

NYS Senate Democratic Policy Group Report

7 Shocking Facts About New York's Voting Laws

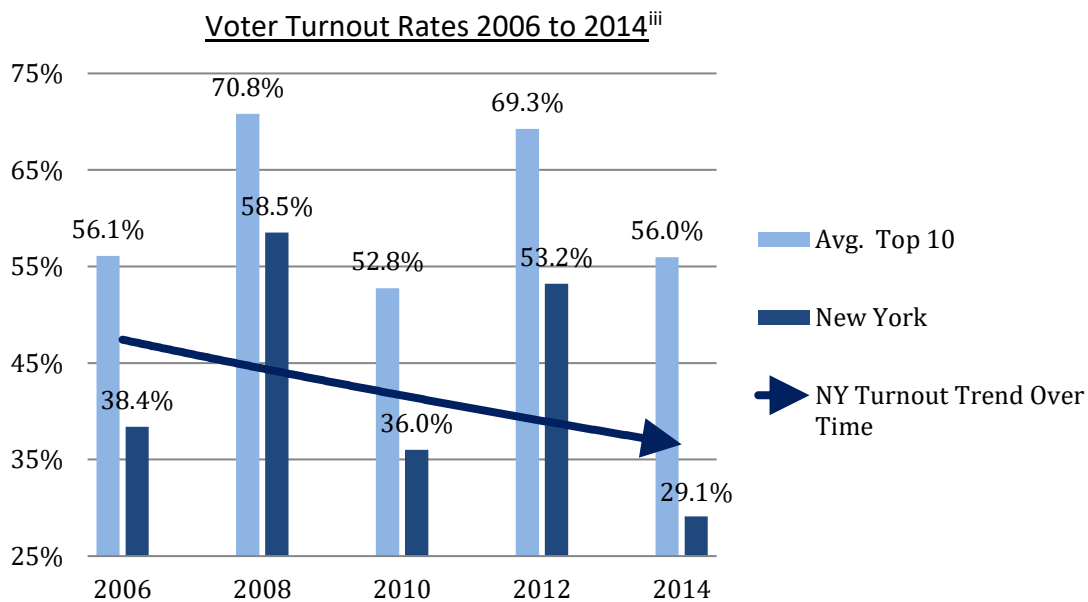
New York should be a national leader in ensuring all voters can exercise the fundamental right to vote. **But shockingly, New York's voting laws are some of the worst in the nation**, lagging behind other states, wasting money, and depriving New Yorkers of their right to participate in our democracy.

States looking to make voting more difficult are citing New York as an example to follow,ⁱ and the U.S. Department of Justice is now conducting multiple investigations into our state's potential failure to follow federal voting laws.ⁱⁱ

"I do not know why you are picking on Ohio. Why don't you go pick on New York?" – Gov. John Kasich

It doesn't have to be this way: legislation from the New York State Senate Democratic Conference would save money, move New York into the 21st century, and move our state from shocker to standout.

Fact #1: New York's Voter Turnout Is Among Nation's Worst



Data Source: U.S. Election Assistance Commission

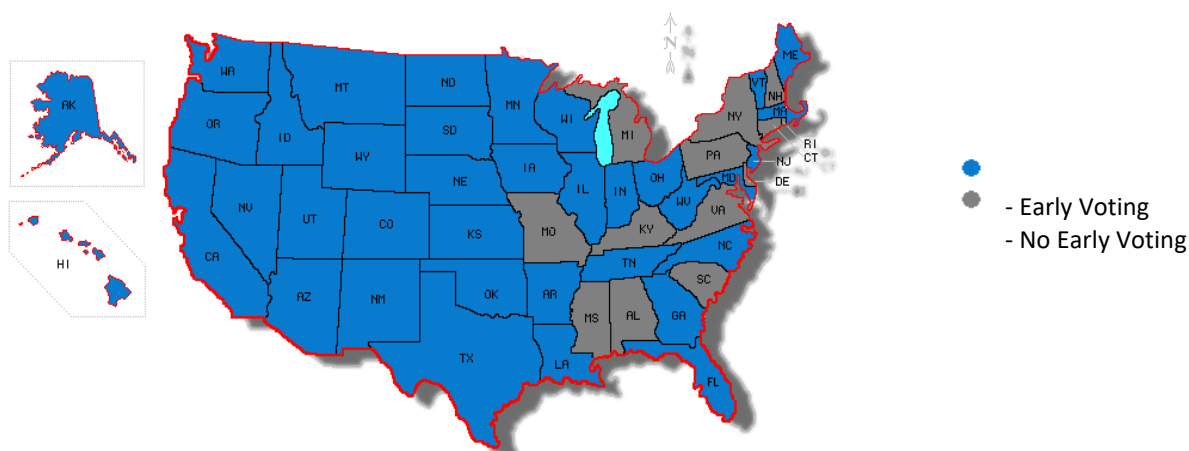
By every measure, New York consistently ranks among the bottom of the heap among states when it comes to voter turnout. New York was ranked second-worst in the nation for voter participation, with just 29% of eligible voters participating according to the most recent report from NonprofitVOTE, a non-partisan organization that studies voting behavior.^{iv}

New York ranked 46th, 42nd, 47th and 36th respectively in the last four reports from the federal Election Assistance Commission, which reports to Congress about voter participation bi-annually.^v

Although full data from the recent 2016 general election is not yet available, available data shows New York having the sixth-worst voter turnout in the country.^{vi}

Fact #2: New York is 1 of 13 States that Denies Early Voting to Its Citizens

States That Allow Early Voting^{vii}



Data Source: National Conference of State Legislatures. Map Source: diymaps.net (c)

Thirty-seven states and D.C., but not New York, allow voters to cast their ballots before Election Day,^{viii} giving voters more than one day to get to the polls. Nine of ten top turnout states allow early voting.^{ix}

Nationwide, the number of voters casting their ballots early is increasing as more states adopt early voting and more voters learn of opportunities to vote early.^x Today, approximately one third of voters are casting ballots early nationwide.^{xi}

Early in-person voting decreases lines on Election Day and improves Election Day administration, among other benefits.^{xii}

Fact #3: New York Has Blocked the Most Effective Reform to Increase Voter Turnout

Studies show same day registration is the most effective election reform at increasing voter participation.^{xiii} Research shows same day registration alone has the potential to increase:

- Overall turnout by 4.8%;
- Turnout for those aged 18 to 25 by 9%;
- Turnout for those who have moved in the last six months by 7.3%; and
- Turnout for Latinos and newly-naturalized citizens by 5.1%.^{xiv}

Adjusting for other turnout factors, states that allow voters to register on Election Day have consistently higher voter participation rates.^{xv} In 2014, average turnout in those states was 12 percentage points higher than turnout in states that do not allow voters to register on Election Day.^{xvi} Seven of the top ten states for voter participation in 2014 allowed for same day registration, while none of the bottom ten states did.^{xvii}

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Turnout in States With and Without Same Day Registration^{xviii}

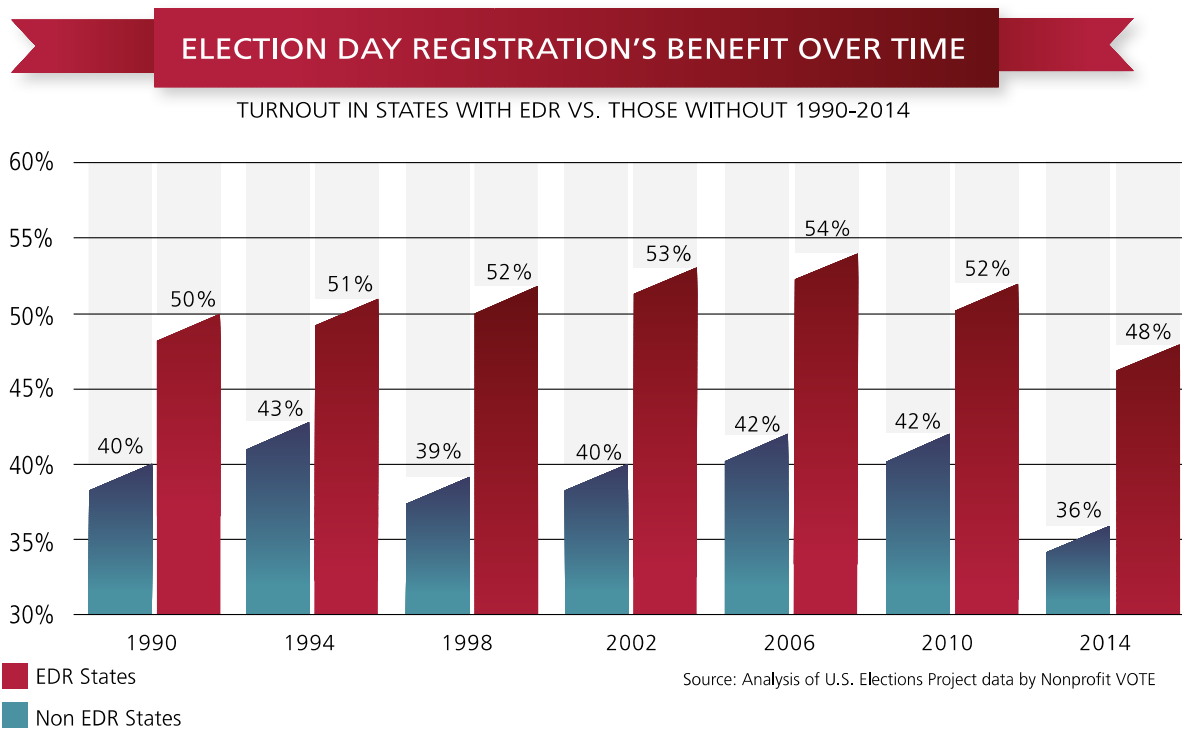


Chart: Nonprofit VOTE

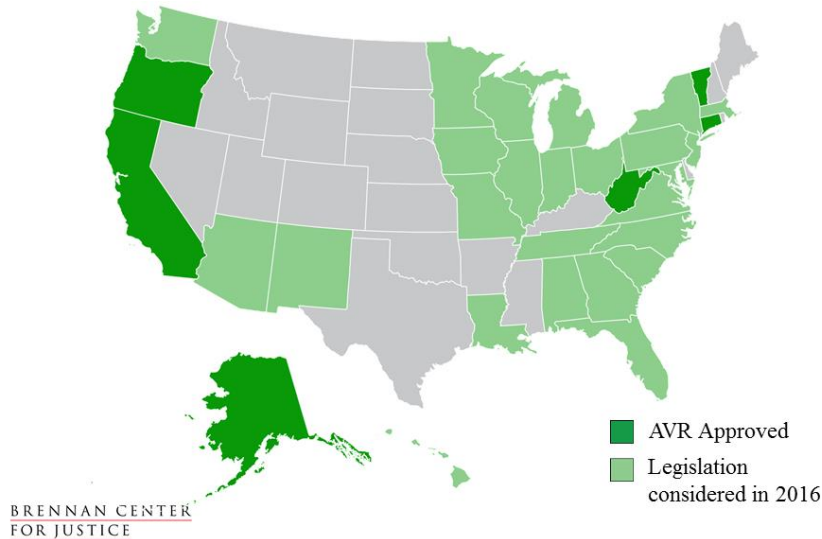
Same day registration also provides an efficient way to clean up voter registration information, an important goal since nearly 1 in 8 voter registrations in the nation is inaccurate.^{xix} (See Fact #4).

Fact #4: New York's Voter Registration Systems Are Relics of the Last Century

In 2015, Oregon was the first state to pass a law to automatically register eligible voters who have driver's licenses (except those who opt-out),^{xx} and California followed later that year.^{xxi} In 2016, Vermont^{xxii} and West Virginia^{xxiii} both passed automatic voter registration with bipartisan support, Connecticut adopted automatic voter registration administratively,^{xxiv} and Alaska passed a ballot measure which will automatically register all eligible voters unless they decline.^{xxv} Twenty-nine states in 2016 considered measures that would automatically register citizens who interact with government agencies and update their registration information when they move.^{xxvi}

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Automatic Voter Registration (AVR) in 2016^{xxvii}



Map: Brennan Center for Justice

Electronic registration has increased registration rates by more than seven times.^{xxviii} In the year after passing its automatic registration legislation, Oregon saw a 10% increase in voter registration (even accounting for population increases).^{xxix}

In New York's recent Presidential Primary and Election, numerous voters reported being denied their right to vote by New York's lack of a modern, comprehensive voting system: A Cornell University sophomore who lives in Manhattan "sent her first of three absentee-ballot applications in September" only to discover that "her ballot was mailed out Nov. 5, so when it arrived Nov. 8, there was not enough time for her to mail back her ballot."^{xxx} A spokesperson for the New York State Board of Elections said he received "many last-minute calls" from people in similar situations.^{xxxi} A modern registration system would alleviate many of the administrative backlogs and obstacles that are preventing New Yorkers from exercising their rights to vote.

Fact #5: New York's Party Enrollment Rule is the Worst in the Country

New York requires voters to declare a party affiliation *before the general election before a primary* in order to be eligible to vote in that primary.^{xxxii} Attorney General Schneiderman recently reported that New York had the longest number of days in the nation between the deadline for changing parties and the presidential primary.^{xxxiii}

Further, of states that require voters to be enrolled in a party to participate in a primary, New York and Kentucky were the only states that set a deadline for party enrollment that was not in the same calendar year as the Presidential Primary.^{xxxiv} Given this confusing rule, it is not surprising that as of April 2016, New York's Presidential Primary turnout was the second worst in the country, better only than Louisiana.^{xxxv}

These registration rules are causing confusion around New York State: A Long Islander trying to vote in New York's April Presidential primary found his voter registration listed him in the wrong party, and found himself unable to change his registration: "I think it's very difficult to vote," he said. "It's jumping through hula hoops and whatnot in order to just cast a vote. I feel like it's done intentionally. There's easily corrected mistakes but it's hard to [correct them]."^{xxxvi}

Fact #6: New York Law Mandates an Astonishing Number of Primaries

Under current law, New Yorkers pay for as many as four statewide elections in a single year: 2016 featured New York's Presidential Primary in April, federal primaries in June, state and local primaries in September, and the general election in November.^{xxxvii} The same thing happened in 2012.^{xxxviii} For each of these elections, local municipalities bear costs for creating ballots, running the polls, tabulating votes and ensuring elections run smoothly estimated at \$25 million.^{xxxix} In addition, research shows that repetitive elections create voter fatigue and depressed voter turnout.^{xl}

It doesn't have to be this way: Consolidating state primaries into the federal June primary – as New York did prior to 1974^{xli} – would make voting easier for New Yorkers and save localities \$50 million every four years.^{xlii}

Fact #7: New York Thwarts Young People's Voter Registration

With voter pre-registration, youth submit their registration before their 18th birthday and it becomes effective once they are eligible to vote.^{xliii}

California, Colorado, D.C., Delaware, Florida, Hawaii, Louisiana, Maryland, Massachusetts, Rhode Island, and Utah allow young people to pre-register starting at age 16; Maine, Nebraska, New Jersey, Oregon, and West Virginia allow it starting at age 17; and twelve additional states allow youth to pre-register at other points before their 18th birthday.^{xliv}

Research shows that allowing young people to preregister can improve youth voter turnout.^{xlv} Preregistration can also complement efforts to increase youth civic engagement by encouraging youth involvement with the political process.^{xlvi}

ⁱ Toobin, Jeffrey. "The Problem With Voting Rights In New York." *The New Yorker*. 11 Oct. 2016 (noting North Carolina and Ohio have pointed to New York's rules in defending their moves to restrict voting rights, and quoting Ohio Governor John Kasich); see also Roth, Zachary. "Why does New York make it so hard to vote?" *MSNBC*. 15 Apr. 2016 (same).

ⁱⁱ In January 2017, DOJ informed New York that its "widespread failures" to allow DMV applications to double as voter registration applications were depriving New Yorkers of important voter registration opportunities in violation of federal law. Yee, Vivian. "U.S. Threatens to Sue New York State Over Voting Violations." *N.Y. Times*. 13 Jan. 2017. In a separate action, the DOJ has joined a lawsuit brought by Common Cause New York challenging an erasure of more than 117,000 voters from voter registration lists in Brooklyn in possible violation of federal law. Yee, Vivian. "Justice Dept. Seeks to Join Suit Over 117,000 Purged Brooklyn Voters." *N.Y. Times*. 12 Jan. 2017.

ⁱⁱⁱ Note: Voter turnout is generally higher in Presidential election years. Sources: U.S. Election Assistance Commission: *The 2006 Election Administration and Voting Survey*. Dec. 2007. Available at [https://www.eac.gov/assets/1/AssetManager/2006%20EAVS%20Report%20\(All%20Chapters\).pdf](https://www.eac.gov/assets/1/AssetManager/2006%20EAVS%20Report%20(All%20Chapters).pdf); *2008 Election Administration and Voting Survey*. Nov. 2009. Available at <https://www.eac.gov/assets/1/Documents/2008%20Election%20Administration%20and%20Voting%20Survey%20EAVS%20Report.pdf>; *2010 Election Administration and Voting Survey*. Dec. 2011. Available at https://www.eac.gov/assets/1/Documents/990-281_EAC_EAVS_508_revised.pdf; *2012 Election Administration and Voting Survey*. Sept. 2013. Available at https://www.eac.gov/assets/1/Page/990-050%20EAC%20VoterSurvey_508Compliant.pdf; *The 2014 EAC Election Administration and Voting Survey*

Comprehensive Report. June 2015. Available at

https://www.eac.gov/assets/1/Page/2014_EAC_EAVS_Comprehensive_Report_508_Compliant.pdf.

^{iv} See NonprofitVOTE. “America Goes to the Polls 2014.” Mar. 2015 at 7.

^v U.S. Election Assistance Commission, *The 2014 EAC Election Administration and Voting Survey Comprehensive Report*. June 2015; *2012 Election Administration and Voting Survey*. Sept. 2013; *2010 Election Administration and Voting Survey*. Dec. 2011; *2008 Election Administration and Voting Survey*. Nov. 2009.

^{vi} Of the forty-two states plus D.C. for which data is available. See McDonald, Michael. United States Election Project. Data available at <http://www.electproject.org/2016g>. Last accessed 2 Feb. 2017; see also Parsnow, Luke. “Seriously — Make Voting Easier in New York.” *Syracuse New Times*. 12 Dec. 2016.

^{vii} Source: National Conference of State Legislatures. “Absentee and Early Voting.” 25 Oct. 2016. Available at <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>; Map includes states that allow any qualified voter to cast a ballot in person during a designated period prior to Election Day.

^{viii} National Conference of State Legislatures. “Absentee and Early Voting.” 25 Oct. 2016. Available at <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>; Toobin, Jeffrey. “The Problem With Voting Rights In New York.” *The New Yorker*. 11 Oct. 2016 (“New York is one of only thirteen states that has no provision for early voting”).

^{ix} Compare NonprofitVOTE. “America Goes to the Polls 2014.” Mar. 2015 at 7 with National Conference of State Legislatures. “Absentee and Early Voting.” 25 Oct. 2016; see also U.S. Election Assistance Commission, *The 2014 EAC Election Administration and Voting Survey Comprehensive Report*. June 2015.

^x See, e.g., U.S. Election Assistance Commission, *The 2014 EAC Election Administration and Voting Survey Comprehensive Report*. June 2015 at 1; NonprofitVOTE. “America Goes to the Polls 2014.” Mar. 2015 at 12.

^{xi} NonprofitVOTE. “America Goes to the Polls 2014.” Mar. 2015 at 12.

^{xii} Kasdan, Diana. “Early Voting: What Works”. Brennan Center for Justice. 31 Oct. 2013.

^{xiii} See U.S. Government Accountability Office. “Elections: Issues Related to Registering Voters and Administering Elections.” June 2016, at 88-92 (literature review).

^{xiv} Alvarez, Michael and Jonathan Nagler. “Election Day Voter Registration in California.” *Demos*. 2011.

^{xv} See NonprofitVOTE. “America Goes to the Polls 2014.” Mar. 2015 at 7.

^{xvi} *Id.*.

^{xvii} See NonprofitVOTE. “America Goes to the Polls 2014.” Mar. 2015 at 7.

^{xviii} Chart Source: NonprofitVOTE. “America Goes to the Polls 2014.” Mar. 2015 at 11.

^{xix} “Inaccurate, Costly, and Inefficient: Evidence That America’s Voter Registration System Needs an Upgrade.” *Pew Center on the States: Issue Brief*. Feb. 2012.

^{xx} See Brater, Jonathan. Brennan Center for Justice. “How Oregon’s New law Can Change Voter Registration”. 11 March 2105. Available at <https://www.brennancenter.org/blog/how-oregons-new-law-can-change-voter-registration>.

^{xxi} Booker, Brakkton. “California Becomes 2nd State To Automatically Register Voters.” *NPR*. 11 Oct. 2015.

^{xxii} Ford, Matt. The Atlantic. “Automatic Voter Registration Comes to Vermont”. 28 April 2016.

^{xxiii} Marra, Ashton. W Public Broadcasting. “Tomblin Signs Voter ID, Automatic Voter Registration Bill”. 1 April 2016.

^{xxiv} Associated Press. WAMC. “Connecticut DMV to Begin Automatic Voter Registration”. 7 Aug. 2016.

^{xxv} Eidelson, Josh. “Alaska’s Oil Cash Now Comes With Automatic Voter Registration.” *BloombergBusinessWeek*. 10 Nov. 2016.

^{xxvi} “Automatic Voter Registration.” *Brennan Center for Justice*. 30 Jan. 2017. Available at <https://www.brennancenter.org/analysis/automatic-voter-registration>.

^{xxvii} Map: Brennan Center for Justice. Available at <https://www.brennancenter.org/analysis/automatic-voter-registration>.

^{xxviii} “Fact Sheet: Voter Registration for the 21st Century.” *Brennan Center for Justice*. 10 July 2015. Available at <https://www.brennancenter.org/analysis/fact-sheet-voter-registration-21st-century>.

^{xxix} Brater, Jonathan. “Update: Oregon Keeps Adding New Voters at Torrid Pace.” *Brennan Center for Justice*. 19 Aug. 2016. Available at <https://www.brennancenter.org/analysis/update-oregon-keeps-adding-new-voters-torrid-pace>.

^{xxx} Stempler, Falyn. “Ithaca College students report not receiving absentee ballots.” *The Ithacan*. 6 Dec. 2016.

^{xxxi} *Id.*; see also Tempey, Nathan. “NY Election Boards Inundated With Calls From Voters ‘Pissed Off’ About Registration Issues.” *Gothamist*. 6 Apr. 2016.

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- ^{xxxii} Under New York State Election Law § 5-304, voters are required to submit any changes to their party enrollment by the twenty-fifth day before the general election of the previous year. N.Y. Elec. Law § 5-304.
- ^{xxxiii} Attorney General Eric T. Schneiderman. *A Report On Voter Access In The 2016 Presidential Primary*. Dec. 2016 at 3.
- ^{xxxiv} *Id.* at 4.
- ^{xxxv} Berman, Ari. "New York Had the Second-Lowest Voter Turnout So Far This Election Season." *The Nation*. April 20, 2016.
- ^{xxxvi} Tempey, Nathan. "NY Election Boards Inundated With Calls From Voters 'Pissed Off' About Registration Issues." *Gothamist*. 6 Apr. 2016.
- ^{xxxvii} See, e.g., O'Connor, Meg. "Concerns of 'Voter Fatigue' as New York Schedules Four 2016 Election Days." *Gotham Gazette*. 12 Jan. 2016.
- ^{xxxviii} See, e.g., New York State Board of Elections. "2012 Election Results." Available at <https://www.elections.ny.gov/2012ElectionResults.html>.
- ^{xxxix} O'Connor, Meg. "Concerns of 'Voter Fatigue' as New York Schedules Four 2016 Election Days." *Gotham Gazette*. 12 Jan. 2016.
- ^{xl} See, e.g., O'Connor, Meg. "Concerns of 'Voter Fatigue' as New York Schedules Four 2016 Election Days." *Gotham Gazette*. 12 Jan. 2016; Norris, Pippa. *Electoral Engineering: Voting Rules and Political Behavior*. Cambridge University Press: 2004.
- ^{xli} See Chapter 9 of the Laws of 1974.
- ^{xlii} See, e.g., McAndrew, Mike. "NY could save \$25M if 2016 primary elections were held same day." *Syracuse.com*. 2 Feb. 2016.
- ^{xliii} National Conference of State Legislatures. "Preregistration for Young Voters." Available at <http://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx>.
- ^{xliv} *Id.* Alaska, Georgia, Iowa, Missouri, and Texas allow registration at 17.5 or later; Indiana, Kansas, Minnesota, Nevada, New Hampshire, New Mexico, and Wyoming allow pre-registration of those who will be 18 by the next election. *Id.*
- ^{xlv} See, e.g., National Conference of State Legislatures. "Preregistration for Young Voters." Available at <http://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx>; Michael P. McDonald & Matthew Thornburg, Registering the Youth: Preregistration Programs, 13 N.Y.U. J. Legis. & Pub. Policy 551, 567 and n.88 (2010).
- ^{xlvi} National Conference of State Legislatures. "Preregistration for Young Voters." Available at <http://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx>.