New York: The New York Press, 2009), Monique L. Dixon, "Minority disenfranchisement during the 2000 general election: A blast from the past or a blueprint for reform?," *Temple Political & Civil Rights Law Review* 11:2 (Spring 2012), Lorraine C. Minnite, *The Politics of Voter Fraud*, (Washington, D.C.: Project Vote, 2007), David Callahan and Lorraine C. Minnite, *An analysis of voter fraud in the United States: Adapted from the 2003 report, securing the vote*, (New York: Demos, 2007), Scott Keyes et. al., "Voter suppression disenfranchises millions," in *Race, Poverty and the Environment*, Vol 19, No 1, Public popular power: New majority rising (2012), pp. 11-12, Spencer Overton, "Voter Identification," *Michigan Law Review* 105, no. 4. (February 2007), pp. 631-681.

43. Minnite, *Myth of Voter Fraud*, 11.

44. *Ibid.*, 94.

burdens on the vote” for partisan benefit.<sup>45</sup> Rather than accepting the argument often put forth by supporters of these new voter ID laws that the laws are necessary to combat a crisis in our electoral system, Minnite concludes that their central purpose is to perpetuate political control and gain political benefits.

Because of its analysis of voter fraud’s employment as a rationale for new voting regulations, Lorraine Minnite’s work is a useful foundation for further exploration of voter restriction rationales, although it can be broadened in substantial ways. Minnite lays out a historical account explaining how “the issue of election fraud, an obsession of reformers and muckrakers in a bygone era, returned to the fore” in recent years.<sup>46</sup> Such an investigation, not only into the significant events in expanding and restricting voting rights, but in understanding their purported rationale, is an important and insufficiently explored avenue. While Minnite focuses primarily on the issue of voting fraud and its use as a rhetorical device to impose regulations, I extend the study of politician rationale beyond only voter fraud cases. And while Minnite thoroughly researched many restrictions imposed up until her book’s publication in 2010, the publication obviously does not take into account legislation proposed since. Minnite writes that in the wake of the 2000 Presidential election, “Interest in the deadening minutiae of election administration, never before a subject deserving of so much spilled ink, captured the attention of the public, the press, and academia—and remarkably continues to do so.”<sup>47</sup> And perhaps even more remarkably, the interest in voting rights and new legislation has

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45. *Ibid.*, 10.

46. *Ibid.*, 2.

47. *Ibid.*, 1.

picked up since 2010. Accordingly, my research focuses on VIVA's 2013 enactment, updating and expanding on Minnite's study. A final divergence between Minnite's research and mine is that her aim is to refute work by authors that claim expansive voter fraud. While much of her study is applicable to mine, my focus is not disproving or proving voter fraud prevalence, but first and foremost the rationale behind those regulations.

Similar to Minnite, and equally relevant to my research is Richard Hasen, who also sees claims of widespread voter fraud as a deliberate Republican scare tactic used for partisan benefit. Hasen asserts that Lorraine Minnite's "study of voter fraud should be required reading for anyone interested in the subject," and I would classify his work as deserving of a similar central location in voting rights scholarship.<sup>48</sup> In 2012, Hasen published *The Voting Wars*, chronicling the impact that political polarization has had on election law in the past decade in creating a dynamic of unsubstantiated claims of fraud and suppression on each side of the debate.<sup>49</sup> In contrast to many scholars engaged in the debate today, Hasen's partisanship does not overwhelm his work. Instead, he uses his research to expose the harm caused to the integrity of our election system both by political polarization itself and electoral manipulation used to achieve electoral results. Hasen asserts that "each side is guilty of manipulating the political and legal processes to partisan advantage, and each side entertains conspiracy theories that at some point lose contact with reality."<sup>50</sup> Hasen's rendering of a multitude of serious impediments to a

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48. Hasen, *Voting Wars*, 45.

49. Hasen, *Voting Wars*.

50. *Ibid.*, xii.

healthy electoral system caused by a partisan debate reliant on manipulative ideological appeals rather than data is important in any discussion on the subject of reforms of voting laws. It reminds us of what should be the authentic reason for these debates and research: Ultimately, the goal of anyone genuinely interested in election reform should be the creation of a system which has the highest levels of electoral participation, legitimacy, and efficiency.

My analysis of the legislative process leading to the passage of North Carolina's impressively restrictive and comprehensive election reform law supports Hasen's characterization of the true motive behind our current era's emphasis on election law; That the election fiasco in Florida, which was the catalyst for increased attention to election law, "mainly taught political operatives the benefits of manipulating the rules, controlling election machinery, and litigating early and often. Election law has become part of a political strategy."<sup>51</sup> While I agree with this conclusion of the detriment of partisanship to our electoral system, a substantial proportion of the American people remain unaware, unconvinced or unconcerned with the implications of voting rights being used as a tool of partisan advantage.

The focus of the rationalizations for new restrictions to voting, dominated by buzzwords of ensuring voter integrity, combating fraud, and restoring confidence in elections is largely misguided, given the reliance on inconclusive and weak evidence. My study into the dialogue of those politicians, interest groups, the citizenry, and policy organizations that supported and opposed VIVA, aims to bridge the gaps between political speech, reality, and public understandings of the battle over voting rights. Current voting rights scholarship could benefit from more rich, in-depth and detailed

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51. Ibid., 5.



synthesis and analysis of the complex web of debate and rationales that result in and from these laws, and that is what my focus on this North Carolina law provides.

### Method of Analysis

In examining the rationales for VIVA's provisions, I look at the major players active in the legislative and public debate, as well as those who may not be directly involved in debate on this specific law, but have some influence on legislative action. First and foremost, this includes Republican members of North Carolina's state government: Governor McCrory, the sponsors of H 589, and additional members of the General Assembly who actively supported the bill. These rationales were gathered from press releases, floor debates in the House and Senate, legislator interviews and statements made to the press both by McCrory and members of the General Assembly. Next is the aggregation of statements about VIVA made by interest groups and think tanks either active in the debate or that have ties to state legislators and have expressed their positions on voting rights legislation. The primary sources for interest group rationales are the statements made during public hearings on Voter ID that occurred in Raleigh during the spring of 2013. Additionally, some of these groups have released independent statements explaining their support of VIVA's provisions, and such information is included when available. The collection of rationales concludes with those offered by public policy organizations, and I include this as an attempt to fill in the gaps left by politician and interest group rationales. Public policy organizations tend to have more data-supported arguments, which are not always evident in politician speeches, legislative debate, or public hearings. Within each section of rationales offered for the various provisions of VIVA are the concerns and disagreements of involved groups in opposition to the law's

enactment. After cataloguing the involved parties justifications for their positions, I offer my own analysis of the debate and its implications.

Compiling, categorizing, and synthesizing the arguments of various participants from multiple sources ensure that the majority of rationales, from tame, to illogical, to rational, to calculated, to manipulative and all those in between have been gathered. Based on the identification and characterization of rationales and consideration of supporting data we can determine to what extent the debate has adequate, or even just interesting, analytic support for the proffered positions, and where it consists of assertions without reliable support in the available data and analyses.

This study of the discourses that caused and were in turn caused by one of the strictest pieces of voting legislation enacted in the current era is divided so as to provide the clearest picture of both the publicized and/or true motivations of the involved parties. Chapter Two provides background necessary for understanding the debate that accompanied legislative consideration of VIVA. This includes the legislative and political developments leading up to consideration, passage and enactment of VIVA. It also provides the key details on the operative provisions of that law. Chapter Three is the actual aggregation of the rationales and justifications for the law, as well as the corresponding oppositions. Chapter Four summarizes and characterizes all the rationale explicated in Chapter Three and provides my summary conclusions on the quality of the debate and, importantly, its implications for future legislative consideration elsewhere.

## Chapter Two: VIVA—What’s all the Hype?

To understand the web of arguments for and against North Carolina’s Voter Information Verification Act (VIVA) of 2013, it is necessary to review the partisan line-up in the state legislature in the years 2010 to 2013, the political and policy leanings in state government and the electorate, and the specific provisions that make up VIVA. The path to the enactment of VIVA on August 12, 2013 began three years earlier, with the 2010 election, which brought changes to party leadership and the divisions within each house.<sup>52</sup> Reflecting broader election trends in many states in the 2010 midterm elections, the partisan balance in both of North Carolina legislative chambers shifted dramatically in the Republicans’ favor. Before the 2010 election, Democrats had control of the House, 68-52, and control of the Senate, 30-20.<sup>53</sup> After the 2010 election, membership in the House shifted to 51 Democrats and 67 Republicans, and in the Senate to 19 Democrats and 31 Republicans. It was in the early days of the new, Republican-dominated legislature that the first voter photo ID requirement was proposed, with the introduction of House Bill 351 (H 351), sponsored by Republican Representative David Lewis, Chair of the Elections committee since 2009.<sup>54</sup>

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52. Voter Information Verification Act, S.L. 2013-381 (2013), <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2013&BillID=h+589&submitButton=Go>.

53. “Partisan Composition,” *National Conference of State Legislatures*. Last modified 2014, <http://www.ncsl.org/research/about-state-legislatures/partisan-composition.aspx>.

54. “David Lewis, Sr.,” *Ballotpedia*, last modified March 6, 2012, [http://ballotpedia.org/David\\_Lewis,\\_Sr.](http://ballotpedia.org/David_Lewis,_Sr.)

That 2011 version of a voter photo ID bill was not a comprehensive overhaul of North Carolina election law, but focused specifically on voter identification. It required that all voters present a government-issued photo ID for in-person voting, and allowed provisional ballots to be cast if the voter was unable to produce the required identification. The provisional ballots would be counted only if the voters casting them later produced the required photo identification at the county board of elections before the conclusion of that county's election canvass period. This legislation also allowed for challenges at the polls of any voter's identity by any other registered North Carolina voter, if the challenger found reason to believe the voter had not been properly identified.<sup>55</sup> H 351 was introduced on March 14, 2011, and, after a series of amendments in the House, passed both the House and the Senate strictly along party lines, with no Democrat in either house voting for the bill, and no Republican voting against it.<sup>56</sup> The bill was sent to the Governor's desk on June 17, 2011 to be signed into law—but instead, it was vetoed.

Democratic Governor Bev Perdue, a former three-term North Carolina state senator, had been elected in 2008 in a close contest (3.5 % margin) against Republican Pat McCrory, who would become her successor in office after the 2012 elections.<sup>57</sup> She

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55. General Assembly of North Carolina, Session of 2011, "H 351, Restore Confidence in Government," (Version: 5; 6/16/2011), Text from: *North Carolina General Assembly*. Accessed: 3/1/2014.

56. Ibid.

57. "Election results 2008," *The New York Times*, last modified December 9, 2008, <http://elections.nytimes.com/2008/results/states/north-carolina.html>.

declined to run in the 2012 election and McCrory won the race with a 10-point margin.<sup>58</sup>

So while the 2010 elections shifted partisan control in both chambers to Republicans, the Governor's office remained in Democratic hands until after the next gubernatorial election in 2012. In announcing her decision to veto the 2011 Voter ID legislation, Governor Perdue stated:

We must always be vigilant in protecting the integrity of our elections. But requiring every voter to present a government-issued photo ID is not the way to do it. This bill, as written, will unnecessarily and unfairly disenfranchise many eligible and legitimate voters. The legislature should pass a less extreme bill that allows for other forms of identification, such as those permitted under federal law.<sup>59</sup>

The House was unable to override the gubernatorial veto, and Governor Perdue's choice to refrain from implementing such a law remained the status quo until the legislative session of 2013 and Governor McCrory's occupation of the office.

In 2011, there were two major roadblocks to the implementation of a photo voter ID law in North Carolina: 1) Democratic Governor Perdue, and 2) the preclearance requirements of Section 5 of the Federal Voting Rights Act of 1965 (VRA).<sup>60</sup> Section 5's preclearance requirement, as determined by the coverage formula articulated in Section 4 of the VRA, did not apply to the state of North Carolina as a whole. However, 40 of the

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58. "2012 North Carolina Election Results," *Politico*, last modified November 19, 2012, <http://www.politico.com/2012-election/results/president/north-carolina/>.

59. Eric Kleefeld, "North Carolina Dem Governor Vetoes GOP Voter-ID Bill," *Talking Points Memo*, June 24 2011, <http://talkingpointsmemo.com/muckraker/north-carolina-dem-governor-vetoes-gop-voter-id-bill>.

60. Voting Rights Act of 1965 (42 U.S.C. §§ 1973 to 1973aa-6).

state's 100 counties were covered.<sup>61</sup> This meant that any changes to election law affecting any of those covered counties, such as H 351, would have required preclearance either by the United States District Court for the District of Columbia or by the U.S. Attorney General. If Section 4 of the VRA had not been struck down by the Supreme Court in the summer of 2013, it is likely that the implementation of H 351 would have been blocked, as was a similar Texas law in 2012 because it was determined that it would disproportionately burden minorities.<sup>62</sup> But by the summer of 2013, when VIVA was signed into law, both of the obstructions—a Democratic governor and a federal provision the US Supreme Court would find unconstitutional—had been removed.

Accordingly, 2013 provided the “perfect” conditions, not just for a revived attempt to enact a voter photo ID law, but to implement VIVA, a much more comprehensive election reform bill, described by Richard Hasen as, “the most sweeping anti-voter law in at least decades.”<sup>63</sup> In 2013, not only had Republicans gained two seats in the North Carolina Senate and 10 seats in the House, but in addition, the newly elected governor, Pat McCrory was a Republican.<sup>64</sup> It was under this Republican trifecta that VIVA's highly controversial collection of substantial changes to North Carolina election law finally passed and was signed into law.

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61. “Jurisdictions Previously Covered by Section 5.” *The United States Department of Justice*, Last modified 2014, [http://www.justice.gov/crt/about/vot/sec\\_5/covered.php](http://www.justice.gov/crt/about/vot/sec_5/covered.php).

62. *Texas v. Holder*, 888 F. Supp. 2d 113, 143-45 (D.D.C. 2012).

63. Richard Hasen, “NC Senate Approves GOP-backed Election Changes,” *Election Law Blog*, July 25, 2013, <http://electionlawblog.org/?p=53461>.

64. “NC Senators 2013-2014 Session,” North Carolina General Assembly, last modified 3/06/2014, <http://www.ncleg.net/gascripts/members/memberList.pl?sChamber=senate>.

On March 12, 2013, before H 589 (the bill that eventually became VIVA) was formally introduced, the House Committee on Elections held a hearing to solicit public comments on the likely effects of adopting a voter photo ID law.<sup>65</sup> Citizens offered their opinion within three (individuals) to five (organizational representatives) minute time allotments. Representatives from the North Carolina ACLU, NC NAACP, League of Women Voters, NC Center for Voter Education, NC Justice Center, and several local, county and district Democratic organizations spoke in opposition to a stringent voter ID law.<sup>66</sup> A representative of the NC Tea Party and several spokespersons for district and county Republican organizations spoke in favor of such a law.

On April 4, 2013, H 589, initially sponsored by four Republican representatives, was introduced in the House.<sup>67</sup> That week, the House Elections Committee held a second public hearing. There, the focus was specifically on all of the proposed changes to election law that were included within H 589.<sup>68</sup> In contrast to the first hearing, the April 12 hearing was dominated by citizens voicing their support for the law. Organizations present and supportive of the law included the Voter Integrity Project, Citizens for

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65. North Carolina General Assembly, *Public Hearing on Voter Identification: House Committee On Elections*, Hearing. March 12, 2013, Raleigh: Government Printing Office, 2013,  
<http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=225&sFolderName=\Public%20Hearing%20-%20March%2012,%202013>.

66. *Public Hearing: House Committee On Elections*, March 12.

67. Voter Information Verification Act (VIVA), North Carolina S.L. 2013-381

68. North Carolina General Assembly, *Public Hearing on Voter Identification: House Committee On Elections*, Hearing. April 10, 2013, Raleigh: Government Printing Office, 2013,  
<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2013&BillID=h+589&submitButton=Go>.

Constitutional Liberty, We the People of North Carolina, and again, several local and statewide Republican and Tea Party groups. Opposing the law, representatives were again present from NC NAACP, and were joined by members of the Southern Coalition for Social Justice, Democracy North Carolina, and a county Democratic Party group.

The various ideas shared at the well-attended public hearings, which will be analyzed in the next chapter, demonstrate the high profile and heated debate surrounding H 589, which continued long after the bill's enactment as VIVA. However, the three-month legislative process did not reflect the controversial nature of the new law, but rather was a showcase of the strong Republican control in both legislative chambers: of all the amendments proposed, the only ones to fail were proposed by Democrats.<sup>69</sup> As was the case with the previous attempt at enacting new voting restrictions in North Carolina with H 351 in 2011, H 589 passed each chamber strictly along party lines, this time destined for a better fate by landing on a Republican's gubernatorial desk to be signed.<sup>70</sup>

In the current era, any legislative proposal that includes an electoral policy change that some worry may suppress voter turnout and ballots counted generates controversy. But it is VIVA's inclusion of numerous changes to the NC electoral system that has caused it to stand out from the dozens of other state legislative proposals that emerged during the same year. The following are the key changes to North Carolina election law that, with the adoption of VIVA, have caused the majority of the debate and disagreement over the "real" rationale for the adoption of these provisions.

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69. VIVA, North Carolina S.L. 2013-381 (2013).

70. Ibid.



## Key Provisions of VIVA

### *Voter Identification and Challenges to Identity*

As the legacy of the failed H 351, VIVA is foremost and primarily a voter photo ID law. The law requires all in-person voters to produce a government issued photo ID in order to vote.<sup>71</sup> Notably, the law does not require photo IDs for mail-in absentee voting. And, in a provision sure to introduce chaos into the polling place, it allows any registered voter, for any reason, to challenge the identity or registration status of any other voter on the Election Day.<sup>72</sup>

Of course, the major concern with this provision was that certain groups in the electorate might be denied the opportunity to vote even though they have been registered and voted in the past. Further, there is a significant disparity among the voting population, as to which groups lack a photo ID of the type required by VIVA. For example, using some of the very limited data that address VIVA provisions, registered Democrats make up 43% of registered voters, but 55% of registered voters without photo ID.<sup>73</sup> Black citizens make up 23% of registered voters, but 34% of voters without photo ID.<sup>74</sup> Women account for 54% of registered voters, and 64% of those who lack photo

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71. The only voters who do not necessarily have to provide a photo-ID, as articulated in the new law, are those voters who partake in “curbside voting,” those who were victim to a widespread and well-documented natural disaster within 60 days of the election, or those with a serious religious objection to being photographed and who has filed a declaration of such at least 25 days before the election. VIVA, Part 2.

72. VIVA, North Carolina S.L. 2013-381 (2013), Section 2.9.

73. “Rob Schofield, “County-by-County Data Reveal Dramatic Impact of Proposed Election Changes on Voters,” *NC Policy Watch*, July 22, 2013, <http://pulse.ncpolicywatch.org/2013/07/22/county-by-county-data-reveal-dramatic-impact-of-proposed-election-changes-on-voters/>.

74. *Ibid.*

ID.<sup>75</sup> Seniors make up 18% of the voters, but 26% of the voters without approved ID.<sup>76</sup> Given the party preferences of past elections, these disparities give rise, of course, to the claim by Democratic legislators and affiliated groups that, contrary to the stated rationale of eliminating voter fraud, the operative reason for the provision was, and is, the suppression of votes of Democratic-leaning subgroups.

*Duration of Early Voting.*

The early voting period, 17 days under the pre-VIVA law, was reduced to ten days.<sup>77</sup> While the law generally requires that the total number of hours available for early voting must remain the same as during the 2012 election cycle, there are exceptions to this rule which allow counties to reduce the number of hours along with the number days.<sup>78</sup> Early voting is used in many states to facilitate participation of voters who might otherwise find it difficult to cast their ballots. In North Carolina in 2012, 56% of ballots were cast during the early voting period, the 3rd highest use of early voting in 2012 in the nation.<sup>79</sup> Prompting the opposition's suspicion of the partisan/discriminatory motivation

75. Ibid.

76. "Who Doesn't Have a Photo ID in North Carolina?" *Democracy North Carolina*, 2013, <http://protectourvotenc.com/wp-content/uploads/sites/8/2013/06/NoIDDataSheet.pdf>.

77. VIVA, North Carolina S.L. 2013-381 (2013), Sec. 25.2.

78. Gary D. Robertson, "NC Counties Reduce Early Voting Hours for Primary," *Associated Press*, March 13, 2014, <http://www.wncn.com/story/24845891/nc-counties-reduce-early-voting-hours-for-primary>.

79. Diana Kasdan, *Early voting: What works*, (New York: The Brennan Center for Justice, 2013), [http://www.brennancenter.org/sites/default/files/publications/VotingReport\\_Web.pdf](http://www.brennancenter.org/sites/default/files/publications/VotingReport_Web.pdf), 7.

for this change are data indicating that Democrats utilize early voting more than Republicans, and that in 2012, 70% of black voters in North Carolina voted early.<sup>80</sup>

*Pre-registration of 16-17 year old future voters.*

The option that allowed 16- and 17-year olds to pre-register early was eliminated, even though the original provision that established the practice was passed in 2009 in a bipartisan bill.<sup>81</sup> There is now concern among Democratic organizations that the elimination of the provision to facilitate registration by younger voters is another attempt to suppress votes of sub-groups that typically have a preference for voting Democratic in state elections.<sup>82</sup>

*Same-Day Registration.*

Same-day registration was also eliminated. Now, a voter must register at least 25 days in advance of the election in order to be eligible to vote in that election.<sup>83</sup> In 2012, 97,312 North Carolinians voted after registering on Election Day.<sup>84</sup> This number, though a small percentage of the total ballots cast, raises the concern that additional eligible and active voters will be deprived of the opportunity to vote in an election.

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80. Paul Hirschhorn, "N.C. Sued Soon After Voter ID Bill Signed into Law," *CBS News*, August 12, 2013, <http://www.cbsnews.com/news/nc-sued-soon-after-voter-id-bill-signed-into-law/>.

81. VIVA, North Carolina S.L. 2013-381 (2013), Part 12.

82. Session Law 2009-541, 2009 NC H.B. 908, accessed 13 March 2014, available from LexisNexis State Capital.

83. VIVA, North Carolina S.L. 2013-381 (2013), Part 16.

84. Schofield, "County-by-County Data."

*Out of Precinct Voting.*

Under VIVA, the ballots cast outside their home precincts will no longer be counted.<sup>85</sup> For the past ten years, the ballots of voters who accidentally cast ballots in the wrong precinct or who were unable to make it to their designated polling place were still counted for gubernatorial and presidential elections. With this eliminated, the plaintiff briefs in the lawsuits challenging this law cite concern about the impact this will have on minority voters.<sup>86</sup> According to their data, black voters cast about 30 percent of all out-of-precinct ballots in 2012 while only making up 22 percent of the state population.<sup>87</sup> And black voters “disproportionately live in low-income neighborhoods without access to transportation or flexible work schedules that might allow them to get to their home precincts,” one of the lawsuits states.<sup>88</sup>

With the exception of the photo identification requirement—which goes into effect in 2016—all of the provisions of the law, were in effect by the beginning of 2014. Thus, if appropriate data and tracking systems are in place, their impact will likely become clear in the 2014 midterm election cycle, with the photo ID requirement conveniently taking effect the year of the next Presidential election.<sup>89</sup>

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85. VIVA, North Carolina S.L. 2013-381 (2013), Sec. 49.3.

86. Gary D. Robertson, “New Law Bars Voting Outside of Precinct,” *Charlotte Observer*, August 13, 2013, <http://www.charlotteobserver.com/2013/08/18/4246395/new-law-bars-voting-outside-of.html> - .Uy9hrq1dUag.

87. *Ibid.*

88. *Ibid.*

89. VIVA, North Carolina S.L. 2013-381 (2013), Part 6, Part 60.

Since VIVA became law, three lawsuits, including the one discussed in the first chapter that was brought by the United States Department of Justice (DOJ), have been filed in contestation of the law. At the original hearing in December 2013, the presiding U.S. District Court Magistrate Judge consolidated the three lawsuits, and set a trial date for July 2015.<sup>90</sup> In addition to the DOJ, plaintiffs in the case include the North Carolina NAACP, League of Women Voters, ACLU, and the Southern Coalition for Social Justice.<sup>91</sup> In all likelihood the testimonies in the consolidated suit will themselves provide some of the clearest, most concise and well-supported defenses of, and opposition to, the law. In the meantime, however, the statements by plaintiffs of their reasons for bringing the suits, the North Carolina government's response, and media responses to the claims of the parties provide a useful basis for understanding and clarifying the reasoning behind their positions on the legality of the law.

While the strict and substantial changes to election law contained in VIVA are, by themselves, sufficient to draw national attention to the North Carolina debate, the timing of the legislative process, the party alignments, and the proximity of the next election also largely contribute to VIVA's position at the epicenter of the national battle over voting rights. The timing of the legislative process of VIVA coincides with the Supreme Court case of *Shelby County v. Holder* better than any other state-level legislation to increase voting restrictions.<sup>92</sup> Oral argument for *Shelby County v. Holder* was heard on February

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90. Robert Lopez, "Judge Tells State to Answer Requests in N.C. Voter-law Case." *News and Record*. February 22, 2014, [http://www.news-record.com/news/article\\_a29a0b16-9b30-11e3-b1f2-0017a43b2370.html](http://www.news-record.com/news/article_a29a0b16-9b30-11e3-b1f2-0017a43b2370.html).

91. "Federal Court Rules N.C. Voter Suppression Law Trial to Occur in 2015," *American Civic Liberties Union*, December 12, 2013, <https://www.aclu.org/voting-rights/federal-court-rules-nc-voter-suppression-law-trial-occur-2015>.

92. *Shelby County v. Holder*, 000 U.S. 12-96 (2013).

27, 2013, meaning that when H 589 was proposed in April, the nation had already entered a period of hyper-awareness and contentious debate over the proper federal role in ensuring fair elections. With the VRA fully intact, there was a good possibility that some of the most restrictive provisions of H 589 would be blocked from implementation because of their potentially discriminatory effects. But as the bill continued circulation and the possibility grew that major provisions of the VRA would be struck down, observers and legislators increasingly shared opinions about the substantial possibility that all of VIVA could go into effect with no evaluation from the U.S. attorney of its potentially damaging effects.

The Supreme Court announced its decision striking down Section 4 of the Voting Rights Act on June 25, 2013, and one month later, on July 26, H 589 was passed by the legislature. Two weeks later, VIVA became law in North Carolina. The implementation of this law in the same summer as the Supreme Court decision to strike down the federal legal system's strongest tool against combating discriminatory voting policies at the state level created a national uproar. The controversy caused by this concurrence yielded a substantial number of local, state and national sources of recorded criticisms of the rationales behind the restrictive provisions of VIVA. It also forced interest groups, legislators and media supportive of the law to defend it. The argument between active defenders and the many critics of the law—a constant debate of almost a full year since H 589 was originally proposed—supplies a rich source of rationales for tightening or maintaining extant election regulations in North Carolina, and indeed the nation.

Research into legislator rationale for proposing VIVA must include a brief discussion of the influence of the American Legislative Exchange Council (ALEC) on the

legislative programs of North Carolina and of several other states.<sup>93</sup> According to the group itself, ALEC is a “non-partisan public-private partnership of America’s state legislators, members of the private sector and the general public.”<sup>94</sup> The group promotes these interests by drafting “model legislation” which members then take, modify, and introduce in state or Federal legislatures. Unfortunately for citizens who would like to know the connection between their own elected politicians and ALEC, or between a bill introduced in their state and ALEC model legislation, “ALEC is notoriously secretive about the process by which members draft and approve model legislation.”<sup>95</sup> One source of ALEC’s legislative involvement and other activity is “ALEC Exposed,” a project of the Center for Media and Democracy launched in 2011, which has shared hundreds of previously classified ALEC documents.<sup>96</sup> One of these “leaked” documents is an ALEC model “Voter ID Act” prepared in 2009.<sup>97</sup> In the two years following the drafting of this “model” legislation, 62 photo ID bills were introduced in 37 states, over half of which were introduced by ALEC conference members or conference attendees, including

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93. More information about ALEC can be found on their official website: American Legislative Exchange Council, last modified 2014, <http://www.alec.org/about-alec/>, or here in an explanatory article by the Brookings Institution: Molly Jackman, “ALEC’s influence over lawmaking in state legislatures,” *The Brookings Institution*, December 6, 2013, <http://www.brookings.edu/research/articles/2013/12/06-american-legislative-exchange-council-jackman>.

94. “About ALEC,” *American Legislative Exchange Council*, <http://www.alec.org/about-alec/>.

95. Jackman, “ALEC’s Influence over Lawmaking in State Legislatures.”

96. ALEC Exposed, *Center for Media and Democracy*, [http://www.alecexposed.org/wiki/About\\_ALEC\\_Exposed](http://www.alecexposed.org/wiki/About_ALEC_Exposed).

97. “Voter ID act,” ALEC Exposed, *Center for Media and Democracy*, [http://alecexposed.org/w/images/d/d9/7G16-VOTER\\_ID\\_ACT\\_Exposed.pdf](http://alecexposed.org/w/images/d/d9/7G16-VOTER_ID_ACT_Exposed.pdf).

Representative Lewis who proposed H 351.<sup>98</sup> There is no documentary proof that either the 2011 bill or 2013's H 589 were directly based on ALEC's model bill. However, some connections between North Carolina's effort to increase voting restrictions and ALEC are evident. First, the national increase in voting restriction proposals, if not caused by ALEC, gained serious momentum because of ALEC support and ALEC's "considerable influence on state legislatures."<sup>99</sup> Second, this influence is strong in North Carolina. The number of North Carolina legislators with ties to ALEC, again not made public by ALEC itself, is likely between 40 and 54 individuals.<sup>100</sup> This includes the North Carolina House Speaker Thom Tillis, who is not only an ALEC board member, but was honored as an ALEC "Legislator of the Year" in 2011.<sup>101</sup> Accordingly, it is reasonable to assume that ALEC was an influential, if not the driving force, behind VIVA and many similar voter ID laws occurring contemporaneously throughout the country.

This chapter has summarized the legislation's provisions and the political situation in North Carolina before, during and after VIVA's enactment. It provides

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98. Ethan Magoc, "Flurry of Voter ID laws tied to conservative group ALEC," *NBC News*, August 12, 2012, [http://investigations.nbcnews.com/\\_news/2012/08/21/13392560-flurry-of-voter-id-laws-tied-to-conservative-group-alec](http://investigations.nbcnews.com/_news/2012/08/21/13392560-flurry-of-voter-id-laws-tied-to-conservative-group-alec).

99. Jackman, "ALEC's influence over lawmaking in state legislatures."

100. The low number is a list of the legislators who have held leadership or committee positions within ALEC, or have attended meetings: *Out of the shadows: Exposing ALEC's role in the North Carolina General Assembly*, (Raleigh: Progress NC, 2013), <http://progressnc.org/wp-content/uploads/2013/02/ALEC-Report.pdf>. The high number is one reported by a North Carolina news outlet: John Frank, "ALEC documents show strong ties to NC lawmakers," *News Observer*, December 5, 2013, <http://www.newsobserver.com/2013/12/05/3436214/alec-documents-show-strong-ties.html>.

101. Laura Leslie, "Tillis receives ALEC award," *WRAL*, August 4, 2011, <http://www.wral.com/news/state/nccapitol/blogpost/9955257/>.



important background to understanding the next chapter, which identifies the pertinent pronouncements and salient rationales of key players involved in this debate. By categorizing provision by their common theme, and comparing these rationales to the counterarguments put forth by the opposition, I aim to provide a realistic picture of the legitimate motivations for the law, as separated from unsubstantiated generalizations.

### **Chapter Three: Rationalizing the Restrictions**

Since the members of the North Carolina Senate, House and Governorship were responsible for drafting the law managing its legislative process, and ultimately enacting it, their rationales for promoting VIVA are of central focus. In addition, public hearings that were part of the 2013 legislative process are similarly useful because they were forums for direct communication between the public and the legislators, and were intended as a mechanism for lawmakers to incorporate citizen input into the law.

While one would hope that the lawmakers promoting VIVA would have clearly articulated, fully developed, logical and satisfactory justifications for each part of the law, the information in this chapter shows that defenses of some provisions are glossed over in favor of broad, abstract justifications of the bill, usually focused on voter ID. Because such generalities dominated the legislative debates and the Governor's official statements, a section with opinions and rationales of interest group and public policy organizations follows. Here, we would expect or hope to see the analytic gaps left by legislators filled in by outside organizations. Cataloguing the elements of the debate in this way provides the most useful summary of the rationales offered and their merits (as scrutinized by the opposition). It also makes clear which provisions of the law have not been publicly defended by politicians, interest groups or public policy organizations, and which have. Further, this provides the opportunity to assess whether the proponents' rationales provide a satisfactory defense of each of the law's provisions.

Proponents of VIVA and similar legislation elsewhere have co-opted the term "voter integrity" as their summary reason for efforts to restrain registration and voting. According to the Heritage Foundation, a leading policy group advocating for these

legislative changes, voter integrity means, “every eligible individual is able to vote and that no one’s vote is stolen by fraud.”<sup>102</sup> To achieve this end, the Heritage Foundation asserts that no fewer than 14 legislative reforms, at federal and state levels, must be enacted. In addition to those provisions covered by VIVA and similar laws in other states, Heritage’s “voter integrity” requires policy changes that include amending the National Voter Registration Act of 1993 (NVRA) to allow easier purging of voter registration rolls, and requiring every first-time voter to cast an in-person ballot.<sup>103</sup>

Because the Heritage Foundation is a conservative public policy group respected in Republican circles, I use their definition of “voter integrity” when evaluating Republican legislatures’ proposals which they defend as promoting voter integrity. But as we will see, the laws promoted by the Heritage Foundation and in most Republican-led state legislatures focus less on ensuring that “every eligible individual is able to vote,” and more on votes allegedly stolen by fraud. For these groups, protecting voter integrity has become virtually synonymous with preventing voter fraud. And like voter integrity, the general term “voter fraud” is meaningful only when the specific regulatory requirements and their operational effects are known and can be assessed.

The definition of voter fraud that I use is one offered by Lorraine Minnite, who defines it as “the intentional, deceitful corruption of the electoral process by voters.”<sup>104</sup> Keeping this definition in mind while analyzing the rationale of proponents of VIVA will help assess whether their remedies are truly tailored to this problem and whether they can

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102. “Voter Integrity,” *The Heritage Foundation*, 2014, <http://solutions.heritage.org/voter-integrity/>.

103. *Ibid.*

104. Minnite, *The Myth of Voter Fraud*, 88.

be expected to solve the problem of voter fraud. Of major importance is this caveat: To legitimize legislation claiming to remedy voter fraud, there must *be* a voter fraud problem to remedy. The claim that there is a state and national voter fraud problem has branched into two related but distinct arguments. First is the insistence that voter fraud is present in recent elections. Second, there is the assertion that while significant voter fraud might not currently exist, there is a *threat* of it taking hold in future elections. The benefit to proponents of emphasizing the *potential* for fraud rather than its *existence* avoids what currently is the inconclusive debate about whether there has been fraud in recent elections. Substantiating claims that voter fraud exists as a significant problem in elections presumably requires evidence. However, convincing evidence of fraud, or its absence, is very limited or not available. Thus, sympathetic politicians (e.g., Governor McCrory) base their call for reform on their concern about *future* voter fraud, rather than documented fraud. This latter framing of preventing voter fraud/promoting voter integrity is the one which legislators behind VIVA most widely employed.

The opponents of VIVA and similar laws considered or adopted in other states emphasize the critical importance of the other side of the “voter integrity” formula, i.e., ensuring that “every eligible individual is able to vote.”<sup>105</sup> Of course, they avoid the phrase “voter integrity,” since those words are essentially co-opted by those favoring restrictive legislation based on flimsy (they assert) evidence of consequential fraud. Thus, each side in this debate claims one of the two objectives of the Heritage Foundation’s definition of voter integrity. In addition to this peculiar convergence of ultimate aims in the voting rights battle, the two sides in the debate share a mutual avoidance of a reliance

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105. “Voter Integrity,” *The Heritage Foundation*.

on data to support their policy positions. To be sure, both proponents and opponents of these laws are eager to cite studies, which seem to support their positions, because doing so provides a perception of legitimacy that will hopefully convince other lawmakers and the public of their positions. But the available data, either national or specific to North Carolina, are minimal and at the most suggestive, not conclusive. Rather, this debate is largely rhetorical, ideological and moral, meaning that available data cannot substantiate or wholly discredit the argument of either side. For example, if a study were to show voter fraud in North Carolina's last election, opponents of new restrictions could still claim that allowing a few fraudulent ballots is worth making sure that no voter is kept from the poll because of excessive restrictions. On the other side, by framing the problem of voter fraud in a future context, proponents of voting and registration restrictions can still maintain their principal rationales and are not forced to change their agendas because of the absence of data indicating fraud.

However, election law reform as an ideological and partisan debate is not a productive framework. Both sides purport to want the same thing: free and fair elections, without fraud and where access to voting is universal for eligible citizens. Striking this balance will come from the aggregation of reliable data in a few key areas. First, legislators and the public must know where, how, and how often voter fraud occurs. Second, the effectiveness of policies to combat and prevent fraud must be evaluated. Third, the impact that restrictive policies have on electoral participation should be measured. Fourth, the monetary costs of implementing policies that are effective in preventing fraud should be evaluated. Additionally, there is a strand of the conservative voter integrity argument, which holds that fraud or no fraud, the public believes that fraud

is always possible and thus restrictions are needed to restore public confidence in the electoral system. If this is a worthy pursuit, legislators, public policy organizations, and interest groups should at some point come together to create the systems for acquiring data that address those aspects of the current electoral system most worrisome to the public and help clarify which reforms would assure the public that we have in place fair and effective electoral systems. But such data do not exist, and we must keep in mind this inadequacy of data on key points--voter fraud and ready and universal access to the polls--when evaluating the rationales given for and against the enactment of VIVA.

VIVA is a multi-part bill, with six provisions, which the opposition to VIVA believes have the greatest potential for suppressing voting by certain subsets of electorate. Each of the provisions deserves a clear explanation of the problem it aims to solve, the importance of solving it, the importance of solving it, and how the electoral implementation of the provision effectively remedies the problem. In the cases where these rationales aren't supported by evidence, are empty generalizations, or are simply not given, we have reason to doubt that they are being proposed in order to put in place a verifiable and "inclusive" election system.

Often, political debate is saturated with jargon that fails to provide observers with the proper tools for understanding the true implications of what is being proposed. Accordingly, a perspective fundamental to an understanding of the importance of the debate over VIVA is the following: Voting is a constitutional right not granted to the government, but to each citizen of the United States. When electoral laws and processes change, we all, and particularly those directly affected by the changes, deserve clear explanations of the reasons for the changes. With that in mind, we turn to the following

summarization of rationales employed by key actors in the formulation of the North Carolina law.

### Governor Pat McCrory

Pat McCrory has rarely addressed the specific provisions of the law, but in press releases and videos has generalized his support for this “common sense” law as being for a few major reasons.<sup>106</sup> This lack of detailed explanation of many of the laws separate provisions is significant, because the law is a collection of electoral changes each with its own intended or unintended effect on vote integrity and access to the polls. Generalizing about the law without supplementary explanations keyed to the necessity of specific provisions may be an attempt to avoid negative impressions of each provision, but such a strategy carries little merit in explaining the necessity of the composite law.

#### *Ensuring Voter Integrity*

Centrally, McCrory employs the common rhetoric of protecting “the integrity of every vote cast” which is “among the most important duties [he] has as Governor.”<sup>107</sup> This is an example of the proponents’ common strategy, discussed above, that encourages concern for voter fraud without actually requiring proof of it. McCrory reasons that even

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106. “Governor McCrory calls Justice Department Challenge of voter ID an overreach,” *Office of the Governor*, September 30, 2013, <http://www.governor.nc.gov/videos/20130930/governor-mccrory-calls-justice-department-challenge-voter-id-overreach>.

107. *Ibid.*

if cases of voter fraud are low, “that shouldn’t prevent us from putting this non-burdensome safeguard in place.”<sup>108</sup>

*Responding to the Public’s Concerns*

For McCrory, the sensibility of this law seems to come from its popularity. During an interview in November 2013, Pat McCrory cited an 80% approval rate for voter ID laws within the state of North Carolina.<sup>109</sup> While the 80% figure seems an exaggeration of the available data, there is evidence from several polls that a majority of North Carolinians did indeed support voter photo ID legislation.<sup>110</sup> McCrory also promotes VIVA as “keep[ing] North Carolina in the mainstream of election law, not the fringes.”<sup>111</sup> If he is referring to the mainstream as a trend among state legislatures of generally proposing voter restrictions, this is true.<sup>112</sup> But the “mainstream” in terms of voter identification is not photo ID requirements: As of 2014, only ten states, including

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108. Pat McCrory, “Why I signed the Voter ID/Election Reform Bill,” *News Observer*, August 12, 2013, <http://www.newsobserver.com/2013/08/12/3102124/gov-pat-mccrory-why-i-signed-the.html>.

109. Chuck Todd, “GOP Governor Defends Voter ID Bill,” *The Daily Rundown, MSNBC*, November 20, 2013, <http://www.msnbc.com/the-daily-rundown/watch/gop-governor-defends-voter-id-bill-67031619729>.

110. “A March Elon University poll showed 72 percent of North Carolinians support photo-ID at the polls. A March Civitas Institute poll showed 67 percent support, [and] an April Survey USA poll showed 75 percent overall support for voter-photo identification.” “Governor McCrory Signs Popular Voter ID into Law,” *Office of the Governor*, August 12, 2013, <http://www.governor.state.nc.us/newsroom/press-releases/20130812/governor-mccrory-signs-popular-voter-id-law - sthash.Y4y7i9wF.dpuf>.

111. “N.C. Governor: Protect Election Integrity,” *Office of the Governor*, August 28, 2013, <http://www.governor.state.nc.us/newsroom/press-releases/20130829/icymi-nc-governor-protect-election-integrity#sthash.OKeknv1h.dpuf>.

112. “Voting Laws Roundup 2013,” *Brennan Center*.



North Carolina, had passed strict photo ID requirements.<sup>113</sup> McCrory also defends the law by citing its consistency with regulations in other countries: “Nearly every democracy in the developed world requires photo ID at the polls.”<sup>114</sup>

*Promoting Photo ID as a Useful Service*

Similar to the popularity defense of the law is the argument that photo ID is required in many situations much less serious than voting, so it “makes sense” that it would be required to vote as well. As McCrory reminded his constituents when he signed the law, “Common practices like boarding an airplane and purchasing Sudafed require photo ID and we should expect nothing less for the protection of our right to vote.”<sup>115</sup>

The relevance of this assertion has its detractors. As a constituent put it during the April 10 public hearing on Voter ID, “Going out of the country, flying on an airplane and buying cold medicine, those are not rights. But voting is.”<sup>116</sup> Voting is protected by the Constitution, but many of the daily actions that require an ID are not. McCrory returned to this rationale in December 2013, when the trial date was set for the lawsuits challenging the legality of certain states voting changes, including VIVA. McCrory called it “ironic that a photo ID was required to gain entry for today’s hearing in a Federal Court Building,” and that such a requirement “presents the strongest case yet that

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113. Wendy Underhill, “Voter identification requirements,” *National Conference of State Legislatures*, March 26, 2014, <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx> - ftnref3.

114. “Governor McCrory signs popular voter ID into law.”

115. Ibid.

116. *Public Hearing: House Committee On Elections*, April 10.

requiring a photo ID to vote is common sense, even for Washington lawyers and liberal activists.”<sup>117</sup>

For McCrory, not only is requiring a photo ID not a burden, but, he claims, the requirement will “produce benefits beyond the voting booth,” by allowing citizens who previously lacked photo IDs to participate in those activities for which such identification is required.<sup>118</sup> McCrory’s assertion that acquisition of a photo ID is not burdensome is not supported by data or analysis; in particular, any analysis regarding burden that disaggregates the voting population by income, ethnicity, race, geographic location, and physical infirmity.

*Additional defenses of the law*

Besides defenses of the law in general (the “it’s common sense” argument) and the photo ID requirement in particular (its popularity, relation to other activities which require it), McCrory has publicly spoken about two other provisions of the law: VIVA’s reduction in the number of days open to early voting and elimination of same-day registration. Regarding the former, McCrory emphasized that the state did not shorten the early voting period but rather “compacted the calendar...so it’s gonna be almost identical, just the schedule has changed.”<sup>119</sup> While McCrory claimed that the new early voting schedule will “guarantee every voter has an equal opportunity to cast an early ballot,” the allowance of counties to gain exemption from the requirement to keep the

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117. “Governor McCrory speaks out on election reform ruling,” *Office of the Governor*, December 12, 2013, <http://governor.nc.gov/newsroom/press-releases/20131212/governor-mccrory-speaks-out-election-reform-ruling>.

118. McCrory, “Why I signed the voter ID/election reform bill.”

119. McCrory, “N.C Governor: Protect election integrity.”

same hours as the previous election cycle does not bode well for ensuring sufficient access for all voters.<sup>120</sup> Of course, “equal opportunity for voting” sounds fair, but that could be provided by having only one day or one hour available for early voting. Again, the assertion of the lack of negative impact this provision may have is without any data or analysis to support it. Causing further concern with the cut to early voting days is McCrory’s failure to explain why the adjustment in the number of days is necessary in the first place. Regarding the elimination of North Carolina’s same day registration, McCrory cites the need for “registration integrity” as the reason “why North Carolina will join the majority of states (37) that will not allow a person to register and vote on the same day.”<sup>121</sup> Apart from the provisions and rationale mentioned above, McCrory has not spoken publicly on the other provisions of VIVA. He has not articulated why pre-registration for 16- and 17- year olds has ended, why it is necessary to allow citizens to challenge other citizens’ identity at the polls, or why out-of-precinct ballots will no longer be counted.

McCrory has been questioned on whether his public rationale is truly his motivation for promoting this law, and it is here that he acknowledged the partisan nature of the debate. When the Department of Justice filed its lawsuit challenging North Carolina’s passage of VIVA, McCrory announced that such a move by Eric Holder was “more about politics than anything else.”<sup>122</sup> To McCrory, the lawsuit is unfair and “really about Washington politicians deciding that North Carolina cannot have the same

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120. Ibid.

121. McCrory, “Why I signed the Voter ID/Election Reform Bill.”

122. Todd, “GOP Governor Defends Voter ID Bill.”

common sense laws as other states to protect the integrity of the ballot box.”<sup>123</sup> During the interview in which he accused Holder and the Democratic side of the debate of partisan motives, he was asked if there were any politics being played on his side:

Chuck Todd: “This is not political at all? You don’t see any political benefit for the Republicans in these more restrictive laws?”

Governor McCrory: “No, actually, if you surveyed, most Democrats also agree with our laws and voter ID. So I think it’s common sense laws and much ado about nothing and trying to protect the integrity of the voter booth.”<sup>124</sup>

Surely, McCrory is correct in seeing partisan concern by Democratic leadership and thus partisan reasons for Democrats to raise the specter of voter suppression resulting from the new wave of restrictive voting legislation. Presumably, the majority of people on whom these laws may have a suppressant effect are Democrats. Second, there is evidence to suggest that an increased anger over supposed attempts at voter suppression have had a motivating effect for Democratic voters.<sup>125</sup> But politics is not a one-sided game, and although McCrory has not admitted the partisan appeal of VIVA, he and other Republicans are surely aware of the partisan impact of the law.

Overall, McCrory’s expressed reasons for enacting VIVA are neither surprising nor convincing. By reiterating the general themes of the law as common sense, protection of integrity, and the normalcy of photo ID required for other activities, McCrory does little to explicate an actual necessity of the majority of the laws’ provisions. Instead, his public defenses perpetuate the voting rights battle as ideological rather than analytic.

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123. Ibid.

124. Ibid.

125. John Nichols, “How voter backlash against voter suppression is changing our politics,” *The Nation*, April 29, 2013, <http://www.thenation.com/blog/174095/how-voter-backlash-against-voter-suppression-changing-our-politics>.

## North Carolina Legislature

The legislators who proposed and supported H 589 in the North Carolina House and Senate echoed many of McCrory's general rationales in their legislative debates and public statements. The primary sources of these comments are a House floor debate, which occurred in April 2013, and the Senate floor debate in July of the same year. Because the Republican legislators supporting the bill were engaged in active debate with their Democratic opposition, they, unlike McCrory in his press releases and public statements, were forced to respond to critiques of the bill. Accordingly, these floor debates provide rationales for the bill that the Governor did not articulate. Notably, because record of these debates is only in audio format, and since their primary purpose was inter-chamber discussion, the printed sources of data to which they refer are not available.

*Voter ID--Confidence, Integrity and Fraud:*

Like McCrory, the umbrella defense used by legislators in support of VIVA was the abstract notion of restoring confidence and integrity in the electoral system. Some argued that fraud does exist in North Carolina elections; however, like McCrory, more tended to focus on the importance of deterring future fraud, since data do not indicate a widespread fraud problem in North Carolina. As one Republican Representative put it, "Even if we accept the idea that there is no voter fraud in North Carolina...an ounce of prevention is worth a pound of cure. We know that voter fraud does exist elsewhere and we should not think that we are immune."<sup>126</sup> In fact, House Speaker Thom Tillis, a

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126. Rep. Pitman, NC. House, Floor Debate, 2013-2014 NC Leg., Reg Sess. (April 24, 2014), available at

proponent of the law, announced, “there is some voter fraud, but that’s not the primary reason for doing this.”<sup>127</sup> Rather, Tillis argued that citizens lacked confidence in the electoral process and the law was needed to address their concern for the potential risk of fraud.

The Democrats had a variety of rebuttals to the Republic contention that the legislation was necessary to restore integrity and confidence in the electoral system. If the purpose of VIVA is indeed alleviating citizen concern for the possibility of voter fraud, many in the opposition argued this motive was a skewed prioritization: “freedom from fear is not a necessary right, but the right to vote is,” as legislators described it.<sup>128</sup> Others doubted that protecting against fraud was the real motive, since the law does not require photo ID for absentee ballots. A House Democrat cited a Board of Elections study, which concluded that in 2010, about 1 out of every 200,000 in-person ballots were fraudulent, while the rate was 25 out of every 200,000 absentee ballots.<sup>129</sup> Based on these figures, he and other Democrats reasoned that concern for fraudulent ballots is overstated, in general, and clearly so in relation to in-person voting. A summary objection to VIVA, held by most opposition legislators, was that the North Carolina election system was not broken, as indicated by high voter turnout and the lack of recorded voter fraud.

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[http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=9&sFolderName=%5C2013-2014 Session%5CAudio Archives%5C2013](http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=9&sFolderName=%5C2013-2014%5CAudio%5CArchives%5C2013), 2:56.

127. Laura Leslie, “Tillis: Fraud ‘not the primary reason’ for voter ID push,” *WRAL*, March 16, 2014, <http://www.wral.com/tillis-actual-voter-fraud-not-the-primary-reason-for-voter-id-push-/12231514/>.

128. Rep. Glazier, NC. House, Floor Debate, 2:40.

129. Rep. Jackson, NC House, Floor Debate, 1:17.

*Voter Suppression, Race and Partisanship:*

The debates in both houses directly addressed voter suppression: The Republican supporters of the law claimed that suppression is neither the intent of the law nor a plausible result of its enactment. Taking it one step further, some considered photo ID necessary because in the current system, “voters are disenfranchised by the counting of improperly cast ballots or outright fraud” and “their civil rights are violated just as surely as if they have been denied the chance to vote.”<sup>130</sup> Some legislators claimed that minority electoral participation would actually rise after VIVA’s implementation, as it had in Georgia after the implementation of a photo ID law in that state. However, as was pointed out during the Senate debate, the Georgia example may actually indicate that a photo ID requirement does, in fact, depress minority turnout. Between 2006 and 2010, when Georgia’s photo ID law was implemented, turnout of registered black voters did grow by 17.5% in Georgia--but, North Carolina Democrats argued, during the same period black voter turnout grew by 40.2% in North Carolina.<sup>131</sup>

Another concern raised by opposition legislators during the legislative hearings was the disproportionate impact the photo ID provision would have on students, especially those who attended private colleges, since these would not be accepted as valid to vote. The defense of allowing public university IDs, but not those of private schools was that “you always have to draw the line somewhere,” and the line in VIVA is at

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130. Rep. Lewis, NC House, Floor Debate, 46:47.

131. Sundeep Iyer, “Voter ID supporters need statistics 101,” *Brennan Center for Justice*, July 6, 2011, <http://www.brennancenter.org/blog/voter-id-supporters-need-statistics-101>.

government-issued IDs.<sup>132</sup> Opponents pointed out the law's inconsistency in allowing non-government issued Native American tribal IDs, signifying that the disallowance of a significant portion of the student population IDs was a deliberate attempt at dampening turnout of a population which tends toward voting Democratic. Furthermore, the point was raised that as of July 2013, 16 states allowed university IDs as a legitimate form of photo ID for voting, and none made the distinction between public and private institutions.

*Ancillary Utility:*

Republican legislators reasoned, in support of the voter ID law, that the requirement would actually benefit citizens, in that the IDs they obtain to vote can be used in other transactions where IDs may be required.<sup>133</sup> Democrats responded that while this may or may not be true, that benefit is not worth the risk of losing a right to vote.

*Streamlining the process:*

Republican legislators tended to refer to the VIVA changes as streamlining the electoral process, asserting (with no quantitative analysis) that the cut in the number of days would have little impact. They also focused on the companion provision which gives local election boards the flexibility to add more polling sites, which would reduce long waiting periods at the poll. A central rebuttal by the Democrats here was that the early voting system was quite successful in attracting voters and reducing lines: It was not broken, and did not need fixing. As mentioned in Chapter 2, over half of the ballots

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132. Rep. Samuelson, NC House, Floor Debate, 1:39.

133. Rep. Samuelson, NC House, Floor Debate, 1:08.



cast in North Carolina in 2012 were cast in the 17-day early voting period, with over 900,000 ballots cast in the first week. Opponents of the law viewed the reduction from 17 to 10 days as another attack on minority voters, because black disproportionately vote in the first week of the early voting period. Furthermore, while proponents argued that the new law allowed local boards of election to add additional polling locations, opponents objected that because: a) the new law has no *requirement* for boards to open additional polling locations and b) adding more sites would require local boards to purchase voting machines, they are unlikely to be able or inclined to do.

*Alleviating Confusion:*

The only rationale offered during the debates for cutting pre-registration of minors (16- and 17-year olds) was to lessen the alleged confusion surrounding pre-registration. No evidence supporting existence of confusion was provided during the debate other than by a proponent of the law who described his son's confusion when, after pre-registering, he assumed he would be able to vote in the next election but was unable to do so because the next election occurred before he turned 18 years old. By cutting pre-registration, the Republican majority asserted, new voters can only register after they have reached 18 years of age and will know without confusion that they are eligible to vote in the next election (unless they register within 25 days of the election, since same-day registration was eliminated). A Democratic senator pointed out that this is a weak defense because the pre-registration program that was in place in high schools involved a civic education portion in which students were informed of the date of the first election when they would, in fact, be eligible to vote.

*Eliminating same-day registration to reduce voter fraud and to alleviate stress among poll workers:*

Republican legislators argued that the law's elimination of same-day registration would allow election officials more time to verify voter identity, and thus increase the integrity of the ballots cast and reduce voter fraud. They also claimed that it is a significant strain on election officials to ensure registration eligibility on Election Day.

Democratic legislators argued that same day registration was an effective way to promote broader participation by the electorate. Additionally, instead of reducing the burden at polling stations, the new law would add to the difficulties for poll workers, including: working longer hours (since days are cut for early voting, but hours are to stay the same); taking on greater responsibility for determining that a voter looks like his/her photo ID--however old the ID may be; and having to spend time responding to identity challenges brought by (any) voter who believes someone may be lying about his/her identity. Democratic legislators also pointed out that, like early voting, there was neither evidence nor significant public concern that the same-day registration system needed fixing.

*Voters should know how to vote*

Eliminating ballots cast out-of-precinct, a change referred to by a Republican Senator as "small part of the overall streamlining of the election process," has received little attention.<sup>134</sup> The main argument for including this provision was a call for voters'

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134. Sen. Rucho, as quoted by Gary D. Robertson, "New law bars voting outside of precinct," *Charlotte Observer*, April 9, 2014, <http://www.charlotteobserver.com/2013/08/18/4246395/new-law-bars-voting-outside-of.html#.U0YjO61dUag>.

“common sense” in casting ballots. As Republican Representative Samuelson, one of the bill’s chief sponsors, summarized in reference to the law in general, “Yes, voting is a right, but we also have a responsibility to do it intelligently.”<sup>135</sup> This logic was specifically related to the out-of-precinct law change: “If you do cast your ballot, you should know which precinct you belong in.”<sup>136</sup>

#### Public Hearings (Interest Groups)

The public hearings held by the House Committee on Elections produced a variety of defenses and condemnations of voter ID regulations and of H 589 more broadly. At both the March and April hearing, about half of the speakers were individuals associated with state public interest organizations, county electoral bodies, or state or county political parties. Others spoke without organizational affiliation. The following groups were represented at the hearings.

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135. Rep. Samuelson, NC House, Floor Debate, 2:28.

136. Sen. Rucho, “New Law Bars Voting Outside of Precinct.”

**Table 1.** North Carolina Organizations Represented at Hearings of the NC Committee on Elections

Organizations Supporting VIVA	Organizations Opposing VIVA
Federation of Young Republicans	Southern Coalition for Social Justice
Voter Integrity Project	North Carolina NAACP
Citizens for Constitutional Liberties	North Carolina ACLU
Various County GOP organizations	League of Women Voters
We the People	North Carolina AARP
	Disability Rights North Carolina
	Democracy North Carolina
	North Carolina Center for Voter Education

Source: Data adapted from *Public Hearing: House Committee On Elections*, March 12, and *Public Hearing: House Committee On Elections*, April 10.

In most contentious policy debates, positions and rationales adopted by the public mirror those of political leaders or the leaders of sympathetic interest groups. Typically, citizens are not sufficiently invested in a particular issue to study and expand on the already developed positions of political and interest group leadership. The public testimony during these hearings was an interesting variation in that regard. Interest groups and members of the public who favored the law were much more likely to insist on a current epidemic of voter fraud than were the legislators responsible for the law. Still, the overarching theme of promoting confidence in the electoral system continued.

### *Reducing Fraud*

Predictably, the existence of or potential for fraud was the central argument advanced by those who favored the stricter election law, specifically that there is substantial opportunity for fraud in the current system and numerous instances of it. Many anecdotes of individual cases of fraud were cited, the majority of which were provided to citizens to read aloud by the Voter Integrity Project.<sup>137</sup> While speakers in favor of the law did not cite conclusive quantitative data indicating fraud, they argued that this does not mean it doesn't exist, on the grounds that North Carolina election systems did not have mechanisms to accurately identify and record fraudulent voting. Proponents used this same rationale for VIVA's poll challenger provision, claiming that without this added safeguard, surely some instances of fraud were going unrecorded. In addition to fraud being lessened by the implementation of a voter ID law, it was claimed that eliminating same-day registration was "the most direct route" to combating fraud.<sup>138</sup>

### *Ease of obtaining an ID*

It was also argued that obtaining the required ID would be easy for almost all eligible citizens, and with proper planning and preparation, state systems would ensure

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137. During the hearings, it was clear that many of the testimonies were scripted, by the use of similar/identical language in what was close to one dozen testimonies during the 2nd hearing. One citizen began her testimony stating, "And I have, of course, another one of these things here from the Voter Integrity people, who have done a magnificent job in their research," and continued to tell an anecdotal story. *Public Hearing on Voter Identification: House Committee On Elections*, April 10, 2013, accessed at <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2013&BillID=h+589&submitButton=Go>.

138. Wake County GOP, *Public Hearing: House Committee On Elections*, April 10, 39.

that all eligible voters would be able to cast their ballots with the required ID by 2016. Supporters downplayed the difficulty some citizens may have in obtaining IDs on the grounds that photo ID requirements already abound in society. Some also echoed the argument offered during the General Assembly debates that the photo ID obtained to vote would be advantageous in other areas of life.

Of course, opponents were skeptical that all, or even most, voters without IDs would be reached in time to vote in the 2016 election. In addition to time and financial costs that voters would incur in securing the proper ID, opponents of its passage objected to the state incurring costs for an unnecessary requirement. The free IDs that the law provides for voters are, of course, not free, but must be paid for by the state and counties in times when there are other pressing needs.

#### Public Policy Organizations

Several public policy organizations have devoted significant resources to assessing voting rights and electoral systems and to tracking reform proposals. The most prominent organizations supporting increased electoral regulations in recent years have been the Heritage Foundation and ALEC. Leading opposition to recent legislative action to tightening election law is the Brennan Center for Justice. As discussed in Chapter 2, ALEC was partially responsible for the increase in restrictive state legislative bills. However, in 2012, they disbanded the “Public Safety and Election Task Force,” that led their initiatives on election legislation and reform.<sup>139</sup> Accordingly, the Heritage

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139. This taskforce was also responsible for the “Stand Your Ground” laws, which came under scrutiny because of the shooting of Trayvon Martin that year. They disbanded the task force because of the nation negative media received and announced, “We are refocusing on our commitment to a free-market, limited government, and pro-growth principles,” at least publicly abandoning the voting rights battle, which they had

Foundation stands as the leading conservative public policy group devoted to voting rights and election requirements. In opposition to the Heritage Foundation's support of such laws is the Brennan Center for Justice, a group "at the center of the fight to preserve and expand the right to vote for every eligible citizen."<sup>140</sup> In their commitment to fighting restrictive laws, the Brennan Center has filed amicus briefs in many of the recent voting rights lawsuits, including those challenging VIVA.

*The Heritage Foundation*

The Heritage Foundation has been an outspoken and prominent proponent of VIVA and similar laws in other states, and is a prolific source of possible rationales that support or supplement those available in the legislative process. They defend voter ID requirements using generally the same reasons we have observed thus far: that voter fraud exists and laws are needed to detect and deter it, that the law promotes "integrity and reliability of the electoral process," and that it is popular among the majority of voters.<sup>141</sup> The Foundation supports the notion that voter ID is a "common sense requirement," that the rise in minority electoral participation in states which have implemented voter ID laws indicates the such laws promote participation, and that the

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led. John Nichols, "ALEC Disbands Task Force Responsible for Voter ID, 'Stand Your Ground' Laws," *The Nation*, April 17, 2012, <http://www.thenation.com/blog/167425/alec-disbands-task-force-responsible-voter-id-stand-your-ground-laws>.

140. "Voting Rights & Elections," *Brennan Center for Justice*, <http://www.brennancenter.org/issues/voting-rights-elections>.

141. Hans A. von Spakovsky, "Requiring Photographic Identification by Voters in North Carolina," *The Heritage Foundation*, July 18, 2013, <http://www.heritage.org/research/lecture/2013/07/requiring-photographic-identification-by-voters-in-north-carolina>.

requirement of photo ID in other areas of life makes its implementation for voting not such a big deal.<sup>142</sup> They also support the elimination of same-day voter registration because, like in-person voting in general, it is “highly vulnerable to organized election fraud.”<sup>143</sup>

Although the Heritage Foundation has not addressed the ban on out-of-precinct voting or the provisions allowing poll challengers, that rationale is also likely tied to eliminating voter fraud. Notably, and unlike the North Carolina law, the Heritage Foundation calls for the implementation of voter ID laws for absentee as well as in-person ballots. As with the previously discussed defenses of the law, Heritage focuses primarily on the voter ID requirement, but has commented briefly on some of the other provisions as well. The Foundation considers objections to the elimination of pre-registration as a “frivolous claim,” since “the vast majority of the states do not allow their 16- and 17-year-olds to register to vote.”<sup>144</sup> Regarding early voting, the head of the Foundation’s Election Law Reform Initiative offered that the cut in days might actually

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142. Hans A. von Spakovsky and Peter McGinley, “Voter ID: protecting the integrity of our elections,” *The Heritage Foundation*, March 10, 2014, <http://blog.heritage.org/2014/03/10/voter-id-protecting-integrity-elections/>.

143. Hans A. von Spakovsky, “Mandatory Voter Registration: How Universal Registration Threatens Electoral Integrity,” *The Heritage Foundation*, March 27, 2013, <http://www.heritage.org/research/reports/2013/03/mandatory-voter-registration-how-universal-registration-threatens-electoral-integrity>.

144. Barry Smith, “NAACP expands election law challenge,” *Carolina Journal Online*, January 10, 2014, [http://www.carolinajournal.com/exclusives/display\\_exclusive.html?id=10754](http://www.carolinajournal.com/exclusives/display_exclusive.html?id=10754).



*increase* turnout because a longer period “disperses the get-out-the-vote efforts” and voters who aren’t highly motivated may decide not to vote.<sup>145</sup>

*Brennan Center for Justice*

The Brennan Center for Justice (of the New York University School of Law), “a nonpartisan law and policy institute that seeks to improve our systems of democracy and justice,” has for the last decade been active in identifying and promoting a rational and inclusive voting system for states, one that would achieve the Center’s goal of expanding access to voting by making registration and voting easier.<sup>146</sup> Like the Heritage Foundation, the Brennan Center is critical of aspects of current voting systems both nationally and at the state level, and has supported recommendations for improvement of them. However, in sharp contrast to the Heritage Foundation’s positions, the majority of the Brennan Center’s recommendations focus on expanding voting access and include recommendations for implementing online registration, same-day registration, pre-registering 16- and 17- year olds, and implementing/lengthening the early voting period.<sup>147</sup>

Clearly, most of the provisions of VIVA are not in line with the Center’s recommendations for increasing voting access for eligible voters. Essential to understanding the dramatic difference between the Brennan Center’s approaches and

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145. Barry Smith, “Experts see election reforms having little effect on turnout,” *Carolina Journal*, August 29, 2013, [http://www.carolinajournal.com/exclusives/display\\_exclusive.html?id=10449](http://www.carolinajournal.com/exclusives/display_exclusive.html?id=10449).

146 “Our mission,” *Brennan Center for Justice*, <http://www.brennancenter.org/about>.

147. “Voting Laws Roundup 2014,” *Brennan Center for Justice*.

those included in VIVA is the Center's reliance on the two principal findings of their 2007 study: a) Voter fraud is not a significant part of elections and b) allegations of widespread fraud are often used to justify election controls that could lead to de facto disenfranchisement of eligible voters.<sup>148</sup> The Brennan Center classifies legislation for photo ID requirements as "misguided," and wasted time and resources spent "remedying" a problem, the instances of which are fewer than the number of Americans struck by lightning each year.<sup>149</sup> Regarding early voting, the Center recently assessed the impact of shortening early voting periods, concluding that a period of "10 week days and at least two weekends" is generally required to avoid excessively long lines at polls, such as those that occurred in Florida in 2012. The Center also challenges the elimination of pre-registration (of 16- and 17- year olds): They cite experience of the eight states with such a program that confirm that it does not add confusion, and is a cost-effective means of ensuring that a newly eligible voter is "registered and able to vote as soon as she is eligible."<sup>150</sup>

Contrary to the Heritage Foundation's assessment that same-day registration is extremely vulnerable to organized fraud, the Brennan Center supports same-day registration and pre-registration as effective means of increasing eligible voter

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148. Justin Leavitt, *The Truth About Voter Fraud*, (New York: Brennan Center for Justice, 2007) <http://www.brennancenter.org/sites/default/files/legacy/The%20Truth%20About%20Voter%20Fraud.pdf>.

149. Nhu-Y Ngo, "Voter ID a misguided effort," *Brennan Center for Justice*, December 13, 2010, <http://www.brennancenter.org/blog/voter-id-misguided-effort>.

150. "VRM in the states: pre-registration in states," *Brennan Center for Justice*, September 1, 2013, <http://www.brennancenter.org/analysis/vrm-states-pre-registration-states>.

participation, as evidenced by its record in 15 states.<sup>151</sup> Finally, the Brennan Center opposes the implementation of poll challenger laws. In their 2012 assessment of those laws, they found them susceptible to abuse and used to target voters of color, student voters, and voters with disabilities. Challenger laws, they assert, perpetuate a legacy of past discrimination, when the practice was a common tool employed to suppress newly enfranchised groups such as women and black Americans.<sup>152</sup>

### General Summary of Rationales

In summation, the arguments employed during and following VIVA's legislative process were generally:

- Voter photo ID is popular, as is allowing identity challenges at the polls. Both are needed to combat fraud, ensure election integrity, and build public confidence in election. The ID requirement will be an added benefit to citizens in other areas of their lives. Finally, obtaining the proper ID is, or will be, easy for all eligible voters.
- Early voting isn't *actually* changing, just being restructured.
- Same-day registration is susceptible to fraud, and stressful for poll workers.
- Pre-registration for 16- and 17- year olds is confusing to these new voters.
- Voters should have enough common sense to know how to vote within their home precincts.

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151. Jonathan Brater, "Testimony: presidential voting commission can modernize elections," *Brennan Center for Justice*, September 4, 2013, <https://www.brennancenter.org/analysis/testimony-presidential-voting-commission-can-modernize-elections>.

152. Nicolas Riley, *Voter Challengers*, (New York: Brennan Center for Justice, 2012).

According to VIVA opponents, each of these restrictions on voting may or will make it harder for citizens to vote, i.e., to exercise what is perhaps the most essential constitutional right in a democracy. And because the right to vote is so important, proposals to modify eligibility or electoral procedures must meet a high burden of proof of that necessity. Because of the lack of evidence or due to flawed reasoning, the rationales advanced in the legislatures' considerations of VIVA are not persuasive and do not justify the plausible infringement upon the right to vote.

## **Chapter Four: Conclusion**

### Analysis of Rationales

The battle over voting rights is a national issue with local impact, and a local issue affecting national politics. As this investigation into the conditions that led to VIVA's enactment and the debate on its necessity and impact show, election law reform has become a partisan and ideological issue rather than the subject of serious public policy debate. This is reflective of today's polarized political atmosphere. The voting rights debate, at least in state legislative consideration and proceedings, has been simplified into black and white, back-and-forth pronouncements of voter integrity/fraud vs. voter suppression. But citizens and serious public policy organizations should take care in accepting politicians' rhetorically charged and largely unsubstantiated pronouncements, and take a more critical lens to the political discourse and jargon saturating this debate over their constitutional right to vote.

As citizens, we often assume that politicians have a better understanding of proposals or policies than is accessible to us. We like to think that when politicians propose significant legislative changes, they have clear and sufficient reasons for doing so. But the study of the rationales used to justify VIVA makes clear that in regard to the majority of restrictive election reforms this assumption is unfounded. Given the critical importance of voting rights, the rationales advanced to date are, in the main, weak and insufficient. They amount to (mere) assertions without supportive data and convincing analysis. Accordingly, it is reasonable to presume that North Carolina's precipitous push for major reform was--and is--motivated by stronger convictions than those offered in floor debates and public pronouncements. By assessing VIVA provision-by-provision,

the reasons supporting or opposing each, and the political alignment in the state, it is evident that these convictions are not primarily motivated by a quest for electoral integrity, but rather for partisan electoral advantage.

The predominately partisan nature of the VIVA debate meant that the justifications for most of the provisions were largely inadequate, cursory or absent. When the legislature assured that cutting early voting days would have no negative impact on polling access or wait times, they provided no evidence. The elimination of pre-registration for 16- and 17- year olds was supported by a trivial anecdote. While relevant experience related to the impact on poll workers of allowing poll challengers was available, it went unaddressed.<sup>153</sup> And there remains substantial uncertainty about the structure, organization and cost of an efficient statewide registration system that would ensure that all eligible voters have a reasonable opportunity to meet the new photo ID requirement. While there is some evidence from other states that same-day registration increases voter turnout, the legislature instead asserted that its elimination was necessary to reduce the opportunity for voting fraud---a claim not substantiated by evidence from VIVA's supporters nor found in the recent Brennan Center study on Election Day registration around the country.<sup>154</sup>

Of course, any legislative proposals for major or minor electoral reform, whether to address fraud or increase voter access, or increase partisan advantage or curtail it, is hampered by the lack of relevant election reform data and unbiased analysis of the costs and benefits of alternative reforms. The universal constraint of limited data suggests that

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153. Riley, *Voter Challengers*.

154. Lorraine Minnite, *Election Day Registration: A Study of Voter Fraud Allegations and Findings on Voter Roll Security*, (Demos: New York, 2007), [http://www.brennancenter.org/sites/default/files/analysis/edr\\_fraud.pdf](http://www.brennancenter.org/sites/default/files/analysis/edr_fraud.pdf).

legislators do the best they can with the pertinent data that is available, even if it is not wholly satisfactory. An important indicator that this principle was not operating in the North Carolina legislature is that the resulting set of proposals that compromise VIVA exhibited inconsistency of objective among the provisions. VIVA as a package was promoted as addressing constituencies' lack of confidence in the electoral system. Yet, there is no evidence that pre-registering 16- and 17- year olds caused either election fraud or public concern. Similarly, VIVA supporters repeatedly classified it as a common sense law with widespread support by North Carolinians. But there were no studies conducted on the popular support either for each individual provision or of the law itself. Instead, the figure cited by Republican politicians as indicating that a majority of North Carolinians supported the law was taken from a series of polls conducted specifically and only on the implementation of voter photo ID.<sup>155</sup>

Further conflicts in rationale are clear when the individual provisions and their justifications are compared to one another. Republican legislators promoted a reduction in early voting days as a means of generating resources that would allow the local election boards to open more polling places, making voting more geographically accessible. If geographic accessibility were the reason, why would VIVA eliminate counting of out-of-precinct ballots by voters who were unable to make it to their designated polling locations? If requiring in-person voters to present photo IDs was adopted to cut down on instances of fraud, why were IDs not required for absentee voting, where at least some cases of fraud have been documented? If same-day registration was eliminated, in part, to lessen poll workers' stress on Election Day, why

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155. "Survey finds wide support for voter ID law," *Elon University*, February 24028, 2013, [http://www.elon.edu/docs/e-web/elonpoll/030413\\_ElonPoll\\_voterID.pdf](http://www.elon.edu/docs/e-web/elonpoll/030413_ElonPoll_voterID.pdf).

were these workers given the task of responding to a voter's challenge of another voter's identity? If private university students IDs are not acceptable for voting because they are not government-issued, why were tribal identification cards accepted? The aggregation of provisions has yielded a number of such inconsistencies, which further confirms VIVA opponents' assertion that these markedly different provisions are grouped by a common denominator, but one other than the intent to establish an accessible and upright voting system. This catalogue of rationales demonstrates that the consistent factor joining VIVA provisions, and tightening restrictions in other states, is Republican legislators' assessment of a partisan electoral advantage stemming from the implementation of these laws.

#### Alternative Explanation for VIVA: Partisan motivation

The motivation for North Carolina's Republican legislators to seek this particular electoral advantage is grounded, at least in part, in the demographic and political composition of the state. With the 2010 redistricting and the Republican gains in the mid-term elections, North Carolina's government is solidly Republican-aligned. And if the electorate were to continue to look as it did in 2012, Republicans would be well situated to retain the advantage they currently enjoy. However, the composition of the electorate *is* changing in ways that indicate a future electoral disadvantage to the Republican Party. In December 2013, the nonpartisan group Democracy North Carolina released a report on the most recent descriptive data on the North Carolina electorate. It showed that between 1993 and 2013, the proportion of the state electorate composed of unaffiliated voters increased from 8% to 26%. During the same period, Republican affiliation remained



steady at 31%, and Democratic affiliation decreased from 60% to 43%.<sup>156</sup> While the data here would seem to suggest a waning, but still existent, Democratic advantage in the electorate, turnout rates explain the disparity between constituent affiliation and electoral success: North Carolina Republicans tend to vote at higher rates than Democrats.<sup>157</sup> If the current composition in party affiliation and voter turnout persists, and if Democrats continue to lose relative strength among the *active* electorate, the Republican Party would likely maintain the advantage they experienced in the 2010 and 2012 elections. However, a complication in realization of that scenario is raised by the changes in population demographics in the state.

From 2002 to 2012, North Carolina's Hispanic population has increased by 111%, black population by 17.9% and white population only by 12.5%.<sup>158</sup> Such changes would tend to dilute the electoral influence of Republican-aligned voters, since both black and Hispanic voters tend to align with the Democratic Party over the Republican Party.<sup>159</sup> According to a Pew Research study of 2012, "more than twice as many Hispanics either identify as Democrats or lean toward the Democratic Party as identify with the GOP or lean Republican [57% vs. 24%]."<sup>160</sup> And the disparity is even greater

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156 Bob Hall, "North Carolina voters: less white, more independent," *Democracy North Carolina*, December 17, 2013, <http://pulse.ncpolicywatch.org/wp-content/uploads/2013/12/Dem-NC-Voter-Reg-Changes.pdf>.

157. Jeffrey M. Jones, "State of the states: political party affiliation," Gallup, January 28, 2009, <http://www.gallup.com/poll/114016/state-states-political-party-affiliation.aspx>.

158. Ibid.

159. "Trends in Party Affiliation," *Pew Research*, June 4, 2012, <http://www.people-press.org/2012/06/04/section-9-trends-in-party-affiliation/>.

160. Ibid.

among black voters, who “continue to overwhelmingly align with the Democratic Party [69%].”<sup>161</sup> Given these trends, Republicans incentives to grow the electorate are minimal because doing so will likely dilute the 2012 Republican-aligned electorate that made possible Republican control of the state House, Senate and Gubernatorial office. From these data on race, ethnicity, and party preference/affiliation, there is clear motive for Democrats not only to rally against laws which may negatively impact their current electorate, but to seek electoral practices that make registration and voting easy for new voters (who are likely to vote disproportionately in their favor). These data support the case that partisan advantage, not voter integrity, is the primary purpose behind the legislature’s preparation and enactment of the VIVA reforms and, at least in part, behind the Democratic response.

Of course, pursuing and implementing laws motivated by partisan advantage is the nature of the politics, and such incentive will always drive a significant portion of legislation in American politics. This is particularly so in current American politics, in which the partisan gap, a measure of polarization, is nearly double the level it was 25 years ago.<sup>162</sup> While Republican and Democrat efforts to manipulate electoral law have in large part been driven by partisanship I consider unproductive, it *has* had a side benefit of stimulating debate on the weaknesses in state and national electoral systems. From this increased attention, there is reason, however slight, to be optimistic that politicians and

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161. Ibid.

162. Andrew Kohut, *Partisan Polarization Surges in Bush, Obama Years: Trends in American Values* (Washington, D.C.: Pew Research, 2012) <http://www.people-press.org/2012/06/04/partisan-polarization-surges-in-bush-obama-years/>, 1.

advocacy groups may begin focusing on identifying reforms that will contribute to reliable, efficient, and inclusive election system(s) at the national and state levels.

### Looking Forward

Our election systems do need fixing: Voter rolls are inaccurate, availability of polling sites is insufficient or geographically unbalanced, citizens who are eligible to vote do not register, and many registered voters do not vote. Voting registration is more convenient in some states, such as those with mail-in ballot systems, same day registration, and extended early voting periods.<sup>163</sup> Although most of VIVA’s provisions address “problems” which are neither pressing nor necessarily remedied by the law, some of the policies might be part of future productive reform efforts. In the coming years, a system of photo voter ID is likely to be adopted in most states. As discussed, the majority of North Carolinians seems to support the implementation of photo voter ID.<sup>164</sup> And nationwide, a majority of citizens also support the incorporation of photo ID requirements into election law.<sup>165</sup> Because this requirement does have popular support, it could help improve public confidence in elections—if designed and implemented in a

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163. Regarding Registration: “North Dakota does not even require it, and Alabama and Kansas reported rejecting less than 0.05 percent of registration applications in 2008. But Pennsylvania and Indiana each rejected more than half of the registration applications they received in 2010.” Adam Liptak, “Lost votes, problem ballots, long waits? Flaws are widespread, study finds,” *The New York Times*, February 5, 2013, <http://www.nytimes.com/2013/02/06/us/politics/us-voting-flaws-are-widespread-study-shows.html?smid=pl-share>.

164. “Survey finds Wide Support for Voter ID Law,” *Elon University*.

165. David C. Wilson, “Public opinion on voter ID laws: Strong support, shaky foundation,” *Huffington Post*, February 18, 2012, [http://www.huffingtonpost.com/david-c-wilson/public-opinion-on-voter-i\\_b\\_1683873.html](http://www.huffingtonpost.com/david-c-wilson/public-opinion-on-voter-i_b_1683873.html).

manner that allows all eligible voters to meet registration requirements easily and to cast their ballots conveniently.

The attention generated by partisan-driven election law reform has prompted some recent non-partisan election law reform proposals at the state and federal levels. The latest and most prominent example is the collection of recommendations from the 2014 Presidential Commission on Election Administration's report on the current status of the election system.<sup>166</sup> The report's recommendations were and are a good place to start in identifying needed reforms. The recommendations are focused, "above all," on creating a "modern, efficient, and responsive administrative performance in the conduct of elections."<sup>167</sup> Of course, implementation will undoubtedly vary by state, largely based on party leadership: We can expect that North Carolina won't be spearheading such reform efforts. What the report does provide in relation to North Carolina is, as a counterexample to VIVA, a broad set of recommendations for productive election laws that are supported by much better, less partisan, rationale.

Unlike the provisions in VIVA, the Commission's recommendations are each reasonably tailored to the specific problems they are intended to fix.<sup>168</sup> For example, online voter registration is recommended as an effective means of making registration more accessible for more eligible voters.<sup>169</sup> The Commission recommends expanding early and mail-in voting opportunities in order to limit congestion on Election Day and to

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166. *The American Voting Experience*, Presidential Commission on Election Administration.

167. *Ibid*, 4.

168. *Ibid*, 16.

169. *Ibid*.

increase turnout. Because many voting machines that were originally bought with HAVA funds will soon need to be replaced, the Commission recommends the adoption of “widely available, off-the-shelf technologies” and “software-only” solutions.”<sup>170</sup> By focusing on those elements of the electoral systems that voters and experts find most troubling, and by adhering to a generally nonpartisan agenda, the Commission’s proposals have largely avoided the controversy that has surrounded VIVA and other similar proposals. Groups from both the left and right sides of the voting rights debate have been receptive of the report’s proposals. The ACLU summarized, ‘Overall, these are a series of recommendations that make sense, but we have to analyze them comprehensively both for their civil rights and privacy implications.’<sup>171</sup> John Fund, rarely on the same side of the debate as the ACLU, stated that the report “suggests good reforms,” but also cautioned that its support for no-excuse absentee ballots is wrong.”<sup>172</sup> This highlights that while political parties are bound to differ on specific aspects of election reform, there is possibility for common action to improve our systems.

This case study on restrictive voting legislation in North Carolina, as representative of laws proposed and enacted in states around the country, shows that politicians’ rationales can be, and in this case are, unconvincing and contrived. If, as this and other investigations suggest, the primary motive is partisan advantage achieved by

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170. Ibid, 17.

171. “ACLU Comment on Presidential Election Commission Report.” *ACLU*, January 22, 2014, <https://www.aclu.org/voting-rights/aclu-comment-presidential-election-commission-report>.

172. John Fund, “Improving our Voting Systems,” *National Review*, January 24, 2014, <http://www.nationalreview.com/article/369337/improving-our-voting-systems-john-fund>.

burdensome voting restrictions, data indicate that the majority of citizens are at odds with these proposals.<sup>173</sup> Rather, citizens generally favor increasing access to polls, while simultaneously preventing voter fraud.<sup>174</sup> So if laws such as VIVA are not accomplishing what citizens truly want, how do we ensure that politicians such as the Republican majority of the North Carolina legislature stop proposing them, and instead shift their focus to laws which tangibly achieve what the electorate wants?

*Shifting the focus of election reform legislation*

One approach worth consideration stems from David Mayhew's theory laid out in the canonical *Electoral Connection*, which explains that politicians are, first and foremost, "single-minded seekers of reelection," and this is the motivation behind their legislative actions.<sup>175</sup> According to Mayhew's theory, legislators' activities can be categorized into three types of action: credit-claiming, position-taking and advertising.<sup>176</sup> The activity related to legislative action on voting rights is position-taking, which is "the public enunciation of a judgmental statement on anything likely to be of interest to political actors."<sup>177</sup> According to the theory, and evident in politics of contentious issues today, North Carolina Republicans would consider a different stance on voting and

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173. "What if Everyone Voted?" *iVote*, March 12, 2014, Research Briefing, [http://d3n8a8pro7vhmx.cloudfront.net/ivoteforamerica/pages/23/attachments/original/1394595860/3.12.14\\_Research\\_Briefing.pdf?1394595860](http://d3n8a8pro7vhmx.cloudfront.net/ivoteforamerica/pages/23/attachments/original/1394595860/3.12.14_Research_Briefing.pdf?1394595860).

174. *Ibid.*

175. David R. Mayhew, *The Electoral Connection*, (New Haven: Yale University Press, 1974). 5.

176. Mayhew, *Electoral Connection*: 49 (advertising), 52 (credit-claiming), 61 (position-taking).

177. Mayhew, *Electoral Connection*, 61.

registration restrictions if such a position is called for first by a “solid consensus in the constituency.”<sup>178</sup> The possibility of Republicans shifting their position on election reform to one more focused on expansion, not restriction, of voting access would likely happen in two, perhaps concurrent conditions.

### **Changing Demographics**

Nationwide, as in North Carolina, it is possible that changing demographics will induce Republicans to reevaluate their stance on voting rights and restrictions. The Republican Party today is, essentially, “The White Man’s Party.”<sup>179</sup> Colin Powell, a Republican himself, asserted that there are “certain elements in the party that seem to go out of their way to demonize people who don’t look like the way they’d like them to look like,” and such is a significant factor in the lack of support the Republican Party enjoys among minority voters.<sup>180</sup> In 2012, 80% of non-white voters nationwide voted for President Obama, and with these same groups set to collectively become the majority of the electorate by 2050, Republicans are likely to have to change some of their current positions on a number of issues.<sup>181</sup> Keeping the active electorate from growing by

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178. Mayhew, *Electoral Connection*, 64.

179. Sam Tanenhaus, “Why the GOP is and will continue to be the party of white people,” *New Republic*, February 10, 2013, <http://www.newrepublic.com/article/112365/why-republicans-are-party-white-people>, Ian Haney-Lopez, “How the GOP became the ‘white man’s party,’” *Salon*, December 22, 2013, [http://www.salon.com/2013/12/22/how\\_the\\_gop\\_became\\_the\\_white\\_mans\\_party/](http://www.salon.com/2013/12/22/how_the_gop_became_the_white_mans_party/).

180. Brendan Bordelon, “Colin Powell: ‘Certain elements’ in Republican Party ‘demonize’ minorities, women,” *The Daily Caller*, February 7, 2014, <http://dailycaller.com/2014/02/07/colin-powell-certain-elements-in-republican-party-demonize-minorities-women/>.

181. Paul Taylor and D’Vera Cohn, “A milestone en route to a majority minority nation,” *Pew Research*, November 7, 2012,

enacting laws widely viewed as designed to dampen minority (and therefore Democratic) participation is not a sustainable strategy for electoral success. As minority voters become an even larger part of the electorate, Republicans will likely need to modify their stance on voting rights in order to gain votes sufficient to achieve success at the polls. The party cannot expect widespread support among the growing minority and young constituencies if they continue to support laws understood as intended to decrease electoral participation of these very groups. Or, if the Republican Party is successful in appealing to minority populations and can do so without losing their current base, Republican politicians would lose incentive to impose restrictive voting laws. If, for example, Republicans were to capture the Latino vote through moral, economic, or social strategies, they would of course benefit from implementing laws that make it easier for this constituency to vote. But waiting for demographic changes to drive the reversal of Republican-led restrictions to voting will likely be a very slow process. There is, however, a possibility that a second, more action-oriented, strategy may also lead to shifts in the position-taking strategy of the Republican Party.

### **Issue Salience of Voting Rights and Election Law**

In general, and despite broad public experience in actually casting ballots, there is a serious lack of understanding and awareness among citizens regarding election laws, procedures, and restrictions. A public opinion poll conducted in 2012 by the University of Delaware's Center for Political Communication (CPC) showed a few key findings indicating significant public misinformation and confusion about current election law.<sup>182</sup>

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<http://www.pewsocialtrends.org/2012/11/07/a-milestone-en-route-to-a-majority-minority-nation/>.

182. Wilson., "Public Opinion on Voter ID."



When asked, “What is your opinion? Do you strongly favor, favor, oppose or strongly oppose voter ID laws?” 81% of respondents were in favor of the laws.<sup>183</sup> But when framed, “Opponents of voters ID laws argue they can actually prevent people who are eligible to vote from voting. What is your opinion?” the number of respondents in favor of the laws dropped 12 points.<sup>184</sup> This indicates that a substantial number of citizens’ stances are unstable enough to change significantly when the frame of the voting rights debate is slightly modified. A second set of responses is also indicative of a low information base in the public’s understanding of voting restrictions: In the same survey, 43% of respondents said they were “somewhat familiar” with the issue of voter ID laws, only 22% “very familiar,” and 34% not familiar at all.<sup>185</sup> Finally, and most telling of the electorate’s low level of information as it concerns voter ID laws, a considerable proportion of citizens are wrong about their own state’s election law. Citizens were asked if their states had photo ID laws in place: of those who responded “yes,” 69% were incorrect.<sup>186</sup> As an issue affecting every single voter in the United States, this lack of awareness and/or misinformation is likely a significant factor that allows Republican legislators to comfortably promote VIVA-like policies. From such findings indicating broad lack of election law awareness, the study concluded, “Ultimately, public opinions

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183. Ibid.

184. Ibid.

185. Ibid.

186. Ibid.

on the issue are clearly shaped by those framing the debate,” not by well-informed evaluations.<sup>187</sup>

Theory and experience indicate that politicians will only shift their focus in election law from restricting voting to expanding access/improving efficiency if there is a “solid consensus in the constituency” to do so.<sup>188</sup> Experience with other contentious issues suggests that public education and media promotion might increase public awareness and, even if driven by partisan Democratic initiatives, that might be effective in causing this beneficial shift. An examination of recent discussions within the Republican Party indicate of a softening of the party’s opposition to gay marriage, which has been one of the most contentious political issues of our time. That dynamic illustrates that substantial policy shifts can and do result from heightened public awareness through effective and persistent campaigns that ride a wave of demographic change.

From 2003 to 2012, gay marriage support grew not only among the general population, but also substantially within the Republican base.<sup>189</sup> According to analysis of data gathered from public opinion polling by *Project Right Side*, support for gay marriage among:

- White Evangelical Protestants grew 24 percentage points to 31%
- Evangelical Millennials [b. 1980-2000] grew 25 percentage points to 64%

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187. Ibid.

188. Mayhew, *Electoral Connection*.

189. Alex Lundry, “Key Data on Marriage Equality,” *Targetpoint Consulting on behalf of Project Right Side*, March 22, 2012, [http://www.projectrightside.com/contentimages/FINAL\\_Key\\_Data\\_on\\_Marriage\\_Equality\\_3-2013.pdf](http://www.projectrightside.com/contentimages/FINAL_Key_Data_on_Marriage_Equality_3-2013.pdf).

- Self-Identified Conservative support grew 23 percentage points to 33%
- Catholics grew 19 percentage points to a 59% high
- Self-identified Republicans saw support go up to 18 percentage points to 33%
- Republicans and GOP leaners under 50, support increased 17 points to 52%.<sup>190</sup>

As would likely be the case for any shift in evolution of public opinion on voting rights, part of the growth in support for gay marriage is due to demographic changes. As of 2012, approximately seven out of 10 Millennials support gay-marriage.<sup>191</sup> And like minorities, these Millennials, a majority of whom supports gay marriage, are “poised to dominate the electorate” in the near future.<sup>192</sup> But the shift in public opinion and by extension politician positions on gay marriage was not solely due on demographic changes: a study by Pew Research revealed that 14% of Americans are currently same-sex marriage supporters that have changed their mind.<sup>193</sup>

A major factor credited with shifting public opinion in favor of gay marriage was the decision by advocates to stop publicly framing gay marriage as a “right,” and focus more on a moral appeal of “love and commitment.”<sup>194</sup> This revised message appealed to

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190. Ibid.

191. Ibid.

192. Ibid.

193. Ibid, 2.

194. Carrie Wofford, “Why Equality is Winning,” *US News*, March 26, 2014, <http://www.usnews.com/opinion/blogs/carrie-wofford/2014/03/26/how-did-public-opinion-on-gay-marriage-shift-so-quickly>.

both liberal and conservative voters in a way that a partisan-divided focus on allowance/denial of a right could not. Motivated by the success of the campaign for gay marriage, advocates of protecting voting access could similarly reframe their message. Republican legislators *are* effectively wholly responsible for the current wave of restrictive election law reforms: but focusing on this is not the most effective campaign strategy opposition could use to convince the electorate to support expansive rather than restrictive practices. Instead, voting rights activists would do better to create campaigns which bridge the partisan gap, reminding citizens that access to voting is *not* an intrinsically partisan, ideological, or morally divisive issue. Ari Berman, a writer for *The Nation*, echoes such a conclusion, writing in response to a speech made in April 2014 by President Obama on voting rights, that, “[i]t’s...unfortunate that many in the media continue to report on voting rights like it’s a left-versus-right issue, as if supporting a fundamental democratic right suddenly makes one a flaming liberal.”<sup>195</sup>

Access to voting is not a depletable resource: one person’s casting of a ballot does not take away the ability to do so by any other citizen. Expanding electoral access is not a Democratic issue, but one that the national constituency as a whole should prioritize. The most effective ways to promote this idea among Republican, Democratic, and Independent constituencies should be the subject of further study. What the comparison with gay marriage does show is that by reworking a campaign message, a strongly partisan issue can become less polarized, and as a result can gain support across various constituencies. And perhaps, efforts to shift the public understanding of voting rights

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195. Ari Berman, “Republicans used to support voting rights—what happened?” *The Nation*, April 14, 2014, <http://www.thenation.com/blog/179325/democrats-support-voting-rights-republicans-should-too>.

could be more feasible than efforts to enact laws allowing gay marriage, since the latter is primarily a (deep-seeded) ideological issue, while voting rights is grounded to a larger extent in the public's lack of awareness and understanding of the issue.

As we have seen, Republicans currently have motivation to implement restrictive laws because of the likely impact they will have on electoral outcome. But at the same time, Democrats also have a partisan motive to frame this as a politically polarized battle, since there is some indication that such an orientation may have a rallying effect of drawing angry Democratic voters to the polls.<sup>196</sup> The generalized stances of both Democrats (voter suppression) and Republicans (electoral fraud) divert attention from studying and enacting legislation that both increases voting access and reasonably remedies constituents' concern for electoral integrity. We cannot assume that politicians will necessarily take the lead on promoting bipartisan electoral reform, since members of both parties are benefiting from the "left-versus-right" framework. Instead, voting reform advocacy groups need to study and identify the most effective ways to appeal to citizens, independent of party affiliation, on the grounds that the ability to vote is essential in a democracy as is public confidence in election outcomes free from partisan manipulation. These priorities are not inherently at odds with one another, and an effective campaign will highlight this. Additionally, part of any campaign should include general education of election law, since understanding the basic legal framework is essential to depolarizing the debate.

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196. Brendan Fischer, "Did backlash against GOP voter suppression increase black voter turnout?" *The Center for Democracy's PR Watch*, April 30, 2013, <http://www.prwatch.org/news/2013/04/12088/did-backlash-against-gop-voter-suppression-increase-black-turnout>.

## Final Impressions

This thesis' catalogue and analysis of VIVA—currently one of the nation's most restrictive voting rights laws—may be a valuable resource for citizens interested in understanding North Carolina's legislative process and the rationales used in the debate on the multiple provisions of the law. Furthermore, because legislation introducing voting restrictions is occurring in many states, it demonstrates the type of debate going on in legislatures around the country. The collection and analysis of rationales for VIVA, and their respective counterarguments, confirm that Republican-led voting restrictions are motivated first and foremost by attempts to achieve electoral advantage. While the VIVA provisions may, in the short run, help Republicans at the polls, they will do little to ensure “voter integrity,” and instead divert valuable resources and attention away from demonstrably beneficial electoral changes.

In the long run, Republicans need to be convinced, by their electorates' active support of expanding voting access, that restricting voting is not in their electoral interest. This begins with a change in the electorate: either unintentionally because of demographic changes, or actively, through public education campaigns about the current state of elections and how they can and should be improved. There was a time when “the right to vote used to be regarded as a moral issue, not a partisan one.”<sup>197</sup> Public realization that it has been degraded into yet another issue used to manipulate electoral results is the first step in lessening state legislative activity in support of laws that do damage to democratic processes and prevent beneficial reforms that actually promote voter participation and confidence in our elections.

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197. Berman, “Republicans used to support voting rights.”

## Bibliography

- “2012 North Carolina Election Results.” *Politico*. Last modified November 19, 2012. <http://www.politico.com/2012-election/results/president/north-carolina/>.
- “About ALEC.” *American Legislative Exchange Council*. Last modified 2014. <http://www.alec.org/about-alec/>.
- “ACLU Comment on Presidential Election Commission Report.” *ACLU*. January 22, 2014. <https://www.aclu.org/voting-rights/aclu-comment-presidential-election-commission-report>.
- “ALEC Exposed,” *Center for Media and Democracy*. [http://www.alecexposed.org/wiki/About\\_ALEC\\_Exposed](http://www.alecexposed.org/wiki/About_ALEC_Exposed).
- “David Lewis, Sr.” *Ballotpedia*. Last modified March 6, 2012. [http://ballotpedia.org/David\\_Lewis,\\_Sr..](http://ballotpedia.org/David_Lewis,_Sr..)
- “Election Results 2008.” *The New York Times*. Last modified December 9, 2008. <http://elections.nytimes.com/2008/results/states/north-carolina.html>.
- “Elections Laws and Procedures Overview.” *National Conference of State Legislatures*. <http://www.ncsl.org/research/elections-and-campaigns/election-laws-and-procedures-overview.aspx>.
- “Federal Court Rules N.C. Voter Suppression Law Trial to Occur in 2015.” *American Civic Liberties Union*. December 12, 2013. <https://www.aclu.org/voting-rights/federal-court-rules-nc-voter-suppression-law-trial-occur-2015>.
- “Governor McCrory calls Justice Department Challenge of voter ID an overreach.” *Office of the Governor*. September 30, 2013. <http://www.governor.nc.gov/videos/20130930/governor-mccrory-calls-justice-department-challenge-voter-id-overreach>.
- “Governor McCrory Signs Popular Voter ID into Law.” *Office of the Governor*. August 12, 2013. <http://www.governor.state.nc.us/newsroom/press-releases/20130812/governor-mccrory-signs-popular-voter-id-law -sthash.Y4y7i9wF.dpuf>.
- “Governor McCrory Speaks out on Election Reform Ruling.” *Office of the Governor*. December 12, 2013. <http://governor.nc.gov/newsroom/press-releases/20131212/governor-mccrory-speaks-out-election-reform-ruling>.

- “Jurisdictions Previously Covered by Section 5.” *The United States Department of Justice*. Last modified 2014.  
[http://www.justice.gov/crt/about/vot/sec\\_5/covered.php](http://www.justice.gov/crt/about/vot/sec_5/covered.php).
- “N.C. Governor: Protect Election Integrity.” *Office of the Governor*. August 28, 2013.  
<http://www.governor.state.nc.us/newsroom/press-releases/20130829/icymi-nc-governor-protect-election-integrity#sthash.OKeknv1h.dpuf>.
- “NC Senators 2013-2014 Session.” North Carolina General Assembly. last modified 3/06/2014.  
<http://www.ncleg.net/gascripts/members/memberList.pl?sChamber=senate&sSortOrder=district>.
- “Our Mission.” *Brennan Center for Justice*. <http://www.brennancenter.org/about>.
- “Partisan Composition.” *National Conference of State Legislatures*. Last modified 2014.  
<http://www.ncsl.org/research/about-state-legislatures/partisan-composition.aspx>.
- “Survey finds Wide Support for Voter ID Law.” *Elon University*. February 24-28, 2013.  
[http://www.elon.edu/docs/e-web/elonpoll/030413\\_ElonPoll\\_voterID.pdf](http://www.elon.edu/docs/e-web/elonpoll/030413_ElonPoll_voterID.pdf).
- “Trends in Party Affiliation.” *Pew Research*. June 4, 2012. <http://www.people-press.org/2012/06/04/section-9-trends-in-party-affiliation/>.
- “Voter ID Act,” ALEC Exposed, *Center for Media and Democracy*,  
[http://alecexposed.org/w/images/d/d9/7G16-VOTER\\_ID\\_ACT\\_Exposed.pdf](http://alecexposed.org/w/images/d/d9/7G16-VOTER_ID_ACT_Exposed.pdf).
- “Voter Identification Laws are Trouble for Democrats.” *Investors Business Daily*. November 13, 2012. <http://news.investors.com/ibd-editorials/111312-633313-voter-fraud-is-a-problem.htm>.
- “Voter Integrity.” *The Heritage Foundation*. 2014. <http://solutions.heritage.org/voter-integrity/>.
- “Voting Laws Roundup 2013.” *Brennan Center for Justice*. December 19, 2013.  
<http://www.brennancenter.org/analysis/election-2013-voting-laws-roundup>.
- “Voting Laws Roundup 2014.” *Brennan Center for Justice*. February 6, 2014.  
<http://www.brennancenter.org/analysis/voting-laws-roundup2014#expansive>.
- “Voting Rights & Elections.” *Brennan Center for Justice*.  
<http://www.brennancenter.org/issues/voting-rights-elections>.
- “VRM in the States: Pre-registration in States.” *Brennan Center for Justice*. September 1, 2013, <http://www.brennancenter.org/analysis/vrm-states-pre-registration-states>.



- “What if Everyone Voted?” *iVote*. March 12, 2014. Research Briefing.  
[http://d3n8a8pro7vhmx.cloudfront.net/ivoteforamerica/pages/23/attachments/original/1394595860/3.12.14\\_Research\\_Briefing.pdf?1394595860](http://d3n8a8pro7vhmx.cloudfront.net/ivoteforamerica/pages/23/attachments/original/1394595860/3.12.14_Research_Briefing.pdf?1394595860).
- “Who Doesn’t Have a Photo ID in North Carolina?” *Democracy North Carolina*. 2013.  
<http://protectourvotenc.com/wp-content/uploads/sites/8/2013/06/NoIDDataSheet.pdf>.
- Alvarez, R. M., Hall, Thad E., and Hyde, Susan D. *Election Fraud: Detecting and Deterring Electoral Manipulation*. Washington, D.C.: The Brookings Institution, 2008.
- America Votes! A Guide to Modern Election Law and Voting Rights*. ed. Benjamin E. Griffith. Chicago: American Bar Association, 2012. Back Cover.
- Bentele, Keith G. and O’Brien, Erin E. “Jim Crow 2.0? Why States Consider and Adopt Restrictive Voter Access Policies.” *Perspectives on Politics*. 11. no. 4. 2013.  
<http://dx.doi.org/10.1017/S1537592713002843>.
- Berman, Ari. “Republicans Used to Support Voting Rights—What Happened?” *The Nation*. April 14, 2014. <http://www.thenation.com/blog/179325/democrats-support-voting-rights-republicans-should-too>.
- Bordelon, Brendan. “Colin Powell: ‘Certain elements’ in Republican Party ‘demonize’ Minorities, Women.” *The Daily Caller*. February 7, 2014.  
<http://dailycaller.com/2014/02/07/colin-powell-certain-elements-in-republican-party-demonize-minorities-women/>.
- Bouie, Jamelle. “North Carolina’s Attack on Voting Rights.” *The Daily Beast*. August 8, 2013. <http://www.thedailybeast.com/articles/2013/08/13/north-carolina-s-attack-on-voting-rights.html>.
- Brater, Jonathan. “Testimony: Presidential Voting Commission can Modernize Elections.” *Brennan Center for Justice*. September 4, 2013.  
<https://www.brennancenter.org/analysis/testimony-presidential-voting-commission-can-modernize-elections>.
- Callahan, David and Minnite, Lorraine C. *An Analysis of Voter Fraud in the United States: Adapted from the 2003 Report, Securing the Vote*, New York: Demos, 2007.
- Childress, Sarah. “‘Unprecedented’ number of restrictive voting laws being introduced.” *Frontline*. May 31, 2012. <http://www.pbs.org/wgbh/pages/frontline/government-elections-politics/unprecedented-number-of-restrictive-voting-laws-being-introduced/>.

Cooper, Horace. "Voter Fraud is Real: Why the Voting Rights Act should be used to fight Election Fraud." *National Policy Analysis*, August 2012, <http://www.nationalcenter.org/NPA636.html>.

DiClerico, Robert E. *Voting in America*. Santa Barbara: ABC-CLIO Inc., 2004.

Dixon, Monique L. "Minority Disenfranchisement during the 2000 General Election: A Blast from the Past or a Blueprint for Reform?" *Temple Political & Civil Rights Law Review* 11:2, Spring 2012.

Fischer, Brendan. "Did Backlash against GOP Voter Suppression increase Black Voter Turnout?" *The Center for Democracy's PR Watch*. April 30, 2013. <http://www.prwatch.org/news/2013/04/12088/did-backlash-against-gop-voter-suppression-increase-black-turnout>.

Fortier, John, Mann, Thomas and Ornstein, Norman. *Hope and Experience: Election Reform through the Lens of the AEI-Brookings Election Reform Project*. AEI Brookings Election Reform Project: Washington, D.C., 2010. <http://www.aei.org/files/2010/06/29/ERPHopeExperience2010.pdf>.

Frank, John. "ALEC documents show strong ties to NC lawmakers." *News Observer*. December 5, 2013. <http://www.newsobserver.com/2013/12/05/3436214/alec-documents-show-strong-ties.html>.

Fund, John and von Spakovsky, Hans A. *Who's Counting: How Fraudsters and Bureaucrats put Your Vote at Risk*. New York: Encounter Books, 2012.

Fund, John. *Stealing Elections: How Voter Fraud Threatens Our Democracy*. San Francisco: Encounter Books, 2004.

Fund, John. "Improving Our Voting Systems." *National Review*. January 24, 2014. <http://www.nationalreview.com/article/369337/improving-our-voting-systems-john-fund>.

Gans, Curtis and Mulling, Matthew. *Voter Turnout in the United States 1788-2009*. Washington, DC: CQ Press, 2011.

Gerken, Heather K. "States Get Things Done, Affecting National Policy." *The New York Times*. July 16, 2013. <http://www.nytimes.com/roomfordebate/2013/07/16/state-politics-vs-the-federal-government/states-get-things-done-affecting-national-policy>.

- Gerstein, Josh. "Justice Department Challenges North Carolina Voter ID law." *Politico*. Sept. 30, 2013. <http://www.politico.com/story/2013/09/justice-department-north-carolina-voter-id-law-97542.html>.
- Groarke, Margaret, Minnite, Lorraine C. and Piven, Francis F. *Keeping Down the Black Vote: Race and the Demobilization of American Voters*. New York: The New York Press, 2009.
- Hair, Connie. "Rush Limbaugh: Vote Fraud Essential to Democrats." *Human Event*. October 28, 2010. <http://www.humanevents.com/2010/10/28/rush-limbaugh-vote-fraud-essential-to-democrats/>.
- Hall, Bob. "North Carolina Voters: Less White, more Independent." *Democracy North Carolina*. December 17, 2013. <http://pulse.ncpolicywatch.org/wp-content/uploads/2013/12/Dem-NC-Voter-Reg-Changes.pdf>.
- Haney-Lopez, Ian. "How the GOP became the 'White Man's Party.'" *Salon*. December 22, 2013. [http://www.salon.com/2013/12/22/how\\_the\\_gop\\_became\\_the\\_white\\_mans\\_party/](http://www.salon.com/2013/12/22/how_the_gop_became_the_white_mans_party/).
- Hasen, Richard. "NC Senate Approves GOP-backed Election Changes." *Election Law Blog*. July 25, 2013. <http://electionlawblog.org/?p=53461>.
- Hasen, Richard. *The Voting Wars: From Florida 2000 to the Next Election Meltdown*. New Haven: Yale University Press, 2012.
- Hirschhorn, Paul. "N.C. Sued soon after Voter ID bill signed into law." *CBS News*. August 12, 2013. <http://www.cbsnews.com/news/nc-sued-soon-after-voter-id-bill-signed-into-law/>.
- Hobson, Jeremy. "NC Gov. McCrory Defends New Vote ID Law." *Here and Now*. NPR. Aug. 23, 2013. <http://hereandnow.wbur.org/2013/08/13/voter-id-mccrory>.
- Iyer, Sundeep. "Voter ID Supporters Need Statistics 101." *Brennan Center for Justice*. July 6, 2011. <http://www.brennancenter.org/blog/voter-id-supporters-need-statistics-101>.
- Jackman, Molly. "ALEC's Influence over Lawmaking in State Legislatures." *The Brookings Institution*. December 6, 2013. <http://www.brookings.edu/research/articles/2013/12/06-american-legislative-exchange-council-jackman>.
- Jones, Jeffrey M. "State of the States: Political Party Affiliation." Gallup. January 28, 2009. <http://www.gallup.com/poll/114016/state-states-political-party-affiliation.aspx>.

- Kasdan, Diana. *Early Voting: What Works*. New York: The Brennan Center for Justice, 2013.  
[http://www.brennancenter.org/sites/default/files/publications/VotingReport\\_Web.pdf](http://www.brennancenter.org/sites/default/files/publications/VotingReport_Web.pdf).
- Keyes, Scott, Millhiser, Ian, Van Ostern, Tobin, and White, Abraham. "Voter Suppression Disenfranchises Millions." *Race, Poverty and the Environment*. Vol 19, No 1. Public Popular Power: New Majority Rising. 2012.
- Kleefeld, Eric. "North Carolina Dem Governor Vetoes GOP Voter-ID Bill." *Talking Points Memo*. June 24 2011. <http://talkingpointsmemo.com/muckraker/north-carolina-dem-governor-vetoes-gop-voter-id-bill>.
- Kohut, Andrew. *Partisan Polarization Surges in Bush, Obama Years: Trends in American Values*. Washington, D.C.: Pew Research, 2012. <http://www.people-press.org/2012/06/04/partisan-polarization-surges-in-bush-obama-years/>.
- Leavitt, Justin. *The Truth About Voter Fraud*. New York: Brennan Center for Justice, 2007.  
<http://www.brennancenter.org/sites/default/files/legacy/The%20Truth%20About%20Voter%20Fraud.pdf>.
- Leslie, Laura. "Tillis Receives ALEC Award." *WRAL*. August 4, 2011.  
<http://www.wral.com/news/state/nccapitol/blogpost/9955257/>.
- Leslie, Laura. "Tillis: Fraud 'not the Primary Reason' for Voter ID push." *WRAL*. March 16, 2014. <http://www.wral.com/tillis-actual-voter-fraud-not-the-primary-reason-for-voter-id-push-/12231514/>.
- Liptak, Adam. "Lost Votes, Problem Ballots, Long Waits? Flaws are Widespread, Study Finds." *The New York Times*. February 5, 2013.  
<http://www.nytimes.com/2013/02/06/us/politics/us-voting-flaws-are-widespread-study-shows.html?smid=pl-share>.
- Lopez, Robert. "Judge tells State to Answer Requests in N.C. Voter-law case." *News and Record*. February 22, 2014, [http://www.news-record.com/news/article\\_a29a0b16-9b30-11e3-b1f2-0017a43b2370.html](http://www.news-record.com/news/article_a29a0b16-9b30-11e3-b1f2-0017a43b2370.html).
- Lundry, Alex. "Key Data on Marriage Equality." *Targetpoint Consulting on behalf of Project Right Side*. March 22, 2012.  
[http://www.projectrightside.com/contentimages/FINAL\\_Key\\_Data\\_on\\_Marriage\\_Equality\\_3-2013.pdf](http://www.projectrightside.com/contentimages/FINAL_Key_Data_on_Marriage_Equality_3-2013.pdf).

- Magoc, Ethan. "Flurry of Voter ID laws tied to Conservative Group ALEC." *NBC News*. August 12, 2012.  
<http://investigations.nbcnews.com/news/2012/08/21/13392560-flurry-of-voter-id-laws-tied-to-conservative-group-alec>.
- Mayhew, David R. *The Electoral Connection*. New Haven: Yale University Press, 1974.
- McCrorry, Pat. "Why I signed the Voter ID/Election Reform Bill." *News Observer*. August 12, 2013. <http://www.newsobserver.com/2013/08/12/3102124/gov-pat-mccrorry-why-i-signed-the.html>.
- McGinley, Peter and von Spakovsky, Hans A. "Voter ID: Protecting the Integrity of Our Elections." *The Foundry*. March 10, 2014.  
<http://blog.heritage.org/2014/03/10/voter-id-protecting-integrity-elections/>.
- Minnite, Lorraine C. *Election Day Registration: A Study of Voter Fraud Allegations and Findings on Voter Roll Security*. Demos: New York, 2007.  
[http://www.brennancenter.org/sites/default/files/analysis/edr\\_fraud.pdf](http://www.brennancenter.org/sites/default/files/analysis/edr_fraud.pdf)
- Minnite, Lorraine C. *The Myth of Voter Fraud*, Ithaca: Cornell University Press, 2010.
- Minnite, Lorraine C. *The Politics of Voter Fraud*. Washington, D.C.: Project Vote, 2007.
- NC. House, Floor Debate. 2013-2014 NC Leg., Reg Sess. April 24, 2014.  
[http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=9&sFolderName=%5C2013-2014 Session%5CAudio Archives%5C2013](http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=9&sFolderName=%5C2013-2014%20Session%5CAudio%20Archives%5C2013).
- Ngo, Nhu-Y. "Voter ID a Misguided Effort." *Brennan Center for Justice*. December 13, 2010. <http://www.brennancenter.org/blog/voter-id-misguided-effort>.
- Nichols, John. "ALEC Disbands Task Force Responsible for Voter ID, 'Stand Your Ground' laws." *The Nation*. April 17, 2012.  
<http://www.thenation.com/blog/167425/alec-disbands-task-force-responsible-voter-id-stand-your-ground-laws>.
- Nichols, John. "How Voter Backlash Against Voter Suppression is changing our Politics." *The Nation*. April 29, 2013.  
<http://www.thenation.com/blog/174095/how-voter-backlash-against-voter-suppression-changing-our-politics>.
- North Carolina General Assembly. *Public Hearing on Voter Identification: House Committee On Elections*. Hearing. March 12, 2013. Raleigh: Government Printing Office. 2013.  
<http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=225&FolderName=\Public%20Hearing%20-%20March%202012,%202013>.

- North Carolina General Assembly. *Public Hearing on Voter Identification: House Committee On Elections*. Hearing. April 10, 2013. Raleigh: Government Printing Office. 2013.  
<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2013&BillID=h+589&submitButton=Go>.
- Out of the Shadows: Exposing ALEC's Role in the North Carolina General Assembly*, Raleigh: Progress NC, 2013. <http://progressnc.org/wp-content/uploads/2013/02/ALEC-Report.pdf>.
- Overton, Spencer. "Voter Identification." *Michigan Law Review* 105, no. 4. February 2007.
- Overton, Spencer. *Stealing Democracy: The New Politics of Voter Suppression*, New York: WW Norton & Co, 2004.
- Riley, Nicolas. *Voter Challengers*. New York: Brennan Center for Justice, 2012.
- Robertson, Gary D. "NC Counties Reduce Early Voting Hours for Primary." *Associated Press*. March 13, 2014. <http://www.wncn.com/story/24845891/nc-counties-reduce-early-voting-hours-for-primary>.
- Robertson, Gary D. "New Law Bars Voting outside of Precinct." *Charlotte Observer*. August 13, 2013. <http://www.charlotteobserver.com/2013/08/18/4246395/new-law-bars-voting-outside-of.html> - .Uy9hrq1dUag.
- Schofield, Rob. "County-by-county Data reveal Dramatic Impact of Proposed Election Changes on Voters." *NC Policy Watch*. July 22, 2013.  
<http://pulse.ncpolicywatch.org/2013/07/22/county-by-county-data-reveal-dramatic-impact-of-proposed-election-changes-on-voters/>.
- Schultheis, Emily. "Study finds Voter ID laws hurt Young Minorities." *Politico*. March 12, 2013. <http://www.politico.com/story/2013/03/study-finds-voter-id-laws-hurt-young-minorities-88773.html>.
- Smith, Barry. "Experts see Election Reforms having Little Effect on Turnout." *Carolina Journal*. August 29, 2013.  
[http://www.carolinajournal.com/exclusives/display\\_exclusive.html?id=10449](http://www.carolinajournal.com/exclusives/display_exclusive.html?id=10449).
- Smith, Barry. "NAACP Expands Election law Challenge." *Carolina Journal Online*. January 10, 2014.  
[http://www.carolinajournal.com/exclusives/display\\_exclusive.html?id=10754](http://www.carolinajournal.com/exclusives/display_exclusive.html?id=10754).
- Tanenhaus, Sam. "Why the GOP is and will Continue to be the Party of White People." *New Republic*. February 10, 2013,

- <http://www.newrepublic.com/article/112365/why-republicans-are-party-white-people>.
- Taylor, Paul. and Cohn, D’Vera. “A Milestone en route to a Majority Minority Nation.” *Pew Research*. November 7, 2012.  
<http://www.pewsocialtrends.org/2012/11/07/a-milestone-en-route-to-a-majority-minority-nation/>.
- The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration*, Presidential Commission on Election Administration: Washington, 2014. <https://www.supportthevoter.gov/>.
- Todd, Chuck. “GOP Governor Defends Voter ID bill.” *The Daily Rundown*. MSNBC. November 20, 2013. <http://www.msnbc.com/the-daily-rundown/watch/gop-governor-defends-voter-id-bill-67031619729>.
- Underhill, Wendy. “Voter Identification Requirements.” *National Conference of State Legislatures*. March 26, 2014. [http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx - \\_ftnref3](http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx - _ftnref3).
- von Spakovsky, Hans A. “Mandatory Voter Registration: How Universal Registration Threatens Electoral Integrity.” *The Heritage Foundation*. March 27, 2013.  
<http://www.heritage.org/research/reports/2013/03/mandatory-voter-registration-how-universal-registration-threatens-electoral-integrity>.
- von Spakovsky, Hans A. “Requiring Photographic Identification by Voters in North Carolina.” *The Heritage Foundation*. July 18, 2013.  
<http://www.heritage.org/research/lecture/2013/07/requiring-photographic-identification-by-voters-in-north-carolina>.
- von Spakovsky, Hans A. and McGinley, Peter. “Voter ID: Protecting the Integrity of our Elections.” *The Heritage Foundation*. March 10, 2014.  
<http://blog.heritage.org/2014/03/10/voter-id-protecting-integrity-elections/>.
- Walker, Bruce. "How to Handle Voter Fraud." *American Thinker*. February 25, 2012.  
[http://www.americanthinker.com/2014/02/how\\_to\\_handle\\_voter\\_fraud.html](http://www.americanthinker.com/2014/02/how_to_handle_voter_fraud.html).
- Wang, Tova A. *The Politics of Voter Suppression*, Ithaca: Cornell University Press, 2012.
- Wilson, David C. “Public Opinion on Voter ID laws: Strong Support, Shaky Foundation.” *Huffington Post*. February 18, 2012.  
[http://www.huffingtonpost.com/david-c-wilson/public-opinion-on-voter-i\\_b\\_1683873.html](http://www.huffingtonpost.com/david-c-wilson/public-opinion-on-voter-i_b_1683873.html).

Wofford, Carrie. "Why Equality is Winning." *US News*. March 26, 2014.

<http://www.usnews.com/opinion/blogs/carrie-wofford/2014/03/26/how-did-public-opinion-on-gay-marriage-shift-so-quickly>.

Yelton, Don interviewed by Mandvi, Aasif. "Suppressing the Vote," *The Daily Show*, 5:31, October 23, 2013, <http://thedailyshow.cc.com/videos/dxhtvk/suppressing-the-vote>.