

## **I. In Focus This Week**

### **Legislation would amend Motor Voter to include colleges and universities**

*All schools receiving federal funds required to comply each time students register for class*

By [M. Mindy Moretti](#)

While more young people cast ballots in November than in the previous two election cycles, getting those young people registered to vote remains the focus of H.R. 1729, the [Student Voter Opportunity to Encourage Registration \(VOTER\) Act](#).

The VOTER ACT, introduced into Congress by Sen. Dick Durbin (D-IL) and U.S. Reps. Steven LaTourette (R-OH) and Jan Schakowsky (D-IL), is an expansion of the 1993 Motor Voter Act, which requires the government to offer voter registration to citizens when they apply for a driver's license or public-assistance benefits.

If the VOTER Act is passed in Congress and signed into law, it would become mandatory for all colleges and universities that receive federal funds to offer voter registration to students when they sign up for classes. It is estimated that about 90 percent of colleges and universities receive some type of federal funding.

“Although we saw an increase in turnout among college students in this year’s presidential primary, more must be done to engage college students who have never participated in an election,” said U.S. Representative Jan Schakowsky (D-IL).

“My bill will make it easier for college students to register to vote while they register for classes. This simple idea will help increase voter registration and turnout among our nation’s youth. Increasing voter turnout among college students will ensure that their voices are heard and that they are part of the political discourse in this country. In this day and age, there is just too much at stake for our youth not to fully participate in their government.”

According to a November 2008 [study](#) by Tufts University, an estimated 23 million people under the age of 30 cast a ballot in the presidential election. Also according to the study, many young voters were first-time voters: 64 percent of 18-24 year-olds and 43 percent of 18-29 year-olds were first time voters. This compares to just 11% of all voters.

A similar piece of legislation was introduced late last year but the 110th Congressional session ended before it came up for debate and vote.

“I think the bill has been received better than during the 110<sup>th</sup> Congress. While the 2008 election provided a great platform to discuss election related problems, there was virtually no opportunity to implement solutions. Now that the election is over, there is an open window for election reform, which we hope to capitalize on,” said Bobby Campbell, director of Policy and Programs for [SAVE \(Student Association for Voter Empowerment\)](#).

“We have received a lot of interest from members of Congress and met with the administration during the transition, and they indicated that the president would sign the bill into law. We have worked closely with the Committee on House Administration and we are confident that it will make it through committee without problem.”

In 1998, as part of the Reauthorization of the Higher Education Act, Congress mandated that all colleges and universities participating in federal student aid programs must make [a good-faith effort to distribute voter registration forms](#) to each student enrolled in certificate or degree program and physically in attendance at their institution.

“The Student VOTER Act is a tremendous improvement over the current “good faith effort” clause of the Higher Education Act,” Campbell said. “The current requirement lays out administrative procedures to guarantee that colleges and universities receive registration forms from election offices; therefore, a school can be in compliance with the law simply by having a sufficient number of registration forms on campus even if they do very little to promote registration.”

According to Campbell, H.R. 1729 forces universities to actively provide students an opportunity to register to vote. By tying in voter registration with student enrollment for classes, the bill will provide every student an explicit choice to register. In addition, the legislation places the responsibility for turning in registration forms on the school as opposed to the student.

Feedback from organizations that represent colleges and universities has been mixed. SAVE has a [companion initiative](#) titled the Presidents’ Commitment to Civic Engagement, one aspect of which is institutionalizing voter registration. That initiative has the signature of 11 different presidents, representing diverse institutions from community colleges to large state universities to small liberal arts colleges.

“We’ve met [SAVE] and we are certainly generally supportive of legislation in concept but we have not officially weighed in with an opinion,” said Dan Hurley, director of state relations and policy analysis for the [American Association of State Colleges and Universities](#). “We are further examining the extent of any administrative burden that it would place on our institutions. It’s my expectation that we will be supportive of it but we are just trying to get more understanding in a real applied sense of what is going to be expected of our registrars.”

It’s the potential administrative burden that H.R. 1729 could place on registrars and administrators that have some concerned. Although the organization has adopted no formal position on the legislation, a spokesperson for the [American Association of Collegiate Registrars and Admissions Officers](#) (AACRAO), said the requirements under the Higher Education Act are sufficient.

“For what it’s worth, colleges that receive federal funds are already required to distribute voter registration forms to students in any year in which a federal or gubernatorial campaign takes place. HR 1729 is not particularly well crafted, and would result in lots of unnecessary and utterly pointless transactions,” said Barmak Nassirian, associate executive director, External Relations.

[Ivan Frishberg](#) who worked with U.S. PIRG at the time of the 1998 Reauthorization of the Higher Education Act said the requirement in that act is a decent one, but one that has many loopholes.

“The loopholes are exploited mercilessly by many colleges and universities,” Frisberg said. H.R. 1729 would eliminate the loopholes and include greater enforcement potential.

If approved, H.R. 1729 would require registrars to offer students a chance to register to vote at a minimum of eight times in their college career. SAVE believes it’s important to offer students multiple opportunities to register to vote because circumstances change. In a non-election year, for instance, a student might not be thinking of voting and opt not to register; therefore, it is important that student have future opportunities to register to vote when it is a more pressing concern.

## Gerken continues *Democracy Index* conversation

*Academics ask questions, endorse the concept*

By [Kat Zambon](#)

Heather Gerken, Yale Law School professor and author of [The Democracy Index](#), recently visited the Brookings Institution to discuss her new book while commentators offered their thoughts and constructive criticisms.

The democracy index “would rank states and localities based on how well their elections are run,” Gerken said, scoring states based on how long voters waited in line, how many ballots were discarded and machines broke down and whether the voter registration system worked.

“We have a ‘here to there’ problem in election reform ... [and] the democracy index is a quintessentially ‘here to there’ solution,” she said.

The main source of the problem in election reform is “the invisible election,” Gerken explained. Election problems such as lost ballots and machine breakdowns are routine, she said, but they only become visible to voters when the election is close.

While many observers said that the 2008 election went well, Gerken was working with the election protection team she saw reports of election problems all over the country.

“I’m actually one of the few people who got a very good look at the invisible election and I’ll just say that the reality does not match the reports of a smooth, problem-free election,” Gerken said, citing a recent [report](#) by MIT that showed voter registration problems were a major reason that as many as three million people were unable to vote according to a [press release](#).

*The Democracy Index* would rely on transparency, data, shame and competition rather than top-down commands and rules, Thomas Mann, Brookings Institution senior fellow said. It is “a compelling and practical plan for improving the conduct of American elections” and it “offers a politically sophisticated strategy for converting those forces that typically frustrate reform, partisanship and localism, into engines of reform,” he said.

Harold Koh, Yale Law School dean praised Gerken’s book and offered a few areas for further discussion. He described the “Joe Torre problem” where an administrator may be fired not because of any particular wrong-doing but simply because the numbers haven’t moved.

Koh also addressed the “turnaround administrator problem.”

“There are some managers whose job it is to improve the rankings slightly and then they leave. In *U.S. News [and World Report]* terms, there are many law deans whose job it is to come into a law school and improve the rankings not actually by changing the substance of their performance but with better public relations, etc.,” he said.

Finally Koh said that some election administrators who come from states ranked near the bottom may simply ignore the rankings altogether rather than attempt to compete.

Norm Ornstein, resident scholar at the American Enterprise Institute voiced concerns that every time there is a close election it undermines the sense of legitimacy in the election system. Election officials would “just as soon avoid anything that sets light on the election system” because they will be given more responsibilities without an appropriate adjustment in resources, he said.

Jurisdictions need to collect data before academics can construct a democracy index and “the horror story, the notion that a fifth of our states can’t tell you how many people voted tells you how difficult this

problem is," Ornstein said. He added that with little incentive to collect data at the state level, maybe one approach would be the denial of federal funds to states that don't collect data well.

Gerken interviewed several secretaries of state while researching her book and found that many of them endorse the idea of a democracy index to prod stubborn jurisdictions and encourage local commissions to appropriate the funds necessary to make improvements. Moreover, "election administrators are starting to come to grips with the fact that these comparisons are inevitable, people are going to measure them, and better to be measured against something that's fair and reasonably data-driven than the kind of atmospheric claims that get made already," she said.

"This is not the solution to end all solutions. This is the solution that leads to other solutions," Koh said.

## II. Election Reform News This Week

- Republican lawmakers, who control both houses of the Florida Legislature, have [proposed sweeping changes to the state's election laws](#), including new procedures on registering voters, and requiring voters to use a provisional ballot if they move shortly before an election. The rules would also prevent anyone, including those with video or audio equipment, from getting within 100 feet of a line of voters, even if that line is outside a polling place. This would also prevent anyone from offering legal advice to voters in line. According to *The New York Times*, State Senator Alex Diaz de la Portilla, a Republican from Miami and sponsor of the legislation, said the changes were a response to complaints and problems in the 2008 elections. "We see where there were flaws, where there were holes that have to be filled," Diaz de la Portilla told the paper. The legislation, for example, would bar election supervisors from placing anything on the envelope of absentee ballots that lists a voter's party affiliation. It would also give state election officials the ability to call for a recount and set new standards for audits of voting machines.
- The [counting continued](#) this week in New York's Congressional race with the margin between the two candidates shrinking with each ballot counted. Throughout the week, representatives of both candidates have [challenged absentee ballots](#) left and right. [U.S. Sen. Kristen E. Gillibrand](#), whose appointment to the Senate created the need for the special election, did not escape the ballot questioning unscathed. According to *The New York Times*, whether Gillibrand's vote is counted may rest on where she traveled on March 31, the day of the special election. John Ciampoli, a Republican lawyer, said he was told Gillibrand had campaigned for Murphy in the district on election day. Under state law, he said, "If she was present in her voting district, in her county, at the time the polls were open, she was required to vote on the machine." But Matt Canter, a spokesman for Ms. Gillibrand, said she did not enter the district that day until the polls had already closed. He called Tedisco's challenge "desperate and disturbing."
- While the counting continues in New York, it finally ended in Minnesota when [a three-judge panel rejected Norm Coleman's attempt to reverse Al Franken's lead in the Senate election](#), sweeping away Coleman's claims in a blunt ruling Coleman promised to [appeal](#). According to the *Minneapolis Star Tribune*, after a trial spanning nearly three months, the judicial panel dismissed Coleman's central argument that the election and its aftermath were fraught with systemic errors that made the results invalid. "The overwhelming weight of the evidence indicates that the Nov. 4, 2008, election was conducted fairly, impartially and accurately," the panel said in its unanimous decision. The panel concluded that Franken, a DFLer, "received the highest number of votes legally cast" in the election. Franken emerged from the trial with a 312-vote lead, the court ruled, and "is therefore entitled to receive the certificate of election."
- The National Institute of Standards and Technology (NIST) has released a [new draft of voluntary federal standards for electronic voting machines](#). NIST announced that it will take public comment on the new methods until July 1. Once the standards are adopted, state and local governments will decide whether their voting machine manufacturers will be required to meet the guidelines. "These new tests will ensure that everyone is on the same page for testing electronic voting

systems," Lynne Rosenthal, manager of the NIST voting project, said in a statement to *Information Week*. "This will not only benefit the general public and the government, but also they will help manufacturers build voting systems that meet federal standards."

- At some point in time in the voting booth, who hasn't jokingly written in Mickey Mouse for president or Jesus for U.S. Senator? Usually that's not going to get a voter in trouble, but one St. Louis-area voter who recently wrote in NHL Blues rookie sensation T.J. Oshie for mayor of O'Fallon [took a picture of the ballot that was then posted on a fan Web site](#) — a violation of the law, state and county election officials told the St. Louis Post Dispatch. The St. Charles County Election Authority is taking a hard stance against using the ballot box to display fan loyalty. The voter "violated the law, and I'm going to prosecute," county elections director Rich A. Chrismer told the paper. "They may have thought the photo was cute, but it was very serious." The chances of ever finding the voter are slim — the photo appears anonymously and individual voter preferences are not tracked by name. The integrity of the voting process is at stake, he said. "You can't violate something as sacred as the ballot," Chrismer said. "People won't trust going to a polling place if they think somebody is walking around with a camera." Willfully sharing the contents of a completed ballot is a class-four election offense in Missouri, carrying up to a year in jail and a \$2,500 fine.

### III. Research and Report Summaries

*electionline* provides brief summaries of recent research and reports in the field of election administration. Please e-mail links to research to [sgreene@pewtrusts.org](mailto:sgreene@pewtrusts.org).

[Open Source: Understanding its Application in the Voting Industry](#) – The Election Technology Council, April 2009

The Election Technology Council, a trade association consisting of voting technology providers, assesses the viability of using open source software in voting technology. The report finds a number of challenges, including:

- Open source's dependency on volunteer collaborators not providing a clear line of accountability for meeting governments' performance and support requirements;
- The complexities of open source software and its potential impact on security issues; and
- The time and cost of going through the federal and state certification process for voting systems.

[Analysis of the 2008 Current Population Survey \(CPS\) Voter and Registration Supplement](#) – Doug Hess, Project Vote, April 8, 2009

Project Vote analyzes the U.S. Census Bureau's November 2008 Voter and Registration Supplement and finds that the makeup of the electorate for last year's election was quite different from 2004. Minority groups and those under the age of 30 saw significant increases in participation. Overall turnout did not increase due to a drop in the participation of older and white voters.

### IV. Opinion

National: [Motor voter](#)

California: [Election reform](#); [Ballot counting](#)

Florida: [Election reform](#)

Georgia: [Voting rights](#)

Illinois: [Voting system](#)

Maryland: [Cost of elections](#)

Minnesota: [Recount, II, III](#); [Ranked-choice voting](#)

Mississippi: [Voting Rights Act](#)

Missouri: [Voter ID, II, III](#); [Early voting, II](#)

New Jersey: [Provisional ballots](#)

New Mexico: [Secretary of State](#)

New York: [Internet voting](#)  
Ohio: [Election reform, II, III](#)  
Oklahoma: [Voter ID, II, III](#); [Vote count](#)  
Pennsylvania: [Voter purges](#); [Student voter registration](#)  
South Carolina: [Immigrant voting](#)  
Tennessee: [Runoff elections](#)  
Texas: [Voter ID, II](#)  
Vermont: [Instant-runoff voting, II](#)

*\*\*some sites require registration*

## **V. Job Opportunities**

*All job listings must be received by 12 p.m. Eastern on Wednesday for publication in our Thursday newsletter. Job listings are free but may be edited for length. Whenever possible, include Internet information. Please email job postings to [mmoretti@electionline.org](mailto:mmoretti@electionline.org)*