

According to Electionline.org, 22 states currently require all voters to present some form of identification before voting.^{19/} See Tab 8. In 16 of these states, the identification need not be photo identification. In five of the six states that request photo ID, other procedure allow voters to cast a valid ballot without possessing photo identification, thereby providing a “fail-safe” mechanism, which allows individuals who are, in fact, validly registered voters an opportunity to vote at the polls.

1. Non-Photo Identification Provisions

In addition to Georgia’s benchmark practice, the following 15 states allow various forms of non-photo identification: Alabama, Alaska, Arizona,^{20/} Arkansas, Colorado, Connecticut, Delaware, Kentucky, Missouri, New Mexico, Montana, North Dakota, Tennessee, Virginia, and Washington.^{21/} Examples of non-photo identification accepted by these states are:

- Voter registration card;
- Social Security card;
- Bank statement;
- Utility bill;
- Government check;
- Paycheck;
- Gun permit;
- Hunting/fishing license;
- Pilot’s license;
- Birth certificate;
- Medicare/Medicaid card;
- Credit card;
- Entertainment/ buyer’s club card;
- Change of address verification letter from U.S. Postal Service;
- Any government document that shows the voter’s name and address.

2. Fail-safe Provisions

^{19/} Electionline.org, “Voter ID requirements,” (viewed August 9, 2005), available at www.electionline.org/Default.aspx?tabid=364; see also National Conference of State Legislatures, “State Requirements for Voter Identification,” available at www.ncsl.org/programs/legman/elect/taskfc/voteridreq.htm (updated May 10, 2005). These two documents along with an comparison chart attachments to this memorandum. The time constraints imposed on our analysis of the submission precluded an independent 50-state survey of voter identification laws.

^{20/} Not yet implemented.

^{21/} South Carolina is classified by the NCSL report as “requesting photo identification” but seems mis-categorized because a voter registration card is considered acceptable identification.

Many states also permit fail-safe mechanisms for voters who lack any of the above forms of identification. Examples of these fail-safe mechanisms are a sworn affidavit of identity (e.g., Connecticut, Delaware, Florida,^{22/} Kentucky, Louisiana, Tennessee, and Virginia) or personal recognition by poll workers (e.g., Alabama, Alaska, Missouri, and North Dakota). For example, North Dakota law permits an elector to vote a regular (i.e. non-challenged, non-provisional ballot) if he or she completes an affidavit of identity, or if a poll worker knows the voter and is willing to vouch for the voter and his or her eligibility to vote in the precinct. Alabama law permits an elector to vote a regular ballot if two poll workers identify him or her as an eligible voter in the poll book and sign by the voter's name. Ala. Code § 17-11A-1.

Although Arkansas law requires presentation of identification, it does not bar electors who are unable to present identification from voting. Arkansas law states that if a voter is unable to provide identification, the election official shall indicate on the precinct list that the voter did not provide identification, and the elector is then permitted to vote a regular ballot. Ark. Code Ann. § 7-5-305(a)(8).

Arizona's newly adopted statute allows voters to present either a photo identification card, or two forms of non-photo identification. Az. Rev. Stat. § 16-579. Additional details regarding implementation of this requirement are pending.

3. Photo Identification Provisions

The following six states request photo identification from all voters: Florida, Hawaii, Indiana, Louisiana, South Carolina, and South Dakota. Although not yet implemented, Indiana is the only state that prohibits voters from casting a valid ballot without possessing photo identification.^{23/}

In Florida, all voters must show a current valid photo identification with the voter's signature. Approved forms of photo identification include a driver's licence, U.S. passport, any student ID, any employee badge, buyer's club card, credit card, retirement center ID, neighborhood association ID, entertainment ID, or public assistance ID. If the identification does not contain the voter's signature, he or she will be asked for an additional form of ID containing the voter's signature. A voter who lacks an approved photo identification may sign an affidavit of his or her identity, unless he or she is a first-time by-mail registrant. The voter may then vote a regular ballot. Fl. Stat. Ann. § 97.0535(3)(a); § 101.043. The Florida legislature has recently

^{22/} Chapters 2005-277 and 2005-278, Laws of Florida, approved by the Governor on June 20, 2005, eliminates an entertainment card as an acceptable form of voter ID and discontinues the use of an affidavit for affirmation of a voter's identity. This law is not yet legally enforceable and is currently under Section 5 review in Submission No. 2005-2390.

^{23/} The law was enacted in April 27, 2005, and has an effective date of January 1, 2006. It is currently being challenged in a lawsuit by the Indiana Civil Liberties Union, Indianapolis NAACP, United Senior Action of Indiana and other organizations, as well as in a separate lawsuit filed by the Indiana Democratic Party.

amended the law to eliminate the affidavit provision and require voters without acceptable identification to vote a provisional ballot. See Florida HB 1589; SB 2176. This change is currently pending before us on Section 5 review.

In Hawaii, a voter has to provide picture identification with the voter's signature on it. Acceptable forms of identification are not specified by law. If the voter has no identification, the voter will be asked to recite his or her date of birth and residence address to corroborate the information provided in the poll book. Haw. Rev. Stat. § 11-136. The voter can then vote a regular ballot.

In Louisiana, voters must show a picture identification card to vote at the polling place. This can include a Louisiana driver's license, a Louisiana Special ID card, or other "generally recognized" picture identification card. Voters who lack a photo identification may sign an affidavit of their identity and then can vote a regular ballot. La. Rev. Stat. Ann. § 18:562. The law requires the voter to sign an affidavit and provide either a current voter registration certificate or other information stated in the precinct register requested by the commissioners. Id.

In South Carolina, a voter is required to present identification before voting a regular ballot. The voter may present a driver's license or state ID card, but may also use his or her voter registration card as identification. A voter who has lost his or her voter registration card may obtain a duplicate copy at no cost, including on election day. A voter who cannot present either photo identification or a voter registration card may cast a provisional ballot. The provisional ballot will be counted if the Board of Voter Registration is able to certify that the voter is a qualified elector of the precinct in which he voted his provisional ballot. S.C. Code Ann. § 7-13-830. The voter is not required to bring his or her identification or voter registration card to the registrar for his or her ballot to be counted.

In South Dakota, all voters are to provide photo identification before voting or obtaining an absentee ballot. The personal identification that may be presented shall either be: (1) a South Dakota driver's license or nondriver identification card; (2) a passport or an identification card, including a picture, issued by an agency of the United States government; (3) a tribal identification card, including a picture; or (4) an identification card, including a picture, issued by a high school or an accredited institution of higher education, including a university, college, or technical school, located within the State of South Dakota. If a voter is not able to present personal identification, the voter may complete an affidavit in lieu of the personal identification. S.D. Codified Laws § 12-18-6.1, 12-18-6.2.

In Indiana, a voter who desires to vote an official ballot at an election shall provide proof of identification. Ind. Stat. § 3-5-2-40.5. Identification must be issued by the State of Indiana or the United States and must show the name and photo of the individual. Ind. Stat. § 3-10-1-7.2. Specific forms of identification are not listed. Voters who are unable or decline to produce proof of identification may vote a provisional ballot. The ballot is counted only if (1) the voter returns

to the election board by noon on the Monday after the election and: (A) produces proof of identification; or (B) executes an affidavit stating that the voter cannot obtain proof of identification, because the voter: (i) is indigent; or (ii) has a religious objection to being photographed; and (2) the voter has not been challenged or required to vote a provisional ballot for any other reason. Ind. Stat. § 3-11-8-25.

Compared to the voter ID laws of other states, Georgia is the only state (aside from Indiana) in which voters must present photo identification as a prerequisite for voting with no fail-safe alternative. All other states allow voters to present a voter registration card or other non-photo identification as proof of identity, sign an affidavit of identity, be recognized by poll workers, or verify their personal information as proof of identity before voting. Only one other state (aside from Indiana) requires an elector who votes a provisional ballot to return to the registrar's office with ID before such ballot will be counted, thus placing the burden on the voter to bring ID, rather than on the registrar to confirm the elector's registration. Voters may not have a method of transportation to return to the clerk's office, as they do on election day when rides to the polls are widely provided, or may not have time off from work to do so. These features make Georgia's voter ID law, along with Indiana's, the most restrictive in the nation.

B. Past Section 5 Determinations on Voter Identification Laws

1. South Carolina

South Carolina's voter identification requirement predates Section 5 coverage. Under the original statute, a voter was required to produce his registration certificate in order to vote. Act No. R623 (1984) was the first post-coverage amendment to this provision. (Submission No. 1984-4081). The Act added a driver's license and a Highway Department identification card as acceptable forms of voter identification. The Act provided that any person who registered "prior to the effective date of this act who does not possess a driver's license or other form of identification containing a photograph [to] vote upon production of a valid registration certificate." We sent a written request for additional information on September 11, 1984, indicating that requiring a voter to pay for identification may constitute a poll tax and asking the state to clarify the provision regarding the acceptability of a registration certificate as voter ID.

South Carolina's response stated that voter registration certificates would continue to be accepted as identification for all voters and that at the time of registration, a voter would be advised that he could show any of the three forms of acceptable identification to vote. Additionally, the state assured us that those who lose their notification may obtain a duplicate. Our preclearance letter noted these assurances, quoting the state's letter which maintained that "[t]he purpose of [the] act was to allow voters to have an additional means to provide identification in order to vote."

South Carolina further amended its voter identification requirement in 1988. (Submission No. 1988-4769). Act No. R571 (1988) reinstated a statutory provision requiring

registration boards to issue certificates of registration to all voters as well duplicates to those who had lost their original notification. According to the state, although the practice had been maintained, the State Election Commission felt that reinstating the statutory provision was preferable. The Act also amended the state's voter identification requirement to clarify that any voters who lacked photo identification could present a voter registration card in lieu of a photo ID. As we determined that the changes largely reflected procedures already in place for the state, we again interposed no objection.

2. Alabama

In 2002, Alabama enacted a requirement that all voters present identification before voting. (Submission No. 2003-2245). The law applies to both in-person as well as absentee voters. The law authorizes numerous forms of identification to be shown in order to vote, as follows:

- Alabama driver's license or state ID card;
- Valid identification card from another state or U.S. government entity;
- Employee card (public or private employer);
- Student identification (public or private school);
- Utility bill;
- Bank statement;
- Social Security card;
- Social Security check;
- Veterans check;
- Paycheck;
- Medicare/Medicaid card;
- Hunting/fishing license;
- Gun permit;
- FAA pilot's license;
- Electronic Benefits Transfer (EBT) card;
- U.S. Passport;
- Military ID;
- Birth certificate;
- Naturalization document;
- Adoption record;
- Name change record;
- Other government document showing the voter's name and address.

The law also provided two interim fail-safe methods for voting in the election scheduled for the month following the state's submission of the requirement: the elector could vote a challenged ballot or vote a regular ballot if identified by two election officials. The legislature has also enacted a separate law that provides a permanent fail-safe method for future elections, which utilizes a provisional ballot fail-safe procedure similar to that required by HAVA. The

provisional ballot is counted if the voter provides the registrar with an acceptable form of identification by 5 pm on the Monday following the election. The voter identification requirement was supported by eight out of 27 black caucus members, and opposed by 17, with two voting present or excused.

As in other Section 5 analyses of voter identification provisions, our conclusion that the Alabama voter identification requirement was not retrogressive in purpose or effect focused on two factors, the inclusion of a fail-safe procedure and the numerous forms of identification accepted. The inclusion of a fail-safe procedure allowing voters who do not possess the required identification, or who neglect to bring it to the polls, to fill out an affidavit attesting to their identity assures that no voters are barred from voting for not possessing an approved identification. The numerous forms of identification accepted by the state also ensured that most voters would possess at least one acceptable form. Primarily because of these factors, we determined that any potential retrogressive effect would be ameliorated.

3. Louisiana

In 1994, the Attorney General interposed an objection to a voter identification requirement proposed by the State of Louisiana. (Submission No. 1994-2922). The state would have required first-time voters who had registered by mail to show a driver's license or other photo identification at the polls. The submitting authority represented that the statute did not limit the type of photo identification that would have been acceptable, and listed employer identification issued by public and private employers, as well as college and university identification from public and private institutions, as acceptable. The use of non-photo identification, such as a current voter registration card, Social Security card, or utility bill, would not have been acceptable for first-time voters, and there was no fail-safe procedure for voters who did not possess such identification. Additionally, there was no provision for a identification card fee waiver for indigent voters.

Our objection was based upon the conclusion that the photo identification provision would have a retrogressive effect. The objection memorandum noted that "minority persons are far less likely to possess the most common forms of picture identification specified by the statute – driver's license, employee identification cards and college and high school identification cards." See Tab 7. The memorandum noted that 97.6 percent of voting age whites had a valid driver's license, compared to 70.6 percent of voting age blacks. The memorandum also noted that a greater proportion of voting age whites were in the labor force, and therefore more likely to have employee identification, compared to blacks. It also noted that whites comprised 68 percent of the total university population, and were disproportionately more likely to have a student identification compared to blacks. The memorandum finally noted that 12.7 percent of voting age whites and 39 percent of voting age blacks earned a salary below the poverty line, which made it reasonable to assume that more blacks would have trouble affording the \$15 fee for a photo identification card.

The memorandum concluded that because **blacks were** more likely to live below the poverty line, and were less likely to possess an **acceptable** form of photo ID, the law was more burdensome than existing law and thus retrogressive. This finding was made even though the form of photo identification card was not restricted by law, and allowed college and employer identification from any public or private entity. The analyst's memorandum and reviewers' memoranda are attached. See Tab 7.

As an objection was interposed, the law did not take effect. See Tab 7 (Letter from Deval L. Patrick to Sheri Marcus Morris, Nov. 21, 2004; and Letter from Loretta King to Sheri Marcus Morris, Feb. 22, 1995). Our letter noted that the state had not met its burden of proof to demonstrate that the change was not retrogressive in purpose or effect. It stated that socio-economic data showed that black persons were "four to five times less likely than white persons in the state to possess a driver's license or other picture identification card . . ." and therefore the provision would have a disproportionately adverse impact on black voters in the state, thereby lessening their opportunities for political participation. See Tab 7. The state requested reconsideration, but the objection was continued as no new factual information or legal argument was presented to support our withdrawal of the objection. See Tab 7.

In 1997, the state submitted a modified version of the requirement which overcame the concerns that led to our earlier objection. (Submission No. 1997-2338). The 1997 law permitted voters to sign an affidavit and provide a current voter registration certificate or information in the precinct register in lieu of a photo ID. It also included a waiver of the fee for obtaining a special identification card from the State. See Tab 7. The 1997 law did not enjoy minority support, and was opposed by black legislators, including New Orleans Mayor Marc Morial, as well as several voting rights organizations and the Louisiana ACLU.

However, our analysis of the revised procedure found that it contained several safeguards that would diminish any potential adverse impact on minority voters. The most important was the affidavit provision, which removed the bar to voting for electors who did not possess photo identification. The second key factor was that the list of acceptable identifications included "other generally recognized picture identification cards" in addition to a driver's license. These other identification cards are not defined by statute, and presumably could include a credit card, school or employer identification issued by any public or private entity, buyers club card, or other photo identification. Based upon these two factors, as in Alabama, we concluded that the law was not retrogressive and informed the state that the Attorney General interposed no objection.

4. Arizona

Earlier this year, the State of Arizona submitted for Section 5 review, Sections 3, 4 and 5 of the Arizona Taxpayer and Citizen Protection Act (Proposition 200). The Act appeared as a statewide ballot initiative on November 2, 2004, at which time it was passed by a majority of Arizona voters. The proposition requires that voter registration applicants submit evidence of U.S. citizenship and that county recorders shall reject the application if no evidence of

citizenship is attached. Satisfactory evidence of citizenship includes the following forms of identification:

- (1) AZ Department of Transportation-issued license or ID card, or equivalent out of state agency-issued license or ID;
- (2) birth certificate or legible photocopy to the satisfaction of county recorder;
- (3) U.S. passport or legible photocopy;
- (4) U.S. naturalization documents or number of certificate (if only the number is provided, completed registration is contingent upon INS verification of number);
- (5) other proof pursuant to the Immigration Reform and Control Act of 1986;
- (6) U.S. Bureau of Indian Affairs (BIA) card number, tribal treaty number or tribal enrollment number.

The proposition also amended the procedure by which an elector obtains a ballot to require photo identification or two forms of non-photo identification bearing the elector's name and address to be produced at the polls.

Native American and Hispanic state legislators as well as numerous organizations submitted comments opposing the changes. Many commenters were concerned that voter registration rates among Hispanics and Native Americans would decrease, that the law would retrogress minority voting strength, and would constitute an illegal poll tax. Commenters contended that Native Americans were disproportionately less likely to have satisfactory evidence of citizenship. MALDEF also raised concerns regarding the potential "chilling" effect on Hispanic voter registration drives, which often register voters on the spot and typically lack fixed offices with photocopiers and fax machines. Concerns were also raised that the voter registration requirements did not include clear procedural guidelines for implementation and that the voter identification requirements would be applied in a racially discriminatory manner.

Our analysis found that while younger Native Americans tended to possess birth certificates, many Native Americans over the age of 55 did not have a birth certificate. However, the Arizona Indian Health Service reported that most Native Americans relied on documents issued by tribal governments and the BIA to receive health benefits, which were acceptable for voter registration purposes. Moreover, any Native American citizen could register by stating their tribal ID number without presenting the document. As such, most Native Americans would have sufficient tribal identification to satisfy proof of citizenship for registration, thus obviating retrogression concerns.

Our analysis nevertheless raised concerns regarding the state's plan for implementation, and Voting Section staff recommended requesting more information. The proposed letter also requested the racial composition of the approximately seven percent of Arizonans without an driver's license or state-issued ID, in part because the submission lacked sufficient information to determine the potential impact of these changes on Hispanics. The state asserted implementation procedures would be submitted at a later date. On January 24, 2005, no objection was

interposed.

The preclearance of Arizona Proposition 200 is not analogous to the review of the instant restrictions on Georgia's voter ID requirement and does not weigh in favor of preclearance here. The Arizona statute permits any identification with the elector's name and address, thus allowing for numerous forms of photo identification and non-photo identification (e.g. utility bill, bank statement, government check, or government document) to be accepted.

Moreover, little comparison can also be drawn between Arizona's voter registration requirements and Georgia's proposed restriction of its voter identification requirements. The forms of acceptable identification to prove citizenship in Arizona are distinctly different from the proposed photo identification required in Georgia, and were specifically designed to provide a method of verification of citizenship that avoided retrogression among Native Americans and Hispanics, who were thought to be least likely to have driver's licenses or birth certificates. Finally, our preclearance reflects only a determination that Arizona's voter registration requirements did not retrogress Hispanic and Native American voting strength in that state, where such populations possess different demographic characteristics than African-Americans in Georgia.

The closest analogy in past Section 5 determinations of voter ID laws is to Louisiana's 1994 enactment, due to the similarity of population characteristics and the effect on minority voters of a restrictive voter identification requirement without a fail-safe alternative. Such comparisons weigh in favor of an objection here.

C. Identification Laws & Effect on Voter Turnout

We have calculated voter turnout in Georgia, Louisiana, Florida, South Carolina, and Alabama to consider the effect of these states' voter identification laws. This information is set forth below.

1. Georgia (ID requirement enacted in 1997, expanded in 2003)

Year	Pct. total VAP registered	Pct. black VAP registered	Pct. white VAP registered	Pct. total VAP turnout	Pct. black VAP turnout	Pct. white VAP turnout
2004	62.3%	64.2%	68.0%	52.6%	54.4%	57.4%
2002	61.5%	61.1%	65.3%	40.0%	38.6%	43.0%
2000	61.1%	67.0%	61.0%	49.0%	49.6%	52.2%
1998	62.1%	60.9%	67.9%	41.9%	40.0%	46.5%
1996	66.1%	64.6%	67.8%	49.6%	45.6%	52.3%
1994	55.2%	57.6%	55.4%	35.7%	30.9%	38.3%
1992	62.0%	53.9%	67.3%	54.1%	47.1%	58.7%
1990	57.4%	57.0%	58.1%	42.3%	42.3%	42.6%

1988	61.4%	56.8%	62.9%	49.6%	42.4%	53.2%
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Georgia's voter identification requirement was first effective for the presidential election in 2000. There was little change in Georgia's overall voter turnout rates between the presidential elections of 1996 and 2000, although black turnout showed a four percent increase. The adoption of the 1997 voter identification requirement does not appear to have depressed black turnout in the state. Importantly, however, the voter ID law allowed persons without acceptable identification to sign an affidavit of identity, so we would not expect to see reduced turnout because no one would have been turned away for lack of ID. The expansion of the acceptable forms of voter ID in 2003 also appears to have no impact on black turnout, as both the overall turnout rate and the black turnout rate increased between the 2000 and 2004 presidential elections.

2. Louisiana (state statistics) (ID requirement enacted in 1997)

	registered	black reg.	black reg. as pct. of total	white reg	total voted	black voted	blk. voted as pct. of reg.	white voted	wht. voted as pct. of reg.
2004	2,923,395	870,201	29.8%	1,936,724	1,956,673	531,744	61.1%	1,363,396	70.4%
2002	2,806,202	820,628	29.2%	1,885,530	1,267,225	328,443	40.0%	913,259	48.4%
2000	2,796,551	809,203	28.9%	1,894,957	1,776,133	472,211	58.4%	1,261,905	66.6%
1998	2,686,560	773,935	28.8%	1,836,840	990,239	296,509	38.3%	680,093	37.0%

Louisiana's post-election reports prior to 1998 have been removed from the state's website. The only data we have from prior to 1998 is the total statewide turnout as a percent of voting age population. This information is as follows:

<u>Year</u>	<u>LA Turnout</u>	<u>National Turnout</u>
1996	54.2%	49.08%
1992	56.98%	55.09%
1988	51.28%	50.11%
1984	54.55%	53.11%

Because we have no data regarding the percentage of black registration and turnout, we cannot draw significant conclusions about the effect of the voter identification law enacted in 1997. However, we would not expect to see any significant effect on turnout caused by imposition of the identification requirement because Louisiana permits voters who lack identification to sign an affidavit of their identity. Therefore, any voter who does not have a photo identification is not barred from voting at the polls. The resulting effect on turnout should be negligible. The table shows that black turnout was highest in 2004 and 2000, which is consistent with high national turnout due to the presidential elections.

3. South Carolina (state statistics) (1962) (ID requirement last modified 1988)

	tot. reg	non-white reg.	pct.	white reg.	total voted	non-white voted	non-white turnout as pct. of reg.	white voted	white turnout as pct. of reg.
2004	2,315,187	659,366	28.5%	1,655,816	1,631,148	433,732	65.8%	1,197,416	72.3%
2002	2,047,368	557,342	27.2%	1,490,026	1,116,936	284,354	51.0%	832,582	55.9%
2000	2,266,199	622,244	27.5%	1,643,955	1,433,533	350,749	56.4%	1,082,784	65.9%
1998	2,021,763	552,066	27.3%	1,469,697	1,098,484	281,289	51.0%	817,195	55.6%
1996	1,814,777	489,850	27.0%	1,324,927	1,203,486	294,983	60.2%	908,503	68.6%
1994	1,499,589	376,981	25.1%	1,122,608	953,120	203,243	53.9%	749,877	66.8%
1992	1,537,140	387,624	25.2%	1,149,516	1,237,467	286,911	74.0%	950,556	82.7%
1990	1,354,402	358,469	26.5%	995,933	793,614	184,743	51.5%	608,871	61.1%
1988	1,435,977	388,255	27.0%	1,047,722	1,041,846	245,304	63.2%	796,542	76.0%
1986	1,297,721	368,954	28.4%	928,767	770,556	197,746	53.6%	572,810	61.7%
1984	1,394,675	392,845	28.2%	1,001,830	1,018,701	264,546	67.3%	754,155	75.3%

The South Carolina requirement that electors show their voter registration certificate before voting was present in the 1962 code, prior to the coverage date of the Voting Rights Act. The law was modified in 1984 to add driver's licenses and photo ID cards as acceptable proof of identity before voting. The law was further amended in 1988 to clarify that any voters who lacked photo identification could present a voter registration card in lieu of a photo ID and to require county election registration boards to issue duplicate voter registration certificates upon request to any voter who lost his or her original certificate.

As the state's requirement that voters show their certificates of registration as proof of identity predated the 1984 amendment, which added photo IDs rather than requiring that only photo IDs be used as proof of identity, voters had additional forms of acceptable identification beginning in 1984. Additionally, because all voters were issued certificates of registration and any voter could obtain a copy of his or her registration certificate on election day, no significant change in turnout in South Carolina in 1984 is expected as a result of changes in the voter identification law.

4. Florida (Census self-reported) (ID requirement enacted 1998)

	total reg.	black reg.	pct.	white reg.	total voted	black voted	blk. turnout as pct. of reg.	white voted	white turnout as pct. of reg.
2004	8,219,000	994,000	12.1%	6,251,000	7,372,000	841,000	84.6%	5,656,000	90.5%

				0	0	0		0	
2002	7,290,000	846,000	11.6%	5,488,000	5,334,000	583,000	68.9%	4,073,000	74.2%
				0	0	0		0	
2000	7,043,000	773,000	11.0%	5,391,000	6,006,000	620,000	80.2%	4,658,000	86.4%
				0	0	0		0	
1998	6,653,000	714,000	10.7%	5,183,000	4,403,000	473,000	66.2%	3,468,000	66.9%
				0	0	0		0	
1996	6,727,000	754,000	11.2%	5,927,000	5,516,000	575,000	76.3%	4,901,000	82.7%
				0	0	0		0	
1994	6,002,000	633,000	10.5%	5,298,000	4,601,000	398,000	62.9%	4,160,000	78.5%
				0	0	0		0	
1992	6,486,000	772,000	11.9%	5,643,000	5,772,000	652,000	84.5%	5,062,000	89.7%
				0	0	0		0	

Florida's photo ID requirement was enacted in 1998. Because Florida allows a wide range of identification to be used, including all photo ID cards including store cards, credit cards, public assistance identification, and retirement center ID cards, it is more likely that all voters would have one acceptable form of identification. More importantly, like Louisiana, Florida permits voters who are unable to present identification at the polls to execute an affirmation of his or her identity. Fla. Stat. § 101.49. As a result, we would expect to see a negligible effect on turnout because no voter is barred from voting on the ground that he or she lacks acceptable identification. The main trend evident in the Florida data is the high turnout rates in 2004, 1992, and 2000, which is consistent with national turnout.

5. Alabama (Census self-reported) (ID requirement enacted 2002)

	total reg.	black reg.	pct. of tot.	white reg.	total voted	black voted	blk turnout as pct. of reg.	white voted	white turnout as pct. of reg.
2004	2,418,000	590,000	24.4%	1,822,000	2,060,000	517,000	87.6%	1,537,000	84.4%
								0	
2002	2,347,000	524,000	22.3%	1,798,000	1,585,000	336,000	64.1%	1,242,000	69.1%
								0	
2000	2,411,000	619,000	25.7%	1,776,000	1,953,000	491,000	79.3%	1,448,000	81.5%
								0	
1998	2,398,000	621,000	25.9%	1,755,000	1,665,000	431,000	69.4%	1,223,000	69.7%
								0	
1996	2,318,000	532,000	23.0%	1,783,000	1,744,000	417,000	78.4%	1,324,000	74.3%
								0	
1994	2,212,000	557,000	25.2%	1,654,000	1,436,000	328,000	58.9%	1,106,000	66.9%
								0	
1992	2,317,000	775,000	33.4%	1,753,000	1,913,000	450,000	58.1%	1,456,000	83.1%
								0	

The Alabama identification requirement was passed in 2002, and took effect in that year. Turnout in Alabama among African-Americans was high in 2000, lower in 2002, and rose again in 2004. One could argue that the decrease in 2002 was attributable to the imposition of the identification requirement, but it is far more likely attributable to the fact that 2002 was not a presidential election year. The subsequent spike in 2004 occurred due to the high interest in the national election. In addition, because Alabama's identification law allows a wide range of

photo and non-photo identification to be used, including Medicaid/Medicare cards, utility bills, bank statements, government checks, sporting permits, or any government document with a voter's name and address, the expected effect on voter turnout would be minimal since most voters would likely have at least one acceptable form.

In conclusion, it is difficult to estimate the effect that these voter identification laws have had on turnout or to use the experience of other states in an attempt to predict the effect in Georgia of the proposed restrictions to the acceptable forms of voter identification. With the exception of Indiana, each of the laws discussed above is materially different than the requirement proposed in Georgia. Overall such laws permit a wider range of acceptable forms of identification and provide crucial fail-safe options for voters. Additionally, differences in turnout in the four states discussed are attributable to many other social factors, particularly spiking in presidential years when the national turnout was also highest, in 2004, 2000, and 1992. Persons who fail to vote or are turned away because they lack identification are also not counted in the same way as persons who sign in at the polls. As a result, their impact on the turnout percentage cannot be calculated.

V. CONCLUSION

For all the reasons set forth above, we recommend that an objection be interposed to Section 59 of Act No. 53 (2005) on the ground that the state has failed to meet its burden of proof to demonstrate that it does not have the effect of retrogressing minority voting strength. The attached letter also informs state officials of the determination not to interpose an objection to the remaining changes contained in the legislation.

AGREE:

DISAGREE:

COMMENTS:

APPROVE:

DISAPPROVE:

COMMENTS: