

## Ohio photo voter ID A picture worth \$7 million a year?

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### Executive summary

The United States was founded on the ideal of government by consent of the governed. Voting is the means by which we express and achieve that consent. Throughout U.S. history we have expanded the right to vote – to non-propertied men, African Americans and other people of color, women, and young adults. Recently in Ohio and other states, lawmakers are going in the opposite direction, proposing new restrictions.

A bill requiring photo identification to vote, HB 159, was approved by the Ohio House of Representatives in March 2011 and a Senate version has been introduced. Legislators have passed laws requiring photo voter ID in 17 states, nine of which are strict laws like the Ohio proposal.

The version of this bill passed by the Ohio House requires all voters to have photo identification, but provides free ID cards only to qualifying low-income voters who request the card and can prove low income. The Senate version would provide free cards more broadly. It is unclear whether either version would withstand a legal challenge. The American Legislative Exchange Council (ALEC), a corporate-backed lobbying group that promoted voter ID laws, has announced it would disband its task force on safety and elections after the “Stand Your Ground” law that the group promoted became associated with the Florida shooting of unarmed teenager Trayvon Martin.

In Ohio, we estimate that approximately 938,642 Ohio adults lack photo IDs.

### Costs

We have two different cost scenarios for the IDs and two different projections of how many cards would be needed. We can assume an \$8.50 cost – the current cost of a state ID in Ohio – in which case we need to include other costs not covered by the \$8.50. At this price, providing the IDs would cost a total of \$7.98 million. The state would also face a cost of \$3.47 million to supply some voters with birth certificates and a \$3.96 million cost for voter outreach. Finally the state would lose \$11.6 million in revenue that we currently

get from the 341,146 citizens who now buy state IDs. Over a four-year period, the total cost would be \$27 million if we assume that all voters are provided one, and \$19.4 million if we assume that only 67 percent of voters (the turnout in the last presidential election) request one. The annual cost would range between \$4.85 and \$6.75 million.

Estimated annual cost to Ohio for voter IDs Low and high estimates		
Annual Cost	\$8.50 per ID	\$13.00 per ID
<b>For all voters</b>	\$6,750,945	\$6,940,327
<b>For likely voters</b>	\$4,849,833	\$4,976,719

Source: Policy Matters Ohio, based on data from the U.S. Census and Ohio Bureau of Motor Vehicles.

Alternately, we can assume a \$13.00 cost, the actual cost that Indiana faced when it implemented voter ID requirements. In this case, providing free ID cards would cost \$12.2 million. We would not incur costs for birth certificates, as those costs are built into the \$13.00. The state would still face the \$3.96 million cost for voter outreach and the \$11.6 million decline in revenue from reduced purchase of state IDs for a total cost of \$27.76 million for all voters or \$19.9 million for 67 percent of voters, over a four-year period. The annual cost would range between \$4.98 and \$6.94 million.

## **Comparable expenditures**

Ohio is cutting spending on many essentials. House Bill 487, the mid-budget review, proposes cuts of \$92 million from the 2013 budget, including cuts to education, police and fire protection, drug treatment, disability services, and disease prevention. The state has even cut local election board funding, making it more difficult to staff elections and forcing reductions in polling places. HB 159 would inject a new unfunded mandate in this environment.

The \$6.94 million in annual costs could instead be used for other important priorities in Ohio. What other services of benefit to Ohio families could the state instead purchase for this amount?

- More than 8.68 million rides on mass transit for passengers who are elderly or have disabilities;
- More than 277,000 library items, including books, reference books and movies;
- More than 4,300 courses of treatment for patients with addiction; or
- More than 1,800 subsidized after-school child care slots for children in struggling families.

According to the Brennan Center for Justice at NYU School of Law, the courts require that state photo ID laws meet criteria currently missing from HB 159. States must provide free IDs to all those who lack them, provide free birth certificates, expand the number and hours of ID-issuing offices, and undertake substantial voter outreach to ensure voters know the requirements. These requirements figure into our cost estimates.

## **Disparate impact**

More than one in 10 Ohioans lacks a photo ID. The new requirements would have a disproportionate impact on elderly voters, young adults, minority voters and low-income voters, all of whom are statistically less likely to have an Ohio driver's license. Who lacks photo IDs?

- About 290,000 Ohio seniors – 18 percent;
- About 260,000 black Ohioans – a staggering one in four;
- At least 380,000 moderate-income Ohioans (earning less than \$35,000) – 15 percent of those in this income range;
- College students and voters without cars are also less likely to have valid photo IDs.

## **Conclusion**

HB 159 is likely to suppress voting in Ohio. The bill purports to solve the virtually non-existent problem of voter impersonation, but will instead create new voting problems, and at a new cost. Ohioans value the right to vote and they value their neighbors' participation. If there is a problem with voting in Ohio, it is that existing barriers keep too many from exercising this basic right. Creating new, unnecessary costs and suppressing votes has no place in the Buckeye State.

## Introduction

*“The most basic right of all was the right to choose your own leaders. The history of this country, in large measure, is the history of the expansion of that right to all of our people. Many of the issues of civil rights are very complex and most difficult. But about this there can and should be no argument. Every American citizen must have an equal right to vote. There is no reason which can excuse the denial of that right. There is no duty which weighs more heavily on us than the duty we have to ensure that right.” ~Lyndon B. Johnson, March 1965*

In Lyndon Johnson’s March 1965 address to Congress, he invoked America’s unusual place in the world. “This was the first nation in the history of the world to be founded with a purpose,” he said, going on to argue that equality, liberty and government by consent of the governed were the crucial promise of the United States. With the passage of the Voting Rights Act a few months later, the U.S. outlawed discriminatory voting practices that had allowed extensive disenfranchisement of African Americans and other voters of color.

The Voting Rights Act was followed less than a decade later by extension of the franchise to the 18-year-olds who were eligible to be drafted into military service. These two moves were part of a long-standing evolution in the United States toward the promise of government by consent of the governed. Barriers to voting by those who lacked property, women, African Americans, and other disenfranchised groups had been struck down one by one, bringing America closer to fulfilling that promise.

Ohio and most other states require citizens to register to vote in advance of elections in order to cast a ballot. This pre-registration requirement tends to suppress voting. Voter turnout in the 2010 general election was on average ten points higher in states with election-day registration than in states that require advance registration.<sup>1</sup>

Most states also require voters to substantiate residency or identity before voting. But the typical approach is flexible, allowing for signature matches, a variety of identifying documents, self-attestation or other means. The requirements have also been more than sufficient to prevent voter impersonation at the polls – such fraud is rare to non-existent in Ohio and in the United States. After closely analyzing the hotly contested 2004 Ohio presidential election, analysts found a voter fraud rate of 0.00004 percent, or four votes of every 100,000 cast. This extremely low rate included all kinds of fraud. Voter impersonation, the only fraud this bill would prevent, is even less common.<sup>2</sup> As the Brennan Center for Justice at NYU School of Law has noted, National Weather Service data shows that Americans are struck and killed by lightning about as often. Despite the near absence of voter fraud, restrictions on voting have been gaining ground in Ohio and other states in recent years.

### Key findings

- The United States and Ohio have sought throughout history to expand, not suppress, voting.
- Photo voter identification would suppress voting, particularly for students, elderly, non-drivers and minorities.
- Voter impersonation is essentially non-existent in Ohio.
- Photo voter ID would cost the state \$5 to \$7 million annually at a time when essentials are being cut.

<sup>1</sup> Voters Win with Same Day Registration: 2010 Midterm Elections Fact Sheet, Demos, at <http://bit.ly/JAhEnK>.

<sup>2</sup> *Policy Brief on the Truth About Voter Fraud*, Brennan Center for Justice at New York University School of Law, September 2006, downloaded April 2012 at <http://bit.ly/95z2uP>.

## **New voter ID proposal in Ohio**

Because of the value Americans place on voting as part of our national identity, and because voter participation is not universal, we might expect Ohio legislators to be focused on trying to reduce barriers to voting and do more to encourage exercise of the franchise. However, policy makers in Ohio have been moving in the opposite direction. A controversial voter identification bill, House Bill 159, was approved by the Ohio House of Representatives in March 2011. A more recent and slightly different companion bill has been introduced in the Senate. This report refers to the legislation passed by the Ohio House as HB 159, and to the Senate bill as “the Senate version.”<sup>3</sup>

According to the National Conference of State Legislatures, 17 states have passed laws requiring photo identification in order to vote, nine of which are strict requirements like the one proposed in Ohio.<sup>4</sup> Many of these proposals were initially pushed by the American Legislative Exchange Council (ALEC), a corporate-backed lobbying group that promotes conservative social and economic proposals. Just last week ALEC announced that it was disbanding its task force on safety and elections after the “Stand Your Ground” law that the group advocated became associated with the Florida shooting of unarmed teenager Trayvon Martin.<sup>5</sup>

Most of the photo ID laws were adopted in the 2011-2012 legislative session. Several others were blocked by gubernatorial vetoes, court decision, or objection by the U.S. Department of Justice.<sup>6</sup> Despite this concerted effort to restrict voting, most states will accept a non-photo ID or do not require identification.

Under current law, Ohio voters are not required to present photo identification in order to cast a ballot. Citizens may show a valid government or state-issued photo ID, current utility bill or bank statement, government check or paycheck, or other government document. HB 159 would greatly reduce the number of documents accepted as proof of identity. The bill passed by the Ohio House requires all voters to show government-issued photo identification: a driver’s license, passport, state-issued ID, military ID, or new voter ID. The state would provide free photo identification cards, but only to low-income voters who can prove their income status. Non-photo proof of identification would no longer be accepted.<sup>7</sup> This approach might not survive a legal challenge. The Senate version would provide free identification cards more broadly, but still might not withstand a legal challenge. The Senate version allows people lacking proper photo ID to cast provisional ballots but requires them to include their drivers’ license number or full Social Security number.

These proof of identity requirements could make it much more difficult for many eligible Ohio residents to vote. More than one in 10 Ohioans lacks a government-issued photo ID. The percentage

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<sup>3</sup> For readers looking for the language, the House version is formally called Am. House Bill No.159 from the 2010-2011 legislative session. The Senate version is formally called Sub. H.B. No.159.

<sup>4</sup> Georgia, Indiana, Pennsylvania, Kansas, Mississippi, South Carolina, Tennessee, Texas, and Wisconsin have implemented or are trying to implement strict photo ID law. The Wisconsin law has been blocked by the Dane County Circuit Court. Some of the other states have not met the necessary preclearance to implement the voter ID laws. Alabama, Florida, Hawaii, Idaho, Louisiana, Michigan, and South Dakota have less strict photo identification laws.

<sup>5</sup> See this New York Times piece for background on ALEC: <http://nyti.ms/HS5LoZ> and this Nation magazine blog piece for information about ALEC’s recent retreat from voting issues: <http://bit.ly/HRciFc>.

<sup>6</sup> National Conference of State Legislatures, Voter Identification State Requirements, retrieved at <http://bit.ly/x0VCmb>.

<sup>7</sup> Legislative language online at [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_159](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_159).

can be more than twice as high among certain segments of the electorate, like seniors, young adults, voters of color, and those with low incomes. Enacting these voting barriers could distort electoral outcomes in ways that are inconsistent with American values, and violate federal or state statutes or constitutions.

Implementing the proposed photo ID requirement would also be costly, particularly if it were crafted to comply with existing legal standards. According to legal experts, state photo ID laws can be challenged as unconstitutional if they fail to meet the following minimal criteria:<sup>8</sup>

- Photo IDs sufficient for voting must be available free of charge for all those who do not have them. States cannot limit free IDs to those who swear they are indigent.
- Photo IDs must be readily accessible to all voters, without undue burden. At a minimum, most states will likely have to expand the number of ID-issuing offices and extend their operating hours to meet this requirement.
- States must undertake voter outreach and public education efforts to ensure that voters are apprised of the law's requirements and the procedures for obtaining the IDs they will need to vote.

### **Cost of requiring photo ID to vote**

The Ohio Legislative Service Commission's fiscal note fails to account for many of the likely costs of the legislation. Here, we estimate the costs of a voter identification program that could reasonably meet current legal standards. A photo ID proposal would require that Ohio do the following:

- **Provide free voter ID cards** to all citizens who lack drivers' licenses or state ID cards, regardless of their income;
- **Expand the number of voter ID-issuing locations**, and their hours of operation; and
- **Provide free birth certificates** to citizens who require them in order to secure a state-issued voter ID.

States have tended to underestimate the full cost of voter identification programs. Indiana, the first of the recent crop of states to adopt a strict photo ID requirement for voting, incurred \$12.2 million in costs in the first four years after its photo ID law went into effect in 2005. Roughly \$10 million of this amount was spent to produce and distribute 771,017 free ID cards, at a cost of \$13.00 per card. The \$2.2 million balance was spent on voter outreach and education according to a report produced by a bipartisan committee in Iowa, appointed to explore other states' experiences.<sup>9</sup>

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<sup>8</sup> Agraharker, Vishal, Wendy Weiser, and Adam Skaggs: "The Cost of Voter ID Laws: What the Courts Say." Feb. 17 2011. The Brennan Center, [www.brennancenter.org/content/resource/the\\_cost\\_of\\_voter\\_id\\_laws\\_what\\_the\\_courts\\_say](http://www.brennancenter.org/content/resource/the_cost_of_voter_id_laws_what_the_courts_say).

<sup>9</sup> "A Report of Photo ID for Voting Purposes." ISACA Photo ID Exploratory Committee <http://bit.ly/JnWkhf>



### Legislative fiscal note for HB 159

The Ohio Legislative Service Commission estimated that this bill would cost \$590,000. Unfortunately, this estimate does not reflect most of the expenses the state is likely to face. The projected cost, \$1.14 per card, is based strictly on the cost of paper and lamination and does not include the cost of new machines, expanded staff time, voter outreach and education, or verification of documents.

Aside from underestimating card costs, Ohio's projections underestimate the number of people who will require free photo ID cards. The projections subtract the number of drivers' licenses or state IDs that have been issued (8.6 million) from the voting age population of Ohio (8.8 million) to get 200,000 adults without photo identification. The fiscal note estimates that only 25 percent of these citizens would be eligible for a free ID based on income, so the state would face a \$57,000 cost for 50,000 free cards. It also includes an estimate assuming 50 percent need free cards.<sup>10</sup> Among the problems: the Bureau of Motor Vehicles database double counts some residents and doesn't purge regularly to account for moves, deaths, and license suspensions. According to the *Columbus Dispatch*, in 2011, 28,000 more voting-age Ohioans with a license or ID were registered in the Ohio BMV than there were Ohio residents over the age of 18, an obvious over-count.<sup>11</sup> In addition, as described elsewhere in this paper, case law indicates that free IDs must not be limited to those with low incomes.

Norman Robbins estimated in a 2011 paper produced for the Northeast Ohio Voter Advocates that roughly 938,000 Ohio citizens lack a valid photo ID.<sup>12</sup> Robbins' methodology deals carefully with moves, deaths and license suspensions. This number is much closer to the national estimate of 11 percent that Brennan Center for Justice provides (discussed in the text). Neighboring Indiana, with just over half Ohio's population and a smaller percentage of registered voters, issued roughly 200,000 voter IDs each year after mandating voter photo ID.

Several states have recently estimated or quantified actual costs. Indiana has the longest track record with voter ID. When the exploratory committee of the State Association of County Auditors in Iowa examined Indiana's experience, the committee found that costs in Indiana had grossly exceeded estimates. After four years, and some lengthy court cases, the cost of the IDs in Indiana amounted to roughly \$12.2 million.<sup>13</sup> Minnesota Common Cause and the Citizens for Election Integrity - Minnesota issued a joint report which estimated that a voter ID bill would cost more than \$84 million over three years. The Institute for Southern Studies estimates that the cost of instituting a voter ID law in North Carolina would be \$18 to \$25 million. Although these state estimates vary, all have estimated costs that far exceed the financial impact estimate produced by the state of Ohio.

<sup>10</sup> Steele, Terry. Fiscal Note and Local Impact Statement. A.M. H.B. of the 129<sup>th</sup> G.A. <http://bit.ly/lhtSRH>.

<sup>11</sup> "IDs exceed voter age Residents." The Columbus Dispatch. July 25, 2011. <http://bit.ly/rdJjYV>.

<sup>12</sup> Robbins, Norman. "On Estimating the Number of Voting Age Ohio Citizens who Lack a Driver's License or State ID." Northeast Ohio Voter Advocates. <http://bit.ly/lfBorU>.

<sup>13</sup> "A Report of Photo ID for Voting Purposes." ISACA Photo ID Exploratory Committee <http://bit.ly/JnWkhf>

### Free photo ID costs

Nationally, 11 percent of voters lack government-issued photo identification cards.<sup>14</sup> In Ohio, that would equate to approximately 938,642 Ohio adults. The current cost of a state-issued photo ID is \$8.50, according to the Ohio BMV.<sup>15</sup> At that price, providing free ID cards to 938,642 Ohio voters would total \$7,978,457. If we assume a cost of \$13 per card, which was incurred by Indiana, providing IDs to those voters would cost \$12,202,346. Indiana's actual costs reflect expenses associated with the longest-running free voter ID program, while Ohio's current costs reflect only those costs associated with a state ID program, which are likely to be lower.

Table 1 provides a low-range estimate of \$8.50 per card, based on current costs for a similar card in Ohio, and a high-range estimate of \$13.00, based on actual costs of voter ID cards in Indiana.

We also calculate the costs of providing primary documents. In *Weinschenk v. Missouri*, the Missouri Supreme Court ruled that the state had to cover the cost of documents required to obtain a state-issued photo ID. Not covering these costs, the court found, would be comparable to imposing a poll tax.<sup>16</sup>

Although the Missouri decision is not binding in Ohio, we assume here that an Ohio voter ID law would be similarly subject to legal challenge if the underlying documents necessary for obtaining a free photo ID card were not themselves provided free of charge. Ohio currently charges \$21.50 for a birth certificate, the least expensive option for primary documents.<sup>17</sup> It is worth noting that it can be time-consuming to get a birth certificate, and costly for some voters. The Local Vital Statistics office provides same-day service for walk-in requests, but this can be a Catch-22 situation for those with no ID, although not as bad as the Catch-22 in some states.<sup>18</sup> In Cleveland, for example, residents must show an ID to enter City Hall, where birth certificates are issued. Ordering online, by credit card, can take two to three weeks. Many lower-income citizens do not have easy access to credit cards or checks; homeless voters may also lack mailing addresses. All of these citizens have a constitutional right to vote; under the bill many would need to obtain these documents to exercise that right.

An estimated 7 percent of adult American citizens do not have citizenship documents such as birth certificates.<sup>19</sup> While it is likely that those who lack IDs are also more likely to lack other citizenship documents, here we adopt a more conservative assumption that they are no more likely to lack these other documents than the population as a whole. Applying the 7 percent average of adult citizens without citizenship documents, we estimate that 65,705 of the 938,642 residents who lack IDs would also lack birth certificates, as would 95,521 of the Ohio adults buying a state ID in the next four

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<sup>14</sup> *Citizens Without Proof*, Brennan Center for Justice. November 2006. Retrieved at <http://bit.ly/9zEtNf>.

<sup>15</sup> The fiscal note estimated a \$1.14 per card cost, but the state of Ohio actually charges \$8.50 for a state ID.

<sup>16</sup> Retrieved at <http://moritzlaw.osu.edu/electionlaw/litigation/documents/MophotoID.pdf>

<sup>17</sup> According to the Ohio Bureau of Motor Vehicles, Ohio residents must show at least one primary document that includes a certified date of birth in order to obtain an ID. <http://publicsafety.ohio.gov/links/bmv2424.pdf>. \$21.50 is the cost of an Ohio birth certificate according to the Ohio Department of Health <http://1.usa.gov/bf2vd4>.

<sup>18</sup> Some states – fortunately Ohio is not among them – require a birth certificate to obtain a government-issued ID and require a government-issued ID to obtain a birth certificate, known as a Catch-22 Voter ID situation, as described in this NPR story: “Why New Photo ID Means Some States Won’t Vote.” NPR. 28 Jan. 2012. <http://n.pr/IqEfSc>.

<sup>19</sup> *Citizens Without Proof*, Brennan Center for Justice. November 2006. <http://bit.ly/9zEtNf>. We based estimates on birth certificates, the least expensive primary document, instead of more costly documents like passports.

years.<sup>20</sup> The state would therefore need to provide a free birth certificate to 161,226 Ohio adults, at a cost of \$21.50 per certificate. As Table 1 shows, this results in \$3,466,359 in foregone fees to the state. This cost is only applicable if we assume the lower cost of state IDs; Indiana, with its \$13.00 cost for an ID, accounted for the cost of providing birth certificates to those who needed them.

Ohio is also likely to suffer a revenue loss as it waives fees to those requesting a state-issued photo identification card for voting. We estimate that 341,146 citizens who currently buy state IDs would stop providing that fee, at a cost to Ohio of \$11,598,964 over four years (see footnote 20).

Table 1		
Four-year cost to state of Ohio for supplying voter IDs to all Ohio voters		
Low and high estimates		
Estimated cost	\$8.50 per ID	\$13.00 per ID
Adults lacking photo ID (938,642)	\$7,978,457	\$12,202,346
Adults lacking birth certificates (161,226 x \$21.50)	\$3,466,359	\$0
Cost of voter outreach	\$3,960,000	\$3,960,000
<b>4-year subtotal</b>	<b>\$15,404,816</b>	<b>\$16,162,346</b>
Loss of revenue from no longer purchasing state-issued IDs (341,146 x \$8.50 each year for 4 years)	\$11,598,964	\$11,598,964
<b>4-year total</b>	<b>\$27,003,780</b>	<b>\$27,761,310</b>
<b>Average cost per year</b>	<b>\$6,750,945</b>	<b>\$6,940,327</b>
Source: Policy Matters Ohio, based on data from the U.S. Census and Ohio BMV		
Note: \$8.50 is the current cost of purchasing a state identification card in Ohio, which does not include costs of providing birth certificates to those who lack IDs, administrative costs or other outside costs. It has cost Indiana \$13.00 per person to produce voter identification cards. This Indiana card cost absorbs the distributed cost of birth certificates, which is why the cost of birth certificates is \$0 in the \$13-per-ID column.		

### Voter education and outreach

The bill that passed the Ohio House does not include any voter outreach plan or program to educate voters about changes in proof of identity requirements. However, the Brennan Center for Justice and other legal experts have found that such a program is required to be compliant with case law. Indiana, with its 4.87 million voters, spent \$2.2 million on voter outreach over four years. Ohio, with 8.8 million voters, would spend \$3.96 million over the next four years (1.8 times as much) for similar efforts if costs were proportional.<sup>21</sup>

<sup>20</sup> Between 2006 and 2011 an average 370,811 Ohio residents bought a state ID card every year according to Ohio BMV data from [http://bmvo.ohio.gov/facts\\_figures.stm](http://bmvo.ohio.gov/facts_figures.stm). Roughly 92 percent of Ohio residents who bought a permanent ID in 2009 and almost all of those who bought temporary IDs that year were over the age of 18, according to 2009 data supplied by the BMV. To be cautious, we assume that just 92 percent of Ohioans buying an ID are adult citizens, which would be 341,146 Ohio adults. A four-year estimate based on this average is 1,364,584 Ohio adults; conservatively applying the 7 percent estimate from the Brennan Center to this number results in a total four-year estimate of 95,521 Ohio adults buying state IDs who lack birth certificates.

<sup>21</sup> These are the 2010 U.S. census figures for residents over the age of 18. Because only 227,746 Ohio residents are not U.S. citizens according to the American Community Survey 2006-2010 under Selected Social Characteristics and Ohio



### Total cost for all voters

The total cost of supplying all voters free IDs would be between \$27,003,780 and \$27,761,310, over four years or between \$6.8 and \$6.9 million a year.

Table 2 uses similar estimates as Table 1 for determining cost per ID, but assumes that only 67 percent of those eligible for free photo identification cards will request them. This estimate was based on the 67 percent turnout in the last [2008] presidential election.<sup>22</sup> Of course the goal of lawmakers should be universal voter participation so the state has to plan on the basis of the larger estimates above. If only two-thirds of eligible voters who lack ID cards request them, the total cost will be between \$19.3 and \$19.9 million over the next four years, or between \$4.85 and \$4.98 million per year.

Table 2		
Four-year cost to state of Ohio for supplying voter IDs to 67% of Ohio voters		
Low and high estimates		
Estimated Cost	\$8.50 per ID	\$13.00 per ID
Adults lacking photo ID (938,642)	\$5,345,566	\$8,175,572
Adults lacking birth certificates (161,226 x \$21.50)	\$2,322,461	0
Cost of voter outreach	\$3,960,000	\$3,960,000
<b>4-year subtotal</b>	<b>\$11,628,027</b>	<b>\$12,135,572</b>
Foregone revenue from waiving fees for state IDs to 67% of state ID purchasers (228,567 x \$8.50 each year for 4 years)	\$7,771,306	\$7,771,306
<b>4-year total</b>	<b>\$19,399,333</b>	<b>\$19,906,878</b>
<b>Average cost per year</b>	<b>\$4,849,833</b>	<b>\$4,976,719</b>
Source: Policy Matters Ohio, based on data from the U.S. Census and Ohio BMV		
Note: \$8.50 is the current cost of purchasing a state identification card in Ohio, which does not include costs of providing birth certificates, administrative costs, or other outside costs. It has cost Indiana \$13.00 per person to produce voter identification cards. This Indiana card cost absorbs the distributed cost of birth certificates, which is why the cost of birth certificates is \$0 in the \$13 per ID column. We use 67 percent in this low estimate because 67 percent of those eligible participated in the last presidential election.		

has a population of over 11 million, the low number of non-citizens will not change the overall calculations significantly.  
<http://quickfacts.census.gov/qfd/states/390001k.html>

<sup>22</sup> United States Election Project, 2008 General Election Turnout Rates: [http://elections.gmu.edu/Turnout\\_2008G.html](http://elections.gmu.edu/Turnout_2008G.html)

## Comparable expenditures

In the grand scheme of the Ohio budget, \$5 million to \$7 million a year is modest, but in a state that has been cutting essential services, all allocation of money is important. Under House Bill 487, part of the April 2012 mid-budget review, appropriations are reduced by \$92 million for 2013.<sup>23</sup> The Ohio Department of Alcohol and Drug Addiction Services (ODADAS) faces cuts of \$6.2 million for the upcoming year. With an additional \$8 million appropriation, programs for developmental disabilities could draw federal matching funds and chip away at their waiting list of 14,000 who need services. The state has also cut line items addressing immunization, chronic disease prevention, children's services and many other essentials.

Ohio legislators have to ask themselves if they want to spend more to suppress voting at the same time as they are insisting that they cannot spend more to prevent child abuse, reduce addiction, educate children, or assist localities with policing. Figure 1, on the next page, looks at some services that Ohio could provide for the same cost as implementing the photo Voter ID bill.

The full cost of the voter identification bill would be as much as \$6.94 million annually according to Table 1. What other services that might benefit Ohio families could the state of Ohio instead purchase for this amount?

- At the typical rate of subsidy, Ohio could enable local transit systems to subsidize 8,675,000 fares on mass transit for passengers who are elderly or have disabilities.<sup>24</sup>
- The state could provide this money to local libraries where it would pay for 277,600 library items – books, DVDs, reference materials and more.<sup>25</sup>
- Ohio could treat 4,338 patients who have alcohol addiction, through outpatient treatment services.<sup>26</sup>
- Ohio could also use this sum to pay for 1,886 children to get a school-year's worth of after-school care, enabling parents who earn 125 percent of the poverty level to stay at work during the after-school hours.<sup>27</sup>

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<sup>23</sup> *HB 487: Cuts and Corrections*, Policy Matters Ohio, April 2012, available at: <http://bit.ly/HoMCcp>.

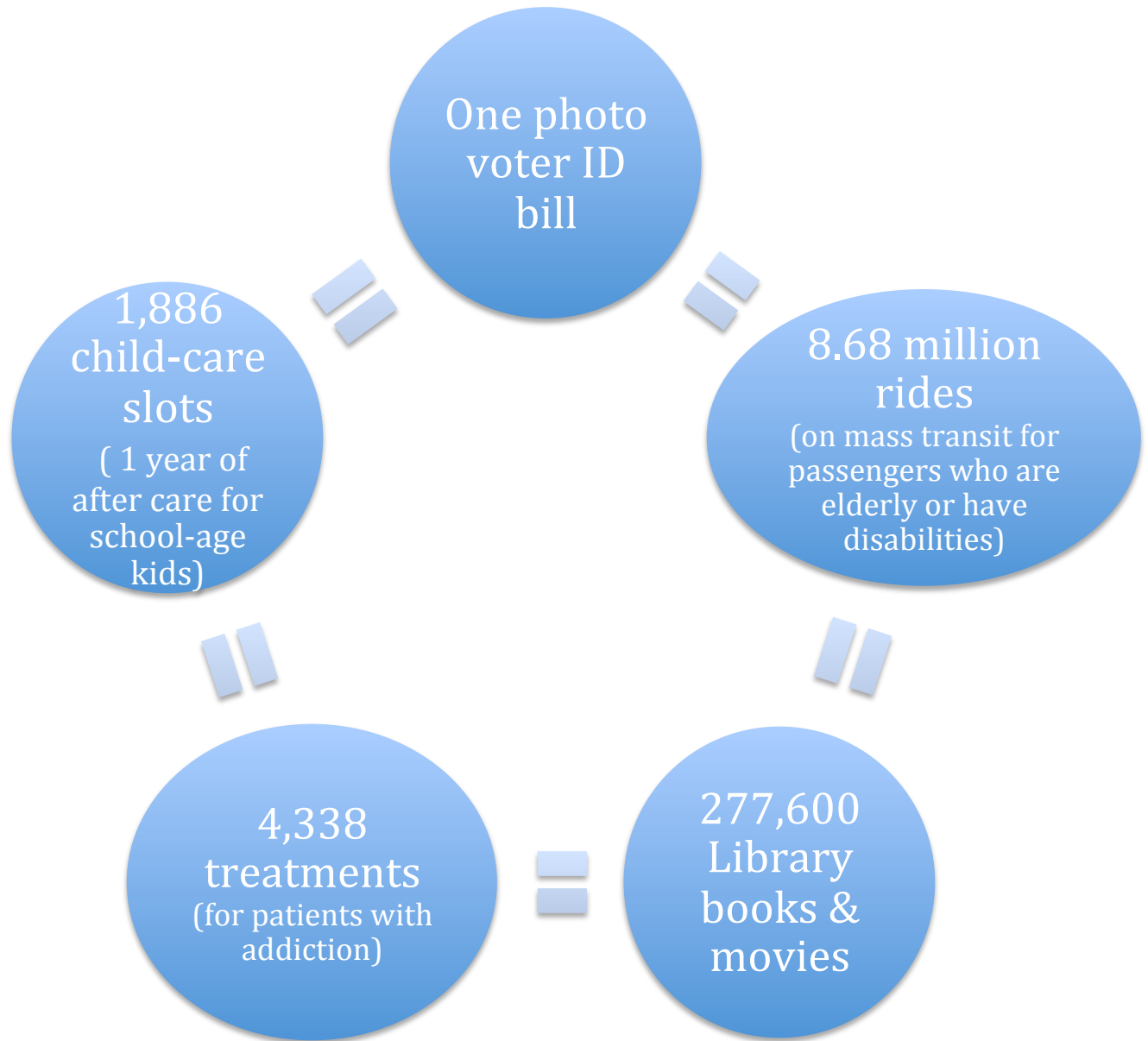
<sup>24</sup> According to 2009 data from the Office of Transit at the Ohio Department of Transportation (received in a phone call conducted by Sana Haider during the week of 4/23/12), Ohio's eight largest transit systems should have received \$10.7 million from the state in subsidies for riders who are elderly or have disabilities (according to the initial state budget passed that year) and used it to subsidize 13,427,422 fares for such riders. This amounts to a subsidy of approximately 80 cents per passenger. Because each transit system charges different fares the amount subsidized per fare in each city would vary. This 80-cent number is an average and only includes costs for additional passengers – it does not include the basic costs of maintaining a mass transit system.

<sup>25</sup> The cost of library item is \$25 per item for most Ohio libraries according to a phone call conducted by Sana Haider with a representative of the Cuyahoga County Public Library during the week of 4/16/2012. Items can include books, reference books, DVDs, and any other material available in the public library.

<sup>26</sup> The cost of an outpatient treatment for alcohol addiction is \$1,600 according to a phone call conducted with the Ohio Department of Alcohol & Drug Addiction Services during the week of 4/16/2012.

<sup>27</sup> The average cost per year for after-school care for a school-aged child in Ohio is \$4,732 according to the Ohio Child Care and Resource and Referral Association via Starting Point for Childcare and Early Education. According to the Ohio Department of Job and Family Services, a parent at 125 percent of the Federal Poverty Level would provide \$29.21 per week or \$1,052 per school year (36 weeks) [http://jfs.ohio.gov/cdc/docs/2\\_16\\_39\\_AppendixWeekly\\_2011\\_FPL.pdf](http://jfs.ohio.gov/cdc/docs/2_16_39_AppendixWeekly_2011_FPL.pdf). The subsidized portion would then be \$3,680. With \$6.94 million, the state could provide 1,886 children with subsidies for after-school care at this cost (6,940,000 divided by \$3,680 is equal to 1,886).

**Figure 1**  
**What could \$6.94 million buy each year?**

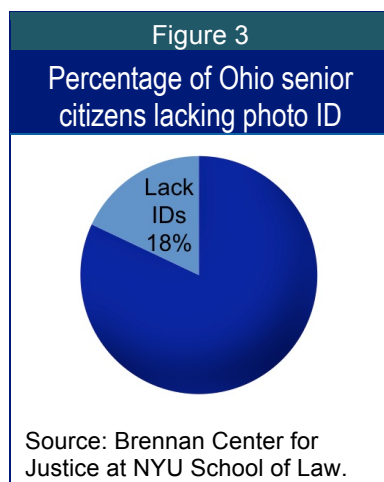
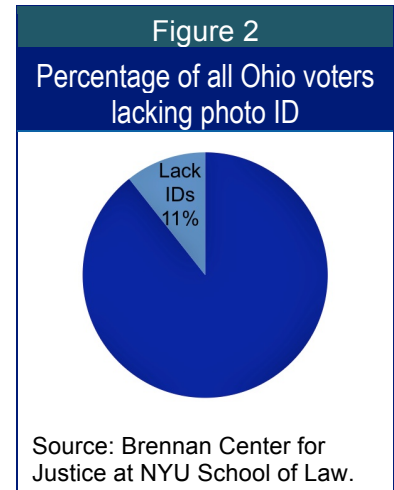


Source: Policy Matters Ohio analysis of data from the Ohio Department of Transportation, the Cuyahoga County Public Library, the Ohio Department of Alcohol and Drug Addiction Services, and the Ohio Child Care Resource and Referral Association. See text for details.

HB 159 would impose new costs at the same time as the budget is cutting local election board funding. Reductions in funding to the local government fund have made it more difficult to staff elections – this has meant combining precincts and cutting staffing. For example, the Summit County elections board may cut precincts by more than a third, to 294 from 475, in a move that has drawn criticism.<sup>28</sup> Imposing this new unfunded mandate, while cutting the funding that local elections boards need, is problematic. In fact, some counties in Indiana added additional election workers after the requirement was imposed.<sup>29</sup>

## Disproportionate effect

HB 159 would disproportionately affect young voters, elderly voters, moderate-income voters, minority voters and college students, all of whom are statistically less likely to have an Ohio driver's license. The legislation also makes it difficult for groups of people who have always voted to have ready access to documents that enable their continued voting. According to the Brennan Center for Justice, 11 percent of U.S. citizens do not have government-issued photo identification (Figure 2) and 7 percent of citizens do not have ready access to citizenship documents.<sup>30</sup> This section of the paper provides background on the disproportionate lack of access to photo ID among certain voter groups. We don't use these numbers to calculate costs, but they help Ohio policy makers understand how various demographic groups might be disenfranchised by these proposals.



### Senior voters

The Brennan Center for Justice has found that, nationwide, 18 percent of senior citizens lack valid photo identification (Figure 3). Applying this rate to Ohio suggests that about 290,000 Ohio seniors likely lack valid identification.<sup>31</sup>

### College voters

Ohio students can vote in the county where they attend college, as long as they are registered to vote, have a valid Ohio ID, and have proof of their current address. Students who grew up in other states but now live in Ohio, however, must obtain a valid Ohio voter identification card to vote here. College-issued cards, even from state universities, are not valid under HB 159. According to the Ohio Board of Regents, in 2010 Ohio colleges and universities had more

<sup>28</sup> <http://news.morningstar.com/all/acquire-news/ff80808136974f810136a129d81c1eef/summit-elections-board-grapples-with-cutting-precincts-process-moving-forward-the-akron-beacon-journal-ohio.aspx>

<sup>29</sup> "A Report of Photo ID for Voting Purposes." ISACA Photo ID Exploratory Committee <http://bit.ly/JnWkhf>

<sup>30</sup> *Citizens Without Proof*, Brennan Center for Justice. November 2006. Available at <http://bit.ly/9zEtNf>.

<sup>31</sup> The 2010 U.S. Census measured 1,622,015 Ohioans over the age of 65 – 18 percent of that number would translate to 291,963 Ohio elderly voters without valid identification for the purposes of the proposed law.

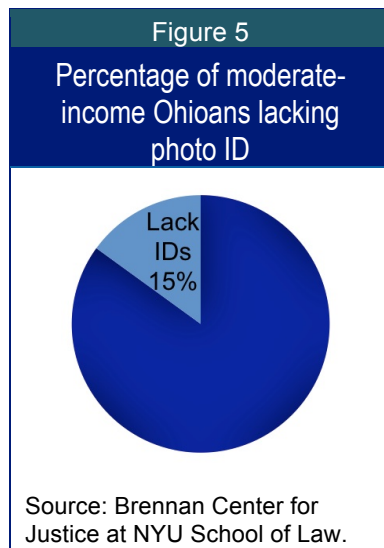
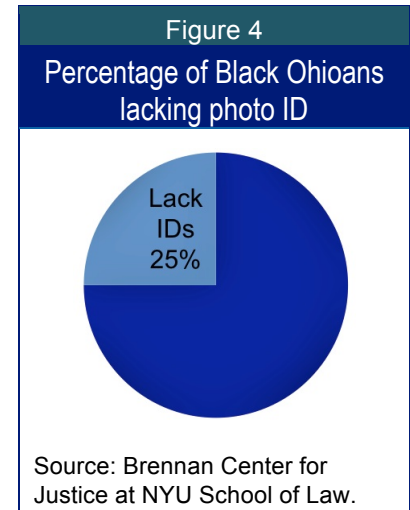
than 44,000 students who were American citizens and Ohio residents, but had grown up in another state and were likely to lack a valid Ohio photo ID.<sup>32</sup> Colleges are generally in session on general election days (in November) and usually also on primary election days (the presidential primary is in March, some local elections are held in May or August).

### Minority Voters

Minorities, especially African Americans, also are more likely to lack photo identification: one in four black voters nationally do not have photo ID (Figure 4). This means that more than 260,000 black Ohio adults are likely to lack the appropriate identification cards.<sup>33</sup>

### Non-drivers

Not all Ohio citizens own or have access to a car. According to a recent American Community Survey, 316,951 of 4,552,270 occupied households in Ohio lack a motor vehicle.<sup>34</sup> Some of the BMV offices, which would issue voter IDs, are not easily accessible by public transportation. Voters without cars are disadvantaged in this proposed voter ID system.



### Moderate-income voters

Approximately 15 percent of voters nationwide who make an income below \$35,000 also lack a photo ID; the percentage is even higher for Americans with lower yearly earnings. In Ohio, according to the Institute on Taxation and Economic Policy, 2,536,641 taxpayers earned less than \$32,000 in 2011. Since \$32,000 is less than \$35,000 and since some of these taxpayers are made up of two-earner families, it is safe to assume that well over 2.5 million Ohio citizens earn below this amount. If, as in the country as a whole, 15 percent of these citizens lack photo IDs, then we can assume that at least 380,496 moderate-income Ohio citizens lack photo IDs (Figure 5).

In sum, students, non-drivers, moderate-income adults, senior citizens and voters of color are all disproportionately affected by requirements for government-issued photo identification. It is difficult to measure how these groups overlap – some elderly are also minority, many students are also non-drivers, some moderate-income voters are also seniors. For that reason, we don't use the jarring numbers above to make cost estimates, but they inform the conversation about the disparate impact on Ohio citizens who, like all citizens, should be permitted and encouraged to participate in elections.

<sup>32</sup> There were 747,101 Ohio college students in 2010, according to the Ohio Board of Regents. Of these, roughly 8 percent, 59,768, were not Ohio residents. Some of these, about 14,492, were not American citizens and not eligible to vote, leaving more than 44,000 current Ohio residents likely to lack a valid Ohio voting identification card despite being eligible to vote.

<sup>33</sup> There are 1,407,681 African Americans in Ohio. About 76% of Ohio residents are over 18, meaning there are about 1,069,000 African Americans of voting age. If 25 percent of these eligible adult voters lack identification cards, there are roughly 267,000 black adults without such identification.

<sup>34</sup> Selected Housing Characteristics, 2006-2010 American Community Survey 5-Year Estimates, <http://1.usa.gov/IPuzy7>.



## Legal issues

Strict mandatory photo identification requirements are a fairly recent phenomenon. Indiana was the first state to institute this practice. Constitutionally permissible standards for such photo ID programs were established by the U.S. Supreme Court in *Crawford v. Marion County Election Board* (2008),<sup>35</sup> which upheld the Indiana statute, and by other federal and state courts in recent years.

Ohio's bill, as passed by the House, would provide free cards only to qualifying voters who request them and can demonstrate low income. This provision is not in the Senate version of the bill and, because of case law, is unlikely to be sustained. Many states have had to change or get rid of their voter ID laws because of similar issues. Kansas's law was initially written in a similar vein, but legislators amended it to provide free voter IDs to all citizens, because of potential legal issues. Wisconsin's voter ID law was ruled unconstitutional under the state's constitution by a Dane County Circuit Court.<sup>36</sup> Georgia was also forced offer voter ID cards free of charge after a federal court ruled that fees would represent an unconstitutional poll tax.<sup>37</sup> The U.S. Department of Justice rejected voter ID laws enacted in South Carolina and Texas in 2011 and 2012, respectively, because they disproportionately affected minority groups (African American and Latino voters are less likely to have driver's licenses than whites), and therefore violated the Voting Rights Act. These, and a number of other states and localities, must get prior approval for voting changes from the U.S. Department of Justice or from the U.S. District Court for the District of Columbia because of their history of discriminatory voting requirements.<sup>38</sup> While this "pre-clearance" requirement does not apply in Ohio, lawmakers must still take care not to violate the Voting Rights Act.

The case law on challenged photo ID voter laws has to date established several basic principles that must be satisfied under the constitution. HB 159, as passed, does not meet these constitutional standards. As described earlier, these include issuing free IDs to all those who lack them, providing free of charge those documents (such as birth certificates) that are needed to obtain free IDs, establishing a voter education program, expanding hours and locations for obtaining IDs, and not requiring proof of income to obtain free IDs.

HB 159 only requires the Ohio Bureau of Motor Vehicles to issue free voter identification cards to those who qualify as low-income citizens. These Ohio residents must provide a statement of income and expenses and comply with any other standards the Registrar for Motor Vehicles requires. Case law such as *Georgia v. Billups* has established that forcing voters to prove they cannot afford to pay is an unnecessary burden and constitutes a poll tax.<sup>39</sup> Requiring voters to pay for mandatory identification essentially makes voters pay for the right to vote by proxy.

The Senate version of HB 159 only allows for free cards to be issued to each qualifying person once every four years. This restriction means that the bill will not make voting readily accessible to all

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<sup>35</sup> Crawford et al v Marion County Election Board et al. Certiorari to the United States Court of Appeals for the Seventh Circuit. Retrieved at <http://www.law.cornell.edu/supct/html/07-21.ZS.html>.

<sup>36</sup> League Of Women Voters Of Wisconsin Education Network, INC. and Melanie G. Ramey v. Scott Walker, Thomas Barland, Gerald C. Nichol, Michael Brennan, Thomas Cane, David G. Deininger, and Timothy Vocke, at the Circuit Court Branch 9 of the State of Wisconsin. At: <http://bit.ly/I5PAmV>

<sup>37</sup> "The Cost of Voter ID Laws: What the Courts Say," p. 3.

<sup>38</sup> U.S. Department of Justice, Section 5 of the Voting Rights Act, [www.justice.gov/crt/about/vot/sec\\_5/types.php](http://www.justice.gov/crt/about/vot/sec_5/types.php).

<sup>39</sup> Common Cause Georgia NAACP v. Billups NAACP. United States Court of Common Appeals, 11<sup>th</sup> Circuit. <http://caselaw.findlaw.com/us-11th-circuit/1152467.html>.

eligible voters, and will require a cost for those who need a new state ID more frequently. It is not likely to be upheld in the courts. Voters who move in and out of Ohio, who change their name due to divorce or marriage, or who simply misplace their cards will have difficulty voting.

The bill does have a provision for voters who cannot be photographed for religious reasons. They must appear in court, within ten days after casting a provisional ballot, to show their identity.

## **Conclusion**

The history of the 19<sup>th</sup> and 20<sup>th</sup> centuries in the United States was a history of ensuring greater access to the fundamental right to participate in the electoral process. Voting is a right and a responsibility that Americans should take seriously.

The proposed requirement that voters show government-issued photo identification cards when they vote will suppress voting in Ohio. It doesn't address any documented problem – voting under somebody else's name is practically unheard of in the United States or Ohio. According to the Brennan Center for Justice, citizens are more likely to get struck by lightning than to attempt voter fraud.<sup>40</sup> The closely-analyzed 2004 election in Ohio revealed a voter fraud rate of 0.00004 percent – fewer than five out of every 100,000 votes cast. This tiny number included all forms of voter fraud – using someone else's identity to vote is even less common.<sup>41</sup> But because more than one in 10 Ohio citizens do not have photo ID cards, some citizens will be prevented from voting by this requirement.

If Ohio is to implement this proposal in a way that is likely to be upheld in court, the state will have to incur costs to enable citizens to understand the new requirements, get underlying documentation needed for identification cards, and get the cards themselves. Our analysis shows that annually, these costs will range from \$4,849,833 per year to \$6,940,327 dollars per year. These costs are not justifiable, coming at a time when Ohio is cutting all kinds of essentials in the state budget. Of particular irony, these new costs – an unfunded mandate – also come at a time when a 50 percent cut to the local government fund has made it harder to staff and run elections.

HB 159 is likely to suppress voting. The bill purports to solve a problem that is practically non-existent, but it will create new problems and impose new costs. Ohioans value the right to vote and they value their neighbors' participation. Creating new, unnecessary costs and suppressing votes has no place in the Buckeye State.

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<sup>40</sup> Voter fraud alarmists discuss different types of voting fraud, including voter impersonation and voter registration fraud. Ohio has almost no incidences of voter impersonation. The new voter ID requirement would not prevent voter registration fraud. Elections such as the highly contested 2004 Wisconsin election showed that the actual voter fraud in this election amounted to 0.0025% according to: Levitt, Justin. "The Truth About Voter Fraud." Brennan Center for Justice. New York University School of Law. New York. 2007. <http://bit.ly/d7PDoA>.

<sup>41</sup> "Policy Brief on the Truth about Voter Fraud," Brennan Center for Justice, September 2006. <http://bit.ly/95z2uP>.

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