



Election Administration: How Does New York State Compare?

A Brief Examination of New York's Election Laws in Relation to Nineteen Bipartisan Recommendations and to Other States' Policies

Susan Lerner
Jonathan Eckman, Benjamin Rosenblatt, Matthew Schlesinger, Anne Mills and
Trevon Mayers

January 2017

ENDORSED BY



Election Administration: How Does New York State Compare?

Table of Contents

OUR REPORT CARD FOR NEW YORK STATE'S PERFORMANCE ON ELECTION REFORMS BETWEEN 2010 AND 2016.....	Page 4
INTRODUCTION.....	Page 5
METHODOLOGY.....	Page 6
PRESIDENTIAL COMMISSION RECOMMENDATIONS.....	Page 7
WHAT COULD HAVE BEEN: Election Administration Legislation Supported By Common Cause New York That Was Not Passed in the 2015- 2016 Session, 2016-17 Executive Budget, 2017 State of the State.....	Page 8
OPT-OUT VOTER REGISTRATION FOR NEW YORK STATE.....	Page 13
ELECTION-RELATED LEGISLATION PASSED BY NEW YORK STATE BETWEEN 2010 AND 2016.....	Page 16
SOME STATES THAT HAVE ACHIEVED SIGNIFICANT REFORM	Page 19
California.....	Page 19
Colorado.....	Page 19
Maryland.....	Page 20
New Mexico.....	Page 20
Oregon.....	Page 20
West Virginia.....	Page 21
NEW YORK STATE ELECTION LAW VERSUS THE RECOMMENDATIONS OF THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION.....	Page 22
Recommendation One: Adopt online voter registration.....	Page 22
Recommendation Two: Expand interstate exchanges of voter Registration information	Page 22
Recommendation Three: Integrate voter data acquired through Departments of Motor Vehicles with voter registration lists.....	Page 23
Recommendation Four: Use schools as polling places to address any related security concerns; Make Election Day an in-service day.....	Page 24
Recommendation Five: Establish vote centers to facilitate voting at convenient locations.....	Page 24
Recommendation Six: Develop models and tools to effectively allocate resources across Polling places.....	Page 25
Recommendation Seven: Transition to electronic pollbooks.....	Page 25
Recommendation Eight: Recruit public and private sector employees, as well as high school and college students, as poll workers.....	Page 25

Recommendation Nine: Institute poll worker training standards.....	Page 26
Recommendation Ten: Establish advisory groups for voters with disabilities and for people with limited English proficiency.....	Page 27
Recommendation Eleven: Adopt comprehensive management practices to assure accessible polling places.....	Page 27
Recommendation Twelve: Survey and audit polling places to determine their accessibility.....	Page 28
Recommendation Thirteen: Provide bilingual poll workers at polling places where a significant number of voters do not speak English.....	Page 29
Recommendation Fourteen: Test all election materials for plain language and usability.....	Page 29
Recommendation Fifteen: Expand opportunities to vote before Election Day.....	Page 30
Recommendation Sixteen: Provide online ballots and registration materials to military and overseas voters	Page 31
Recommendation Seventeen: Reform standard-setting and certification processes for voting machines	Page 31
Recommendation Eighteen: Conduct audits of voting equipment after each election as part of a comprehensive audit program, and publicly disclose data concerning machine performance in a common data format.....	Page 32
Recommendation Nineteen: Local jurisdictions should gather and report voting-related transaction data to improve the voter experience.....	Page 32
THE GRADING BREAKDOWN	Page 33
CONCLUSION AND RECOMMENDATIONS	Page 34

Election Administration: How Does New York State Compare?

Grading New York State's Performance on Elections Reforms Between 2010 and 2016

PRESIDENTIAL COMMISSION RECOMMENDATIONS	GRADE
1: Online voter registration.	C
2: Interstate exchanges of voter registration information.	F
3: Integrate DMV voter data seamlessly with statewide voter registration lists.	C
4: Use schools as polling places.	F
5: Consider use of vote centers.	D
6: Tools and models for effectively allocating resources across polling places.	F
7: Transition to electronic pollbooks.	F
8: Recruit public and private sector employees, as well as high school and college students, to become poll workers.	C
9: Institute poll worker training standards.	D
10: Establish advisory groups for voters with disabilities and for those with limited English proficiency.	F
11: Adopt comprehensive management practices to assure accessible polling places.	D
12: Survey and audit polling places to determine their accessibility.	C
13: Wide deployment of bilingual poll workers.	D
14: Test all election materials for plain language and usability.	D
15: Expand opportunities to vote before Election Day.	F
16: Provide ballots and registration materials to military and overseas voters via website.	D
17: Reform standard-setting and certification process for voting machines.	D
18: Post-election voting equipment audits with public disclosure of data.	D
19: Local jurisdictions should gather and report voting-related data to improve the voter experience.	F
OVERALL GRADE	D-

Election Administration: How Does New York State Compare?

INTRODUCTION

Every four years when the presidential election looms, election systems come under scrutiny. Familiar stories of long lines, ballot confusion and equipment breakdowns from elections past are rehashed, while the media and the public look to see if voting systems are prepared to meet voters' expectations of a well-run, modern election that works fairly for everyone.

In the wake of an unpredictable and unprecedented 2016 election, the scrutiny of our voting systems have again been heightened to a national discussion. This was the first presidential election in 50 years without the full protections of the Voting Rights Act, one of the hard fought successes of the civil rights movement. The consequences of the erosion of the Voting Rights Act were clear. Across the country, eligible voters were forced to confront many barriers in the form of restrictive voting laws, inefficient registration deadlines, and avoidable administrative errors that that were amplified across social and demographic lines.

Following the 2012 presidential election, when long lines and problems at the polls were fresh in voters' minds, President Obama appointed a bipartisan commission to examine how we conduct our elections and make recommendations for ways to improve the voting experience for all voters. The Commission not only relied on the advice of election experts, but also took recommendations from experts in industry, design, and academia.

Following the 2016 election, the issue of modernizing election administration continues to be a perennial topic here in New York. New York's archaic registration procedures were the focus of national scrutiny during the April presidential primary, when myriad New Yorkers were thrown off the voter rolls or found themselves unable to vote because of restrictive party-change registration rules and a closed primary. Voters question why the voting procedures they are familiar with from other states aren't adopted by New York, and with good reason. Yet there has not been any consensus on which reforms would have the most impact and actually improve the voting experience for people who simply want to be fully engaged citizens.

To fulfill the policy promises of the federal Voting Rights Act, our state legislators should not only adopt a state version of the Voting Rights Act but must also adopt long overdue election reforms. Overlooking election administration issues poses a serious threat to the smooth functioning of the state's democracy. Unfortunately, our state representatives have been especially indifferent to these problems. The purpose of this white paper is to examine recommendations made by the bipartisan Presidential Commission on Election Administration, evaluate efforts at election reform in selected other states, and to examine New York State's failure to meet the Commission's recommendations as well as the standards set by other states around the nation.

Our findings point to the serious consequences of New York's failure to pass meaningful election administration reforms. For example, The Center for American Progress Action Fund ranked New York State 44th out of 51 jurisdictions (the 50 states plus Washington, D.C.) on the health of state democracies.¹ For accessibility of the ballot, the Center gives New York a grade of D-, for

representation it gives the state an F, and for influence it gives the state a C. This is a far cry from times when New York State was regarded as a reform leader. These rankings demonstrate the difficulty that residents of New York State face during the voting process. The voices of potential voters are lost due to a difficult registration process, which was made clear earlier this year when thousands of New Yorkers were unable to vote in the Democratic Primary earlier this year.

By revealing the State's inaction over six years, our white paper demonstrates that New York's current election administration procedures do not measure up with those in many other states. If New York does not act, its voters face a number of obstacles including a lack of early voting, ineffective poll site operations, complex and unreadable ballots, and more. Although other states adopted important and necessary reforms, often in line with practical recommendations from the bipartisan Presidential Commission, New York's Legislature has failed to pass meaningful election reform and modernization measures, struggling to adopt even routine and nominal policy changes. We hope that this paper provides a framework for holding elected officials accountable, so that all New Yorkers can be actively engaged in improving our state's democracy and moving it into the 21st century.

METHODOLOGY

This examination uses the nineteen detailed election reform recommendations from "The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration," as a guide. With reference to a variety of sources, this white paper assesses the current landscape of election administration across the country to point the way forward for New York State.

To gain a clearer picture of the current state of New York's election law, we examined all of the bills since 2010 that have gone through the Assembly's Committee on Election Law and the Senate's Committee on Elections. We focused on bills passed by both chambers as well as bills that were delivered to the Governor although not necessarily signed. We then narrowed these bills down to legislation relevant to the Presidential Commission's recommendations and analyzed the State's election law in 2016 including election-related initiatives undertaken by the executive to determine where New York's election laws and practices currently stand.

This multi-faceted approach gave us three components when evaluating New York State's performance compared to and organized by each Presidential Commission recommendation: the current state of New York election law in relation to the recommendation, any significant legislation related to the recommendation (routine bills were not included), and a brief overview of other states' efforts and laws relating to the recommendation.

Our results demonstrate New York's very poor performance in passing election administration reform in six years. Further consideration of election reforms passed in other states and the Presidential Commission's recommendations shows that New York's current election law and voting process are in serious need of reform and modernization. We believe that the recommendations of the bi-partisan Presidential Commission provide a road map for effective reform.

PRESIDENTIAL COMMISSION RECOMMENDATIONS
Voter Registration
1: Adopt Online voter registration.
2: Expand Interstate exchanges of voter registration information.
3: Integrate DMV voter data seamlessly with statewide voter registration lists.
Improving the Polling Place Experience
4: Use schools as polling places.
5: Consider use of vote centers.
6: Tools and models for effectively allocating resources across polling places.
7: Transition to electronic pollbooks.
8: Recruit public and private sector employees, as well as high school and college students, to become poll workers.
9: Institute poll worker training standards.
10: Establish advisory groups for voters with disabilities and for those with limited English proficiency.
11: Adopt comprehensive management practices to assure accessible polling places.
12: Survey and audit polling places to determine their accessibility.
13: Wide deployment of bilingual poll workers.
14: Test all election materials for plain language and usability.
More Opportunities to Vote
15: Expand opportunities to vote before Election Day.
16: Provide ballots and registration materials to military and overseas voters via website.
Opportunities to Use New Voting Technology
17: Reform standard-setting and certification process for voting machines.
18: Post-election voting equipment audits with public disclosure of data.
Utilizing Election Data to Enhance Future Voter Experiences
19: Local jurisdictions should gather and report voting-related data to improve the voter experience.

Election Administration: How Does New York State Compare?

WHAT COULD HAVE BEEN: Election Administration Legislation Supported by Common Cause New York That Was Not Passed During The 2015-2016 Legislative Session

2015

A3389 by Assembly Member Kavanagh – Voter Friendly Ballot Act

The legislation was passed the Assembly, then referred to Senate Elections Committee and never voted on. Bills similar to this one were proposed in 2012 and 2014. It would assist in crafting ballots that deliver clear instructions and demarcates races and candidates effectively.

This bill is related to Recommendation Fourteen: Test all election materials for plain language and usability.

A254 by Assembly Member Rozic (same as S875)

The legislation was referred to the Assembly Election Law Committee. Similar bills were proposed in 2010, 2012, and 2014. It would authorize full-time college students to act as election inspectors and poll clerks in the election district where their colleges are located.

This bill is related to Recommendation 8: Recruit public and private sector employees, as well as high school and college students, to become poll workers.

A295 by Assembly Member Abinanti (same as S6534 by Senator Avella)

The legislation was referred to the Assembly Election Law Committee. Similar bills were proposed in 2010, 2011, 2012, and 2014. It would require that the Board of Elections provide a system through which an absentee ballot application can be electronically transmitted to a qualified voter.

This bill is related to Recommendation 16: Provide ballots and registration materials to military and overseas voters via website.

S2428 by Senator Gianaris (same as A5892 by Assembly Member Kavanagh)

The legislation was referred to the Assembly Election Law Committee and Senate Elections Committee; no votes were taken. It would make the following participating agencies for the purpose of electronically registering consenting and eligible voters: public libraries, local housing authorities, and public high schools. It also would direct the State Board of Elections to promulgate rules and regulations for implementation.

This bill is related to Recommendation One: Adopt Online voter registration.

S4787 by Senator Funke (same as A6040B by Assembly Member Stirpe)

The legislation was referred to the Assembly and Senate Education Committees, passing out of Senate Education to Third reading and the Rules Committee in 2015. The bill did not progress beyond the Education Committee in either house in 2016. It would add general election day to the list of days when school will not be in session; allows a school district to elect to require staff attendance on a general election day or to schedule a professional development day.

This bill is related to Recommendation Four: Use schools as polling places.

S858 by Senator Carlucci (same as A5598 by Assembly Member Kavanagh)

This bill was referred to the Assembly Election Law Committee and Senate Elections Committee; no votes were taken. Similar bills were proposed in 2010, 2011, and 2013. It would make registration portable so voters who submit required information to government officials stay on the rolls when they move within the state or change their names.

This bill is related to Recommendations Two: Expand Interstate exchanges of voter registration information **and Three:** Integrate DMV voter data seamlessly with statewide voter registration lists.

A5870 by Assembly Member Kavanagh

The legislation was referred to the Assembly Election Law Committee; no votes were taken. Similar bills were proposed in 2010, 2012, and 2014. It would shorten the deadline for registration to ten days before an election.

This bill is related to Recommendation Fifteen: Expand opportunities to vote before Election Day.

A2529 by Assembly Member Kavanagh (same as S857 by Senator Carlucci)

The bill was passed by the Assembly Election Law Committee and referred to Senate Elections Committee; no other votes were taken. It would allow and encourage pre-registration of 16 and 17 year-olds to vote.

This bill is not specifically related to a particular recommendation, but it is noteworthy nonetheless.

S859 by Senator Carlucci (same as A5564 by Assembly Member Kavanagh)

The bill was referred to the Assembly Election Law Committee and the Senate Elections Committee; no votes were taken. It would expand the current DMV program to permit all eligible voters to register over the Internet through the State Board of Elections website.

This bill is related to Recommendation One: Adopt Online voter registration.

S8305 by Assembly Member Walker

The bill was referred to the Assembly Election Law Committee; no votes were taken. It would provide for automated voter registration of eligible consenting citizens at designated government agencies, permit same day registration on the day of an election and to cast a vote in that election, and update registration information through the internet.

This bill is related to Recommendation One: Adopt Online voter registration **and Three:** Integrate DMV voter data seamlessly with statewide voter registration lists.

A370 by Assembly Member Pretlow

The legislation was referred to the Assembly Election Law Committee. Similar bills were proposed in 2002, 2004, 2006, 2008, 2010, 2012, 2014. It would establish a temporary state commission on the electoral process to make recommendations for new voting technology and provides for grants to localities to improve voting procedures.

This bill is related to Recommendation 17: Reform standard-setting and certification process for voting machines.

A2057 by Assembly Member Quart

The legislation was referred to the Assembly Election Law Committee. A similar bill was proposed in 2014. It would authorize early voting at primary and general elections to be conducted at least 7 days prior to the election upon application by the voter and provides that permanent polling places shall be established by the county board of elections for early voting.

This bill is related to Recommendation 15: Expand opportunities to vote before Election Day.

A3117 Peoples-Stokes (same as S2307 Dilan)

The legislation was referred to the Assembly Election Law Committee. Similar bills were proposed in 2010, 2012, and 2014. It would provide to any person early voting for a candidate for public office in a general election to take place no sooner than twenty days and no later than five days prior to election day, and for a special election to take place no sooner than eight days and no later than two days prior to election day; and such voting shall take place at such person's county board of elections.

This bill is related to Recommendation 15: Expand opportunities to vote before Election Day.

S2538 by Senator Gianaris (same as A5972 by Assembly Member Kavanagh) – Voter Empowerment Act

This bill was referred to the Assembly Election Law Committee and the Senate Elections Committee; no votes were taken. It is a comprehensive bill, including the following provisions:

- Streamlines voter registration process;
- Automatically registers eligible voters through various government agencies and public colleges and universities;
- Streamlines absentee and military voter registration application process;
- Requires colleges and universities to assist in voter registration and pre-registration of students;
- Streamlines the affidavit voting process;
- Requires the state board of elections to create a statewide voter registration information system, available through a secure public website accessible from the website of the state board of elections and through a toll-free telephone number maintained by the state board of elections.

The bill is related to Recommendations One, Three: Integrate DMV voter data seamlessly with statewide voter registration lists, **Fifteen:** Expand opportunities to vote before Election Day, **and Sixteen:** Provide ballots and registration materials to military and overseas voters via website.

A4105 by Assembly Member Barclay (similar to Bill A295)

This bill was referred to the Assembly Election Law Committee; no votes were taken. It would permit voter to obtain applications for absentee ballots for primary, general, or special elections by electronic means including telefacsimile transmission or electronic mail.

This bill is related to Recommendation 16: Provide ballots and registration materials to military and overseas voters via website.

2016

S7071 by Senator Akshar (same as A1952 by Assembly Member Cusick)

This bill was referred to the Assembly Election Law Committee. A similar bill was proposed in 2014. It would add an optional section to voter registration forms to allow for a registrant's email address.

This bill is related to Recommendation One: Adopt Online voter registration.

S6581 by Senator Akshar (same as A8608 by Assembly Member Cusick)

This bill passed the Assembly, was passed by the Senate Elections Committee and referred to the Committee on Rules and Administration but did not receive a floor vote in the Senate. It would permit the use of computer generated registration lists at polling places.

This bill is related to Recommendation 7: Transition to electronic pollbooks

S857 by Senator David Carlucci (same as A2529 by Assembly Member Kavanagh)

This bill was referred to the Senate Elections Committee; no votes were taken. Similar bills were proposed in 2011, and 2013. It would allow those 16 and 17 years of age to pre-register to vote.

This bill is related to Recommendation 15: Expand opportunities to vote before Election Day.

S4456A by Senator Comrie (same as A3874B by Assembly Member Brennan)

This bill was referred to attorney general for opinion and then referred to the judiciary in May 2016. It would permit no fault absentee voting by amending the state constitution to allow voters to request to vote by mail without stating a reason for doing so.

This bill is related to Recommendation 15: Expand opportunities to vote before Election Day.

S3813B by Senator Stewart Cousins (same as A8582A by Assembly Member Kavanagh)

This bill was first introduced in February 2015 and referred to the Senate Local Government Committee. It would provide in-person early voting 8 days prior to any primary, special, or general election.

This bill is related to Recommendation 15: Expand opportunities to vote before Election Day.

A07634 by Assembly Member O'Donnell (Same as S02023-A by Senator Hassell-Thompson)

This bill was ordered to a third reading in the Assembly. It would allow individuals with past felony convictions the right to vote after being released from incarceration or if the individual is serving a term of parole, conditional release or post-release supervision.

This bill is not specifically related to a particular recommendation, but it is noteworthy nonetheless.

A8626 by Assembly Member Walker (Same S6631 by Senator Parker)

This bill was referred to the Senate Elections Committee. It would create the "modernized voter registration act of New York" to modernize voter registration as well as to promote access to voting for individuals with disabilities.

This bill is related to Recommendation One: Adopt Online voter registration, and **Three:** Integrate DMV voter data seamlessly with statewide voter registration lists.

2016 – 2017 NEW YORK STATE EXECUTIVE BUDGET

Most recently, Governor Cuomo proposed a bill in his 2016-2017 Executive Budget which would finally bring Automatic Voter Registration to New York State. Cuomo's bill is similar to those proposed by Senators Comrie and Carlucci. Citizens would automatically be registered to vote when they applied for motor vehicle driver's license, a driver's license renewal, or an identification card from the DMV. The bill streamlines the registration process, sending voter registration applications to local boards of elections unless the DMV customer explicitly chooses to opt out.

The 2016-2017 budget, as passed, did not provide any funding for implementation of opt-out voter registration and, despite proposals to implement automatic voter registration in New York State, no reform measures have since been passed.

2017 STATE OF THE STATE

In the 2017 State of the State address delivered on January 9, Governor Cuomo announced The Democracy Project, promising to introduce legislation to set up Early Voting, Automatic Voter Registration and Same Day Registration in New York State.

Opt-Out Voter Registration for New York State

WHAT IS IT?

Opt-Out Voter Registration (sometimes known as Automatic Voter registration) is an electoral reform whereby a state takes on the responsibility to register eligible individuals to vote by capturing the information needed for voter registration—such as age, citizenship, residence, etc.—during agency transactions and automatically registers the citizen to vote. Those who are eligible to vote, according to federal and state standards, are then included in the state’s voter registration rolls. Typically, they are then notified by the state they are about to be registered, and are given the option of opting out of registration and informed of what action(s) must be taken in order to register with a party (a necessity for primary elections in some states). During transactions at the agency(ies) capturing relevant information, unlike current practice, individuals are not asked specifically whether they would like to register to vote at this time, but rather are assessed, based on the information provided during the transaction, as to their eligibility. Based on this information, the state then provides the entity compiling the voter rolls with the information only of those who are eligible to vote.

WHY SHOULD STATES ADAPT IT?

“Automatic voter registration shifts the burden of voter registration from the individual to the state, as is done in many developed democracies around the world. Automatic voter registration ensures that all eligible persons can vote unless they opt-out of being put on the rolls (which all voters have the opportunity to do). This would replace our antiquated process of filling out paper forms in order to cast a ballot on Election Day. It makes voter registration more efficient for voters and election administrators, and voter lists more accurate. It also allows organizations and campaigns to, rather than spend resources and time on voter registration, focus on educating voters and getting them to the polling booth. The potential impacts are enormous”.—from Common Cause National

The New York Times reported that early results showed that Oregon’s Automatic Voter Registration program was a success: “Under a first-in-the-nation law that went into effect at the start of the year, Oregon automatically registered more than 225,000 residents based on interactions with the state’s department of motor vehicles, such as obtaining or renewing a driver’s license. Of those, nearly 100,000 voted...”²

WHERE DOES NEW YORK STATE STAND?

In 2015, both Oregon and California passed automatic voter registration bills that streamlined the voter registration process for eligible citizens who have driver licenses. In April 2016, Vermont, and West Virginia followed suit and adopted automatic voter registration with significant bipartisan support. In May 2016, Connecticut became the fifth state to approve automatic voter registration and the first state to implement this policy administratively through an agreement between the Department of Motor Vehicles and Secretary of the State. In November 2016, Alaska implemented Automatic voter registration through a ballot measure that registers eligible residents who receive money from the state’s Permanent Fund Dividend (PFD).

Currently, New York State residents can register to vote through the Department of Motor Vehicles (DMV), but the form is separate from the application for a driver’s license or ID card. The voter registration form is available both online and in person, and once it is filled out, the DMV sends it to the County Board of Elections for review. The County Board of Elections will then notify the

registrant within six weeks if their application was processed successfully or if more information from the registrant is needed.

There are two bills that could bring an Oregon-style automatic voter registration system to New York and they would streamline the voter registration process by sending the county board of elections the resident's information taken from the form used to obtain a driver license or a state ID. Residents would later be sent a form giving them the option to opt out of the voter registration or to affiliate with a political party.

Senator Leroy Comrie's S5367-2015 and Senator David Carlucci's 6075-2015 bills are similar in enacting automatic voter registration, but Carlucci's bill has additional language on allowing individuals who are sixteen and seventeen years old to pre-register to vote. Currently, New York State does not allow pre-registration to vote for sixteen year-olds and seventeen year-olds can only pre-register to vote if they will turn eighteen before the end of the calendar year.

The current online voter registration form requires that applicants already have a record with the DMV that includes a signature. This creates an unnecessary barrier for those who want the benefit of online registration, but have never previously used DMV services. Common Cause New York has previously endorsed Kirsten Gillibrand's proposed bill that would require all states to allow online voter registration without the prerequisite of an in-person, on paper signature.

Election Administration: How Does New York State Compare?

Elections-Related Legislation Passed by New York State Between 2010 and 2016

2010

2010 was the most fruitful year in the time period of our examination, with the legislature passing twenty-two elections-related bills. Among them were:

- [A7850](#), which helped make polling places more accessible to the general public
- [A1308](#) and [A4467-A](#), which provided small but important reforms for poll workers
- [A10946](#), which aimed to make polling places more accessible to Americans with disabilities

These bills relate to the Presidential Commission’s recommendations and, though not watershed legislation, did establish necessary reforms. However, the 2010 session also included lackluster attempts at reform, which attest to the difficulty of getting our Legislature to address meaningful election administration reform:

- [A11354-A](#), which barely made a dent in clearing up New York’s confusing ballots
- [A5276-B](#), which, rather than eliminate the requirement of an excuse for absentee voting, made it easier to confirm the applicability of the eligible excuses.

2011

The legislature passed nine elections-related bills in 2011—but, none of them advances significant reform. These bills include:

- [A6767-A](#), relating to the preservation of used and unused ballots
- [A263](#), which made technical corrections relating to “political subdivisions”
- [3093-B](#), which related to the number and use of voting machines in village elections and repealed itself at the end of the following year.

2012

The legislature passed only two bills this year:

- [A10609](#), which would have required the State Board of Elections to provide all voting information and materials in Russian, a significant step forward—was vetoed by Governor Andrew Cuomo.
- [S6296-A](#), which extended provisions of election law relating to the use of the outmoded lever voting machines through 2014 – a clear step backwards.

2013

Again in 2013, as in 2012, the legislature passed only two elections bills:

- [S3536-C](#), to define the procedures for the closing of polls and canvassing of votes
-

- [A7832-B](#), which carved out a one-time only exception to the required the use of optical scan voting machines to allow New York City to use the outmoded lever machines should a municipal run-off election be necessary in 201 – another step backward.

2014

In 2014, the legislature passed nine bills, though again none instituted meaningful reform. Among them:

- [A5075](#) prohibits a candidate from serving as a poll watcher
- [A1230](#) relates to the locking and recanvassing of the outmoded lever voting machines
- [A8340](#) pertained to the retention of election-related documents, reducing the retention time of poll books from four years to two.

2015

In 2015, the legislature passed eight election bills, again missing the opportunity for significant reform:

- [A2439B](#) relating to a board of registration for special town elections
- [A3601](#) removed the reference to "inmate" when referring to residents of veterans administration hospitals for absentee voting
- [A05926](#) refers to delivery by mail service designated by the secretary of the treasury of the United States unless the state board of elections finds that that service to be inadequate.
- [S01848-A](#) prohibited the use of pasters, stickers and labels on ballots.
- [S5908](#) relates to the audit of voter verifiable audit records; authorizes manual audits or through use of any automated tool authorized by the state board of elections.
- [S4843](#) set the date for the fall 2015 primary election.
- [S5958](#) and [S6002](#) related to the 2016 presidential primary and providing for the election of delegates to a national party convention or a national party conference

2016

In 2016, the legislature passed seven election bills, although again, none advanced significant reform

- [A3330](#) repeals provisions of the election law relating to election inspectors and clerks
- [A4186](#) relating to the canvassing of primary returns by the board of elections.
- [A7597](#) provides repeal of provision of the election law regarding the amount paid to lease a polling station.
- [A7817](#) relates to making certain notification requirements cost-effective and efficient
- [A10105](#) for electronic filing of copies with political communications to the state board of elections
- [S5478](#) which sets the agreement among the states to elect the president by national popular vote
- [S6833A](#) which gives special ballots to emergency responders who respond to emergencies declared by the governor or a court of competent jurisdiction

Elections Bills Passed by the New York State Legislature		
Year	Number Passed	Number Vetoed
2010	22	1
2011	9	0
2012	2	1
2013	2	0
2014	9	0
2015	8	0
2016	7	0

It is unfortunate and revealing to note that, while the Legislature was unable to address attempts to modernize New York’s election administration and bring it up to a 21st century standard, bills dealing with the outmoded lever machines – allowing their use or refining procedures relating to them – passed in 4 of the last 6 years.

Election Administration: How Does New York State Compare?

Some States That Have Achieved Significant Reform

CALIFORNIA

In September of 2016, California Jerry Brown signed a bill into law following Colorado's lead in significantly expanding the opportunities which Californians have to vote, moving towards a vote-by-mail system by providing that all registered voters would be delivered a ballot 28 days before Election Day. Voters would be able to vote in-person at a vote center, mail their ballot in, drop it off at a vote center or at a ballot drop-off location.

In October of 2015, California Governor Jerry Brown signed into law a bill that will automatically register anyone to vote who has registered with their DMV – joining Oregon in shifting the burden of registration from the individual to the state.

California also allows a voter to permanently register as an absentee voter, a huge time saver that spares many voters frustration and confusion. Further, four California counties have started using electronic pollbooks.

Additionally, the state's Online Voter Registration system was launched in both English and Spanish in 2012. It is now available in eight additional languages - Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, and Vietnamese. A driver's license or California identification card is still needed to complete the registration process.

COLORADO

The Centennial State is one of the best examples of a state that has implemented the changes that the Presidential Commission sought in its 2014 report. Colorado has adopted online voter registration and has implemented an almost paperless exchange of data between the Department of Motor Vehicles and election administrators. All that is missing in that category is a "wet ink" signature for new voters. Colorado is also a member of both the Interstate Voter Registration Crosscheck Program (which Common Cause does not endorse) and the Electronic Registration Information Center.³

The state also has a mail-in ballot system through which voters receive a ballot by mail and can also submit it by mail or in-person. The state does not use schools for its elections because of this system and because of security risks over using schools as drop off and in-person voting sites. Additionally, "Colorado, leading the charge, passed legislation establishing vote centers a decade ago."⁴

All districts in Colorado use electronic pollbooks and an accessibility checklist. The state also intentionally recruits bilingual workers for jurisdictions in which 3% or more of the population is not proficient in English.⁵

The state, though it has no statutory policy on the matter, has an effective system in practice for advisory groups to work closely with elected officials for the benefit of voters with disabilities and voters not proficient in English.⁶

Colorado has a fifteen-day period for voting in-person or by returning a ballot by mail or at a drop-off point, and also supplies important information, including links for online ballots and applications for military and overseas voters, on its website.⁷

The state currently has a law in place to bring risk-limiting audits to all of Colorado by 2017, and already requires post-election audits of voting machine equipment with public disclosure of the results. Colorado also collects detailed data on voter registration which is showing how the state's relatively recent reforms are already starting to get good results.⁸

MARYLAND

On March 10, 2016, Maryland's legislature voted to override a prior veto by Gov. Larry Hogan, effectively replacing a practice that prevented individuals with past felony convictions from voting until all parts of their sentences had been completed.

The newly enacted SB 340/HB 980 W law allows citizens to regain their voting rights immediately after being released from incarceration. Maryland now joins over a dozen other states including the District of Columbia where citizens with criminal convictions do not lose their right to vote. The legislation is estimated to have restored voting rights to nearly 40,000 people.

Maryland also passed a law in 2016 expanding the number of agencies that electronically register voters, as well as requiring three additional agencies' websites and the state university to link to the states already existing online voter registration portal.

NEW MEXICO

New Mexico is a rising star in effective voter administration. Voter turnout throughout the state has been relatively low, but recent legislative efforts are turning that around.

In New Mexico, voters can cast absentee ballots or vote in person at the county clerk's office beginning 28 days before Election Day. Notably, no excuse is needed to vote by absentee ballot, and voters can request an absentee ballot by phone, in person, or by mail.⁹ Additionally, the New Mexico Secretary of State's website provides the link for military and overseas voters to request an absentee ballot and to register to vote.¹⁰ The state also allows 17-year-olds to pre-register to vote if they will be 18 before the upcoming Election Day.¹¹

In April of 2015, New Mexican Governor Susana Martinez signed the Online Voter Registration Bill – which allows for fully paperless voter registration system.

OREGON

Oregon, which leads the states in voter turnout, recently changed its voter registration system from paper-based to electronic, creating seamless information transmission between voter and election data and the Department of Motor Vehicles. Oregon's new system "reduc[es] the burden of the voter like never before."¹²

In addition, Oregon recently implemented a completely vote-by-mail system, much like Colorado's, in which "[r]egistered voters receive a ballot two to three weeks before an election" and voters can mail the completed ballot back to the State or can drop off the ballot at a secure drop-off point.¹³

Military and overseas voters can access the Federal Voting Assistance Program's online system through the Oregon Secretary of State's website, and ballots are mailed to military and overseas voters at least 45 days before Election Day. They can be returned by mail or fax machine.¹⁴

WEST VIRGINIA

After launching electronic voter registration in June 2015 and online registration in September 2015, West Virginia continued efforts to advance voter modernization when Governor Earl Ray Tomblin passed a law to allow automatic voter registration on April 1, 2016.

West Virginia became the third state after Oregon and California to pass automatic voter registration into law, though this legislation garnered significant bipartisan support. The measure allows citizens to be automatically registered to vote when applying or renewing a driver's license at the DMV unless they opt out. The law will go into effect in 2017.

Election Administration: How Does New York State Compare?

New York State Election Law versus the Recommendations of the Presidential Commission on Election Administration¹⁵

Voter Registration: List Accuracy and Enhanced Capacity

Recommendation One: States should adopt online voter registration (“OLVR”).

Current New York State Law and Practice

In 2012, Governor Cuomo implemented an initiative to allow voter registration through the DMV, which matches information provided with previous records and forwards the registration application to the county Board of Elections.¹⁶

Legislative or Executive Action Takenⁱ

No legislative or executive action has been taken.

Noteworthy States

Colorado, Louisiana, and Georgia have full online voter registration, though in these three states residents are required to use a driver’s license or other form of official identification to register. Prospective voters who do not have such a form of identification can still apply online, but must finish the registration process via a printed and mailed paper form.¹⁷ Five states (California, Delaware, Minnesota, Missouri, and Virginia) allow citizens without driver’s licenses to register online¹⁸.

GRADE: C

Though New York State does currently have online voter registration, there are three main issues with it: 1) it is conducted through the DMV, which means that those who do not have a driver’s license or permit cannot register online; 2) It is not fully automated, with data rekeyed at the county level; and 3) it was implemented by an administrative policy, not by legislation, making its continued existence less certain. A lawsuit filed in June, 2016 alleges that the online registration website is not accessible to people with disabilities in violation of the Americans with Disabilities Act.

Recommendation Two: Interstate exchanges of voter registration information should be expanded.

Current New York State Law and Practice

The NY State Board of Elections exchanges voter registration information between agencies and/or county boards of elections, and provides the counties with information from the

ⁱ For the purposes of this white paper, the heading “Legislative or Executive Action Taken” refers to either (a) bills that, between 2010 and 2015, have gone through the New York State Assembly’s Committee on Election Law and the Senate’s Committee on Elections and that have passed both chambers; and/or (b) action taken by the governor of New York between 2010 and 2015.

National Change of Address database. However, we do not have a system for interstate exchange of voter registration information.¹⁹

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

There are two systems currently in place to monitor voter movement and to cross-check record accuracy between states' respective systems and data. One is the Interstate Voter Registration Crosscheck Program (IVRC), run by the Kansas Secretary of State, which has been accused of opaque and controversial practices regarding voter roll purging. Nonetheless, Georgia, Michigan, Pennsylvania, Colorado, Louisiana, Alaska, Arkansas, North Carolina, and Kentucky, among other states, are members of the IVRC. The Electronic Registration Information Center (ERIC) is the second, and "much more reliable," system. "States using ERIC can identify, and reach out to, individuals not yet registered" and states check their records based on data from other states and national databases. Thirteen states, including Delaware and Rhode Island, and Washington D.C. currently subscribe to ERIC.²⁰

GRADE: F

New York State does not participate in an interstate exchange of voter information.

Recommendation Three: States should seamlessly integrate voter data acquired through Departments of Motor Vehicles with their statewide voter registration lists.

Current New York State Law and Practice

Because of a 2012 initiative by Governor Cuomo establishing online voter registration through the DMV, the state Board of Elections is supposed to match voter registration information provided with previous records and forward the information to the county Board of Elections.²¹ According to Ann Scott, Project Manager at the New York State DMV, voter registration applications received via the DMV's website or through the point of sale terminal at issuing offices are sent to county boards of elections electronically twice a week. Paper applications submitted to the DMV are mailed to the county boards of elections at least weekly. Moreover, "any driver license application form or change of address form mailed to [the] DMV for processing that has the voter registration application portion completed by the customer will also be mailed to the County BOE for processing."²²

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

Arkansas, Florida, Georgia, Louisiana, North Carolina, and Pennsylvania have full electronic voter registration systems with full sharing between the DMV and election administrators. Additionally, in Michigan, Colorado, and Kentucky the DMV and election officials share data in an almost completely paperless system.²³

GRADE: C

The New York State Department of Motor Vehicles and the State and county boards of elections do share and integrate voter data, but the process is not instantaneous or fully electronic (i.e., not

seamless), with counties rekeying data. The program was established by an executive initiative, not by legislation, making its continued existence less certain.

Improved Management of the Polling Place

Recommendation Four: Schools should be used as polling places; to address any related security concerns, Election Day should be an in-service day.

Current New York State Law and Practice

While in New York City schools are closed on general election days (and are used as polling places),²⁴ New York State law does not require schools to be used as polling places, nor is Election Day required to be an in-service day.²⁵ A bill to codify this recommendation has failed to pass.

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

According to a 2014 report by the Common Cause Education Fund, Georgia, Michigan, and Pennsylvania have particularly strong statutory language that encourages the use of schools as polling places and requires “local election authorities [to] use schools or other public buildings...whenever practicable.”²⁶

GRADE: F

New York State does not require schools to be used as polling places and does not mandate Election Day to be an in-service day.

Recommendation Five: States should consider establishing vote centers to achieve economies of scale in polling-place management while also facilitating voting at convenient locations.

Current New York State Law and Practice

New York State has no laws establishing vote centers,²⁷ though New York State election law requires polling places to be situated on a public transportation route whenever possible.²⁸

Legislative or Executive Action Taken

The NY state legislature has passed 1 bill related to this recommendation from 2010-2015:

- **2010: A7850 by Assembly Member Paulin (same as S8030 by Senator Addabbo).** This bill requires all polling places, whenever practicable, to be designated directly on a public transportation route.

Noteworthy States

Colorado and Arkansas allow or mandate local election officials to establish vote centers.²⁹

GRADE: D

New York State does not establish vote centers, but it does mandate that polling places be situated on a public transportation route, whenever possible. “Whenever possible” is only loosely

enforceable, however—making this provision’s benefits questionable and providing only vague and flexible requirements for implementation.

Recommendation Six: Jurisdictions should develop models and tools to assist them in effectively allocating resources across polling places.

Current New York State Law and Practice

New York State has no laws establishing or developing models or tools to assist in effectively allocating polling place resources.

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

Few states have formal rules on tools to allocate resources, but Louisiana does set the number of voting machines based on the number of registered voters, and Michigan requires at least one voting machine for every 300 registered voters.³⁰

GRADE: F

New York does not have any such laws.

Recommendation Seven: Jurisdictions should transition to electronic pollbooks.

Current New York State Law and Practice

New York does not authorize the use of electronic pollbooks, though testing of e-pollbooks has been done in Chautauqua and Onondaga counties.³¹ New York’s pilot program for electronic pollbooks appears to have gone successfully, despite minor complications such as voter and poll worker confusion, according to the New York State Election Commissioners Association.³² However, legislation which would modify New York’s Election Law to permit counties to utilize electronic poll books passed the Assembly in 2016 but failed to make it to the floor of the Senate for a vote

Legislative or Executive Action Taken

Passed by Assembly but no vote in Senate.

Noteworthy States

Colorado and Georgia use electronic pollbooks in all jurisdictions, while Michigan uses them in a majority of districts.³³ Ohio’s legislature has provided funding to encourage counties to use electronic pollbooks and Iowa utilizes state-built electronic pollbook systems.

GRADE: F

Though New York does not currently use electronic pollbooks and they have been piloted at select locations, current New York Election Law prohibits transition to electronic pollbooks.

Recommendation Eight: Jurisdictions should recruit public and private sector employees, as well as high school and college students, to become poll workers.

Current New York State Law and Practice

New York does not recruit public or private sector employees to become poll workers. However, New York state election law requires poll inspectors to be appointed by the two

major political parties.³⁴ In addition, New York state election law requires compensation for poll workers.³⁵

New York does not recruit high school or college students to become poll workers. However, New York state election law allows 17-year old students to be appointed as an election inspector or poll worker.³⁶ New York City has instituted a pilot program to recruit and employ high school students in a limited number of polling site as poll workers.

Legislative or Executive Action Taken

The NY state legislature has passed 2 bills which were signed into law related to this recommendation from 2010-2016.

- **2010: A1308 by Assembly Member Wright (same as S1836-A by Senator Klein).** This bill provides authorization to the State Board of Elections to employ election inspectors to work half-day shifts with adjusted compensation, with the qualification that still at all times at least one inspector from each of the two major political parties be present.
- **2010: A4467-A by Assembly Member Brodsky (same as S5172-A by Senator Dilan).** This bill states that someone who is seventeen years old and enrolled in school can be an election inspector or poll clerk. If school is in session while such a student is serving in this role, the student will be marked as in attendance.

Noteworthy States

“Alaska has one of the most thorough youth poll-worker statutes,” one that “allows students 16 or older to be appointed as ‘youth vote ambassadors.’” Other states, such as Arkansas, Colorado, North Carolina, Pennsylvania, Michigan, Kentucky, and Louisiana, have similar programs that recruit 16- and/or 17-year-old students to work in some capacity at the polls, though some have restrictions (such as needing to be recommended or limiting how many students can serve in one precinct). Georgia and Florida lack a specific program like those previously mentioned, but do allow 16- and 17-year-olds to serve. In regards to adults, Colorado has a law allowing public employees to take administrative leave with pay on Election Day, and Florida “recommends that election supervisors create programs within their communities to forge public and private partnerships to recruit poll workers.” Michigan state employees receive a paid off day on even-year November general election dates, and Kentucky and North Carolina protect employees from losing their job for serving as poll workers.³⁷

GRADE: C

New York does not have programs actively recruiting private and public sector employees and students, but does require compensation for poll workers and allows 17-year-olds to serve as poll workers.

Recommendation Nine: States should institute poll worker training standards.

Current New York State Law and Practice

New York State poll workers are required to undergo annual training with a core curriculum created by the State Board of Elections. This curriculum relates to election law, voter registration, voting machines, voters' rights, assisting voters with disabilities, voters for whom English is not a first language, and more. Local boards of elections assist by providing information on local procedures.³⁸

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

While many states have some statutory language for training some of its poll workers, Florida goes a step further, requiring all poll workers “to undergo ‘a statewide uniform training curriculum.’”³⁹

GRADE: D

New York State’s requirements for poll worker training are comprehensive and the training is frequent and standardized, but the training is often not executed well, leading to issues in which poll workers have received poor, inconsistent, or outright incorrect training. In 2013, for example, there were more than 15 cases in which poll workers during the general election mistakenly instructed voters to vote only for the candidates in the party of which they are registered voters, according to a report by the Department of Investigations.⁴⁰

Recommendation Ten: Election authorities should establish advisory groups for voters with disabilities and for those with limited English proficiency.

Current New York State Law and Practice

New York state law does not establish any advisory groups for voters with disabilities or limited English proficiency.

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

Colorado is an exemplary state through its creation of a Voter Accessibility, Independence and Privacy Task Force composed of advocates for voters with disabilities. Additionally, the Election Assistance for Disabilities board in Louisiana advises on issues in the elections process for disabled persons.⁴¹

GRADE: F

New York State does not have any such advisory groups or a comparable institution or practice.

Recommendation Eleven: States and localities must adopt comprehensive management practices to assure accessible polling places.

Current New York State Law and Practice

New York State election law mandates that each polling place be accessible to citizens with disabilities, in addition to complying with the Americans with Disabilities Act (ADA) of 1990. The State Board of Elections publishes and distributes a guide to each local board that describes accessibility standards and guidelines.⁴² Moreover, each county board of elections is required to conduct a survey at every polling site to confirm and ensure accessibility.⁴³

Legislative or Executive Action Taken

The NY state legislature has passed 1 bill related to this recommendation from 2010-2015.

- **2010: A10946 by Assembly Member Cahill (same as S7860 by Senator Addabbo).** This bill removes text saying that each polling place should have at least one entrance that is accessible to physically disabled voters (with some exceptions)

and replaces it with text that says that each polling place should be accessible to citizens with disabilities, in compliance with the ADA of 1990, and that the State Board of Elections will distribute to each sub-State board of elections a guide describing standards for poll site accessibility. Moreover, the amendment requires county boards of elections to conduct a survey for every polling site to “verify substantial compliance with the accessibility standards.”

Noteworthy States

Pennsylvania has a particularly detailed video to help elections administrators to ensure accessibility and to address accessibility issues. North Carolina is also exemplary, as its online photo database of all polling places allows voters to be aware in advance of their route to the ballot box. Moreover, North Carolina and Kentucky “have helpful checklists for elections officials to use at the polling place.”⁴⁴

GRADE: D

The State does distribute a guide on accessibility standards, but according to the law it does not disseminate a video and does not provide images of the polling places for voters for whom accessibility is a concern. Additionally, in 2014, the 2nd Circuit federal court upheld a district court decision finding that the Board of Elections in New York City discriminated against voters with disabilities by failing to make its poll sites accessible in violation of the Americans with Disabilities Act.⁴⁵

Recommendation Twelve: States should survey and audit polling places to determine their accessibility.

Current New York State Election Law and Practice

New York State election law requires county boards of elections to survey every polling state prior to the site’s designation or when there are changes to the site. These surveys are submitted to the State Board of Elections and are kept on file by each county.⁴⁶

Legislative or Executive Action Taken

The NY state legislature has passed 1 bill related to this recommendation from 2010-2015.

- **2010: A10946 by Assembly Member Cahill (same as S7860 by Senator Addabbo).** This bill removes text saying that each polling place should have at least one entrance that is accessible to physically disabled voters (with some exceptions) and replaces it with text that says that each polling place should be accessible to citizens with disabilities, in compliance with the ADA of 1990, and that the State Board of Elections will distribute a guide describing standards for poll site accessibility to each sub-State board of elections. In addition, the bill requires county boards of elections to conduct a survey for every polling site to “verify substantial compliance with the accessibility standards.”

Noteworthy States

Colorado, Louisiana, Pennsylvania, and Florida require audits for accessibility guarantees. Florida’s is the most thorough, with 65 factors, twelve diagrams, and two comment boxes on its polling place survey checklist.⁴⁷

GRADE: C

New York State does require that each county board of elections conduct such a survey and that each county keeps the results on file, but the surveys do not appropriately evaluate the polling sites, as exemplified by the explanation for the grade of “D” under Recommendation Eleven.

Recommendation Thirteen: Jurisdictions should provide bilingual poll workers at any polling place with a significant number of voters who do not speak English.

Current New York State Law and Practice

New York State election law does not specifically provide for bilingual poll workers. It does require the State Board of Elections to create a core curriculum for poll worker training that includes assisting voters with disabilities or with limited or no proficiency in the English language.⁴⁸ New York City follows the requirements of the federal Voting Rights Act and provides ballots and other materials in 5 languages: English, Spanish, Chinese, Korean and Bengali.

Legislative or Executive Action Taken

The NY state legislature has passed 1 bill related to this recommendation from 2010-2016, though it relates to voting information and materials and not poll workers, and was vetoed.

- **2012: A10609 by Rules (Assembly Member Cymbrowitz) (same as S7812 by Senator Storobin)—*VETOED*.** This bill would have required the State Board of Elections to provide all voting information and materials, both on the website and at the polling place, in Russian so that Russian-speaking voters can fully participate in the electoral process to the same extent as English-speaking voters.

Noteworthy States

In Colorado, “[i]f the county clerk and recorder finds that a precinct is composed of three percent or more non-English speaking eligible electors,” the state will try to hire staff members who are fluent in that language.⁴⁹

GRADE: D

New York State does not require bilingual poll workers to be available.

Recommendation Fourteen: Jurisdictions should test all election materials for plain language and usability.

Current New York State Law and Practice

The State does not have requirements for usability or plain language. It does, however, specify antiquated standards for ballot format and require a pre-election period for public inspection of the ballots.⁵⁰

Legislative or Executive Action Taken

The NY state legislature has passed 1 bill related to this recommendation from 2010-2015.

- **2010: A11354-A by Rules (Assembly Member Millman) (same as S8153 by Senator Addabbo).** This amendment to the election law states that paper ballots may consist of two or more sheets divided into perforated sections to be separated at the time the ballot is scanned. It also provides new guidelines for the ballots’ format, including additions to the instructions listed for voters (like how and when to insert the ballot into the scanner, how to fill it out, etc.).

Noteworthy States

Regulations related to this recommendation are scarce, though Florida does require that voter registration applications “be in plain language.”⁵¹

GRADE: D

The State does not have legislation requiring tests for plain language and usability. Moreover, the required format and layout for the ballots is needlessly onerous; it is less about readability (let alone plain language and usability) and more about meaningless and antiquated layout specifications. “[A]ll candidates must appear on one page,” for example, “forcing the text to be crammed into 7 point font.”⁵²

Voting Before Election Day

Recommendation Fifteen: States should expand opportunities to vote before Election Day.

Current New York State Law and Practice

New York currently one of only 13 states that requires an excuse for absentee voting and does not allow in-person early voting.⁵³

Legislative or Executive Action Taken

The NY state legislature has passed 1 bill related to this recommendation from 2010-2016.

- **2010: A5276-B by Assembly Member Galef (same as S2868-B by Senator Addabbo).** This legislation makes it easier to vote by absentee ballot by lifting some requirements on when and why one can vote by absentee ballot. It provides specific provisions for inmates or patients of a Veteran’s Administration hospital and does not require the absence to be unavoidable. It also states that a voter who applies for an absentee ballot will be given a ballot for any special election or winter primary to take place within the anticipated period of absence.

Noteworthy States

Colorado has an all-mail election system in which officials mail out ballots 18-22 days before an election and voters can return them by mail, in person, or at a secure drop box, a system California has just adopted. Also in Colorado, individuals can register and vote early in person at an array of locations until Election Day. Georgia, Alaska, North Carolina, and Florida allow early voting and no-fault absentee voting.⁵⁴

GRADE: F

New York State does not allow early voting. Additionally, an excuse is required for absentee voting.

Military and Overseas Voters

Recommendation Sixteen: States should provide ballots and registration materials to military and overseas voters via their websites.

Current New York State Law and Practice

New York does not provide ballots to military and overseas voters via its website. However, military voters may designate a preference to receive a voter registration application, a military ballot application, or a military ballot by electronic mail.⁵⁵ In addition, New York counts UOCAVA, or overseas citizens voting absentee, ballots the same as it does normal absentee ballots.⁵⁶

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

Arkansas, Colorado, Florida, Georgia, Kentucky, Louisiana, North Carolina, and Pennsylvania are states that include a link to or an online version of the Federal Postcard Application on their websites, while Alaska, Arkansas, Colorado, Florida, Georgia, Kentucky, Louisiana, and North Carolina include a link to or online version of the Federal Write-in Absentee Ballot.⁵⁷

GRADE: D

Though the State does make provisions for military and overseas voters to receive a voter registration application, military ballot application, or military ballot by electronic mail, it does not provide ballots for military and overseas voters on its websites.

Growing Challenges with Election Equipment and Voting Technology

Recommendation Seventeen: The standard-setting and certification process for voting machines must be reformed.

Current New York State Law and Practice

The Presidential Commission's recommendations call for a less political certification and testing process by removing the process from partisan boards of elections and for employing and implementing new technologies—some as popularly known as iPads—for the purposes of testing and voting.⁵⁸ New York election law does not include provisions related to these recommendations and instead maintains a certification system relying on boards of elections, outside vendors, and often outdated technology.⁵⁹

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

These provisions are not found in other states.

GRADE: D

Like that of many other states, New York State election law fails to adequately address this matter, though the law does specify a certification process.

Recommendation Eighteen: Audits of voting equipment must be conducted after each election as part of a comprehensive audit program, and data concerning machine performance must be publicly disclosed in a common data format.

Current New York State Law and Practice

New York requires audits of 3% of voting machines, selected randomly, to be conducted manually within 15 days after each general or special election and within 7 days after every primary or village election conducted by the board of elections. The audits are conducted by a bipartisan committee appointed by such board.⁶⁰

There are no statutes requiring audits to be conducted publicly or that audit results and data are made public. However, candidates, political parties, and independent bodies qualified to appoint watchers during registration and polling are allowed to appoint observers for the audit.⁶¹

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

Colorado has passed a law requiring “risk-limiting audits statewide” to begin in 2017, while Florida and Colorado both require post-election audits of voting equipment, mandating significant public disclosure of the results.⁶²

GRADE: D

The State does require the audits, but it has no provisions for the results to be distributed publicly.

Collection and Distribution of Election Data

Recommendation Nineteen: Local jurisdictions should gather and report voting-related transaction data for the purpose of improving the voter experience.

Current New York State Law and Practice

New York State election law does not address a process for gathering and reporting voting-related transaction data regarding the voter experience. However, for the purposes of data integrity and proper custody, it does outline how and by whom the data should be collected, transported, and stored.⁶³

Legislative or Executive Action Taken

No legislative or executive action has been taken.

Noteworthy States

Arkansas records and reports election data including turnout, turnout percentage (of the total voting population), and two-year voting trends—a “noteworthy” amount of information. Other states reported information such as turnout and turnout percentage.⁶⁴

GRADE: F

The law outlines how voting data should be collected and handled, but it does not address voting-related transaction data in relation to improving the voter experience.

Election Administration: How Does New York State Compare?

The Grading Breakdown

Recommendation	Current NY Laws versus Recommendation		Bills Passed or Administrative Action Related to Recommendations Taken Since 2010		Execution of NY Law Related to Recommendations		Total Points	
	Number	Letter	Number	Letter	Number	Letter	Number	Letter
1	3	B	2	C	2	C	7	C
2	1	D	0	F	0	F	1	F
3	1	D	2	C	3	B	6	C
4	0	F	0	F	1	D	1	F
5	1	D	2	C	1	D	4	D
6	0	F	0	F	0	F	0	F
7	0	F	1	D	0	F	1	F
8	2	C	2	C	2	C	6	C
9	3	B	0	F	1	D	4	D
10	0	F	0	F	0	F	0	F
11	3	B	1	D	0	F	4	D
12	3	B	2	C	2	C	7	C
13	1	D	1	D	1	D	3	D
14	1	D	1	D	0	F	2	D
15	0	F	1	D	0	F	1	F
16	1	D	0	F	1	D	2	D
17	1	D	0	F	1	D	2	D
18	2	C	0	F	2	C	4	D
19	1	D	0	F	0	F	1	F
AVERAGE	1.26	D-	.79	F+	.9	F+	2.94	D-

For all columns except "Total Points," A equals 4 points, B equals 3 points, C equals 2 points, D equals 1 point, and F equals 0 points.

For the "Total Points" column, A equals 11 to 12 points, B equals 8 to 10 points, C equals 5 to 7 points, D equals 2 to 4 points, and F equals 0 to 1 point.

Election Administration: How Does New York State Compare?

CONCLUSION AND RECOMMENDATIONS

It is clear that New York State Election Law lags behind most of the country in providing for effective and efficient election administration. It is also clear that the stakes could not be higher during this critical moment in our country's history. The inaccessibility of polls to voters with disabilities, votes not able to be cast due to incorrect instructions from poll workers, and other serious voting issues illustrate the consequences of New York's currently outdated laws and ineffective practices. In our pursuit of a truly inclusive democracy, the lack of access to the ballot that so many of us continue to face is unacceptable.

New York's inaction on election administration reform has also allowed detractors to use New York as an excuse to either reject or to roll back reform measures in other states. They argue that since New York has not implemented meaningful reform, then other states should not be expected to either. It is past time for New York to be a leader again and show the rest of the country how a state that is so vibrantly diverse comes together to protect voting rights and ensure that our democracy works for fairly everyone.

The lack of reforms implemented by the New York State government in the past six years does not mean that there are no prospects of change. There is much progress to be made and ample opportunity to make tremendous strides to a more accessible elections system in New York. We believe that modernizing voter registration, bringing early voting to New York, switching to electronic pollbooks, revising the State's ballots, and upgrading poll worker recruitment and training should be priorities for election administration reform in New York State.⁶⁵ For a list of selected legislation from the 2015-2016 legislative sessions that would help to accomplish these goals, please see the section, "*What Could Have Been: Election Administration Legislation Supported by Common Cause New York That Was Not Passed During 2015-2016 Legislative Sessions*" on pages 8 to 12.

Modernize Voter Registration⁶⁶

Some important steps in modernizing voter registration include making registration portable, electronically registering voters with an Opt-Out system, shortening the deadline for registration to ten days before an election, and allowing the pre-registration of 16- and 17-year-olds. Opt-Out Voter Registration should not be limited to the DMV database. Such a system would clearly exclude many eligible voters without a driver's license or state ID. Statistics from 2014 show that 11, 594, 330 people in New York (or 59.17% of the total population of the state) has a driver's license. For opt-out voter registration to cover more eligible citizens, data from multiple agencies should be used.

Bring Early Voting to New York State⁶⁷

The State should adopt a two-week period of early voting—including two weekends—with each county providing sufficient notice to the public.

Switch to Electronic Pollbooks⁶⁸

All districts should be able to replace printed pollbooks with electronic pollbooks. In addition to making voting easier and more efficient, electronic pollbooks would facilitate the expansion of early voting and same-day registration. County boards of elections should look to the pilot project in Chautauqua and Onondaga counties for guidance in transitioning to electronic pollbooks. The simple change to Election Law proposed in 2016's S6581/A8608 would allow counties which wished to use electronic pollbooks to do so.

Revise New York's Laws to Make Ballots More Voter-Friendly⁶⁹

As we have explained, New York State's ballots are not required to be easily read or understood. Current format requirements often create unclear ballots, and those archaic requirements tend to be designed for use in the outdated, and now replaced, lever voting machines. Poor ballot design and minute, unreadably small typeface size on ballots lead to persistent voter complaints. Ballots should have clear instructions with effectively demarcated races and candidates and contain print large enough for voters to be able to read without magnification.

Upgrade Poll Workers Recruitment/Training and Websites⁷⁰

The State should implement tactics with the specific intention of recruiting new poll workers. Pursuant to the 2010 law allowing split shifts for poll workers, boards of elections should utilize flexible scheduling in order to employ more workers on election days to maintain high standards in poll worker performance. Additionally, county boards of elections should create and maintain websites for year-round election information.

These categories address many of the bipartisan Presidential Commission's recommendations and would make a significant dent in the inaccessibility and unfairness of New York State elections. We would like to see New York State legislators pass several of the reforms to voting laws recommended here over the next legislative session, most particularly opt-out voter registration. In doing so, New York will finally be a part of the broader movement to enhance voting access and secure voting rights, which has been successfully embraced by states like California, Colorado, Oregon, West Virginia and others. The full protections of the voting rights act are essential for our democracy, as they work in tandem to eliminate discriminatory practices and empower voters to be full participants in a fair and balanced democratic system.

¹ Center for American Progress Action Fund, "Health of State Democracies, New York," <http://www.healthofstatedemocracies.org/states/newyork.html>.

² Niraj Chokshi, "Automatic Voter Registration a 'Success' in Oregon", New York Times, December 2, 2016, http://www.nytimes.com/2016/12/02/us/politics/oregon-voter-registration.html?_r=0.

³ Ibid., 41-42.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Office of the New Mexico Secretary of State, "Absentee and Early Voting," http://www.sos.state.nm.us/Voter_Information/Absentee_and_Early_Voting.aspx.

¹⁰ Office of the New Mexico Secretary of State, "Military and Overseas Voters," http://www.sos.state.nm.us/Voter_Information/Military_and_Overseas_Voting.aspx.

-
- ¹¹ Office of the New Mexico Secretary of State, “Voter FAQs,” http://www.sos.state.nm.us/Voter_Information/Frequently_Asked_Questions.aspx#VoterRegistration07.
- ¹² Brennan Center for Justice at New York University School of Law, “Oregon Approves Breakthrough Voter Registration Law,” March 5, 2015, <https://www.brennancenter.org/press-release/oregon-approves-breakthrough-voter-registration-law>.
- ¹³ Office of the Oregon Secretary of State, “Voting in Oregon,” <http://sos.oregon.gov/voting/Pages/voteinor.aspx>.
- ¹⁴ Office of the Oregon Secretary of State, “Military and Overseas Voters,” <http://sos.oregon.gov/voting/Pages/militaryoverseas.aspx>.
- ¹⁵ The Presidential Commission on Election Administration, “The American Voting Experience: Report and Recommendations,” January 2014, 22-70.
- ¹⁶ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 5–212, 1; § 5–212, 2; § 5–212, 6.
- ¹⁷ Allegra Chapman and Stephen Spaulding, “Did We Fix That?,” Common Cause Education Fund, October 2014, 9.
- ¹⁸ Pew Charitable Trusts, Online Voter Registration, May, 2015, http://www.pewtrusts.org/~media/assets/2015/05/ovr_2015_brief.pdf?la=en
- ¹⁹ John Conklin and Tom Connolly, “Review of Interstate Exchanges of Voter Registration Information,” New York State Board of Elections, April 30, 2014, 3.
- ²⁰ Chapman and Spaulding, “Did We Fix That?,” 10-11.
- ²¹ Office of Governor Andrew M. Cuomo, “Governor Cuomo Announces Reforms to Expand Access to Voter Registration,” August 16, 2012, <https://www.governor.ny.gov/news/governor-cuomo-announces-reforms-expand-access-voter-registration>; and The Election Law of the State of New York, § 5–212, 6.
- ²² Ann Scott, email message to Benjamin Rosenblatt, July 2, 2015.
- ²³ Chapman and Spaulding, “Did We Fix That?,” 11.
- ²⁴ Anonymous staff member at the Manhattan office of the New York City Board of Elections, phone conversation with Jonathan Eckman, June 29, 2015.
- ²⁵ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 4-104, 3; § 4-104, 3-a; § 4-104, 3-b; and The National Conference of State Legislatures, “Polling Place Requirements,” December 11, 2013, 3.
- ²⁶ Chapman and Spaulding, “Did We Fix That?,” 12.
- ²⁷ National Conference of State Legislatures, “Court Rulings Impact Elections in 2014,” *The Canvass*, Issue 53, November-December 2014.
- ²⁸ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 4-104, 6-a.
- ²⁹ Chapman and Spaulding, “Did We Fix That?,” 13.
- ³⁰ *Ibid.*, 13-14.
- ³¹ Brennan Center for Justice, Citizens Union, Common Cause New York, League of Women Voters, and New York Public Interest Research Group, “Voter Participation: How to Turn Up the Volume,” 2.
- ³² Jonathan Eckman, Notes on May meeting of the New York State Election Commissioners Association.
- ³³ Chapman and Spaulding, “Did We Fix That?,” 15.
- ³⁴ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 3-400, 3; § 3-404, 2.
- ³⁵ *Ibid.*, § 3-400, 7; § 3-420.
- ³⁶ *Ibid.*, § 3-400, 8.
- ³⁷ Chapman and Spaulding, “Did We Fix That?,” 15-16.
- ³⁸ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 3–412, 1; § 3–412, 1-a; § 3–412, 2; § 3–412, 5.
- ³⁹ Chapman and Spaulding, “Did We Fix That?,” 17.
- ⁴⁰ New York City Department of Investigation, “Report on the New York City Board of Elections’ Employment Practices, Operations, and Election Administration,” 33.
- ⁴¹ Chapman and Spaulding, “Did We Fix That?,” 18.
- ⁴² The Legislature of New York State, *Election Law of the State of New York*, 2015, § 4-104, 1-a.
- ⁴³ *Ibid.*, § 4-104, 1-b.
- ⁴⁴ Chapman and Spaulding, “Did We Fix That?,” 18-19.
- ⁴⁵ United States Court of Appeals for the Second Circuit, “Disabled in Action and United Spinal Association v. Board of Elections in the City of New York, 12-4412-cv,” May 14, 2014, <http://www.dralegal.org/sites/dralegal.org/files/casfiles/134-1opinionorderofdistrictcourtisaffirmed.pdf>; and Bharara, Dimsey, and Samuels, “Brief for the United States of America as Amicus Curiae in Support of Affirmance.”
- ⁴⁶ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 4-104, 1-b.
- ⁴⁷ Chapman and Spaulding, “Did We Fix That?,” 19.
- ⁴⁸ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 3-412, 1-a.
- ⁴⁹ Chapman and Spaulding, “Did We Fix That?,” 20.

-
- ⁵⁰ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 7-104, 1; § 7-128.
- ⁵¹ Chapman and Spaulding, “Did We Fix That?,” 21.
- ⁵² Common Cause New York, “Government Watchdog Decries Tiny Text on Ballots in Brooklyn and Manhattan,” September 12, 2012, <http://www.commoncause.org/states/new-york/press/press-releases/government-watchdog-decries-tiny-text-on-ballots-in-brooklyn-and-manhattan.html?referrer=https://www.google.com/>.
- ⁵³ U.S. Election Assistance Commission, “2014 Statutory Overview Report,” January 2015, 11.
- ⁵⁴ Chapman and Spaulding, “Did We Fix That?,” 22.
- ⁵⁵ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 10-107, 1.
- ⁵⁶ U.S. Election Assistance Commission, “2014 Statutory Overview Report,” 21.
- ⁵⁷ Chapman and Spaulding, “Did We Fix That?,” 23.
- ⁵⁸ The Presidential Commission on Election Administration, “The American Voting Experience: Report and Recommendations,” 64-66.
- ⁵⁹ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 6210.2, § 6210.7, § 6210.8.
- ⁶⁰ *Ibid.*, § 9-211, 1.
- ⁶¹ *Ibid.*
- ⁶² Chapman and Spaulding, “Did We Fix That?,” 24-25.
- ⁶³ The Legislature of New York State, *Election Law of the State of New York*, 2015, § 9-124.
- ⁶⁴ Chapman and Spaulding, “Did We Fix That?,” 25-26.
- ⁶⁵ Brennan Center for Justice, Citizens Union, Common Cause New York, League of Women Voters, and New York Public Interest Research Group, “Voter Participation: How to Turn Up the Volume,” 1-2.
- ⁶⁶ *Ibid.*, 1.
- ⁶⁷ *Ibid.*, 1-2.
- ⁶⁸ *Ibid.*, 2.
- ⁶⁹ *Ibid.*
- ⁷⁰ *Ibid.*