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A Comprehensive Study of Voter Identification Laws and the Discriminatory Effect They Have on Voting Rights

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A Comprehensive Study of Voter Identification Laws and the Discriminatory Effect They
Have on Voting Rights

by
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A thesis submitted to the faculty of The University of Mississippi in partial fulfillment of
the requirements of the Sally McDonnell Barksdale Honors College

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For my family who listened to countless conversations on voting laws and a myriad of tales of my sleepless nights; thank you for your endless support of my academic adventures, this is dedicated to each of you.

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ABSTRACT

CHRISTINE MARIE SIM: A Comprehensive Study of Voter Identification Laws and the Discriminatory Effect They Have on Voting Rights

One of the most primary and essential rights of every American is equal opportunity to access the polls. Voting rights have been tirelessly fought for by people from many demographic backgrounds throughout the history of the United States. Now, due to the weakening of the Voting Rights Act, it is now easier for states across the nation to place voting identification legislation on the books that may change not only voter turnout at the polls, but also the ability of all Americans to exercise their fundamental right to vote. This thesis covers all aspects of the controversy over voter identification laws, including the history of voting rights and laws; the partisan arguments on the issue of voter identification requirements; current events concerning the new laws; and past empirical studies on the effect voter identification laws have on turnout. Last, this study will conclude with an examination of original data used to test for the discriminatory effects of new voter identification laws across five states. The data for this original study was collected through various resources such as state department of motor vehicle websites and the United Census Bureau. This is a dynamic issue that may have a strong influence in a vital election cycle, as this will be the first presidential election without the backbone of the Voting Rights Act.

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Section I: Introduction

Every American is entitled to essential rights. The most primary right of a citizen is the right to vote. The critical act of voting is vital to the democratic process. This act is how politicians are held accountable. It allows the citizens of the nation to determine whether the nation's government will maintain the current course or begin anew with different elected officials at the helm (Hicks et al. 18). Since voting is such an essential thread in the fabric of American democracy it is of the upmost importance to protect such a right. The purpose of this thesis is to look into the effects of voter identification laws. This study will provide many resources to develop a clearer answer to whether voter identification laws have a discriminatory effect that ultimately deters certain voters from turning out to the polls.

Voter identification laws have been continuously debated on both sides of the aisle since the 2000 presidential election. The confusion and complications in that particular election led to legislative changes that have changed the way registered voters can cast their ballots. This thesis will provide a complete conversation of this relatively new issue emerging in the ever changing history of American voting.

Many issues have risen throughout the previous literature on these new laws. The first issue is that the laws are still in their infancy. There have not been enough elections that have passed since the laws were enacted to be able to fully grasp a clear picture of their effects on the voting electorate. The second issue seen throughout the literature is that each state has laws that vary from one to the next. Since no two states have the exact same law; no two states will see the same results in empirical research on their effects.

These issues coupled with arguments for and against voter identification laws have driven the matter to the forefront of current American political election issues.

This study will provide a thorough abridgement of the current available literature on the subject of voter identification laws. The study will first provide some historical background on voting laws in the United States. This background will provide a better context to understand the points of view coming from the arguments in support and against voter identification laws. The study will discuss both sides of the issue, and the partisan stances on the subject of voter identification laws. These two sections will provide a foundation for understanding the importance of the study on how new and more stringent voter identification laws will have an effect on the voting population. Next, the study will provide examples of current literature on how turnout is affected by voting identification laws. Last, the study will conclude with original empirical research to add to the growing debate on the subject of whether voter identification laws have a negative effect on the voting population.

Section II: History of Voting Rights and Voting Laws

Part I: Early History

The history of voting in the United States dates back to when the Constitution was ratified in the 13 original states. The initial laws on voting were laid out by Article II, Section I. In this portion of the Constitution the election process for deciding who would fill the role of the presidency is enumerated. During this beginning time period, the only United States citizens who were entitled to the rights of enfranchisement were white male adults who had ownership of land (Rowen). The right to vote for the first few decades of the nation's history was solely maintained by white, male property owners. However, as tensions of state's rights and slavery began to rise across the nation, the role of who held enfranchisement would change dramatically over the next century. Prior to the start of the Civil War, a fierce political battle took place during the era of Andrew Jackson in order to eliminate the requirement to own property in order to have the right to vote. The removal of this requirement made it so that all adult white males could vote by 1850 (Urofsky). Shortly after this, Connecticut adopted the first literacy test required for voting and Massachusetts soon followed suit in 1857. These tests were originally used to inhibit Irish-Catholic immigrants from voting (Rowen).

In 1865, the introduction of new amendments to the Constitution further changed who held enfranchisement rights. The first major amendment that sparked a series of changes within voting rights was the thirteenth amendment. This amendment abolished slavery, which in turn provided former slaves with freedom (Grofman et. al 8). Then, when the fourteenth amendment was ratified in 1868 it completely changed the Constitution, not just voting rights. This amendment established what qualified a person

to be considered a United States citizen. The amendment was created to eliminate the three-fifths rule originally established in the Constitution in order to provide former slaves and people of color with full citizenship rights, along with any person that is born in the United States. The amendment also established that a state could not deny the right to vote to a male citizen who was at least twenty-one years of age. A year after the ratification of the fourteenth amendment, the United States Congress passed and ratified the fifteenth amendment (Kozak 171-177). This addition to the Constitution provided all citizens of the United States the right to vote and that right could not be denied based on “race, color, or previous condition of servitude.” The fourteenth amendment allowed all people of color to be considered as citizens so that the fifteenth amendment could provide them the right to enfranchisement.

Unfortunately, within only a few decades after the passing of these amendments by the federal government, many states, particularly the southern states, used their powers provided to them through the tenth amendment and the original Constitution to create new barriers to inhibit men of different races from having the right to vote. The tenth amendment provided that any powers not specifically delegated to the federal government were in turn given to the states or the people. This allowed individual state governments to pass legislation which inhibited the voting rights of black males (Constitutional Convention). The federal government made brief attempts following the ratification of the amendments to impose them in the racially divided south. The Enforcement Acts of 1870 and 1871 were criminal codes designed to protect the blacks’ right to vote by allowing the federal government to intervene with state government if the state failed to uphold the amendments. These acts made it a federal crime to impede an

individual's right to vote, hold office, or enjoy equal protection of the laws (Records of Rights).

Despite the passing of these acts, the federal government began to back off the southern states at the end of the 1870s. The decisions from such Supreme Court cases as *United States v. Reese*, in 1876, upheld the practice of the poll tax, the literacy test and the grandfather clause (*United States v. Reese*). The poll tax was a monetary fee each adult would have to pay in order to register to vote in an election. The literacy test was an examination that was required for each adult to pass prior to voting in an election. The grandfather clause was evoked to allow individuals unable to procure the poll tax or pass the literacy test to still vote in elections if they had already held such privileges prior to the creation of the barriers. After the decision from this case many states began to adopt poll taxes and literacy tests. Since the literacy tests also stopped many white citizens from being able to vote states, would use grandfather clauses to allow citizens, or their descendants, who already had the right to vote, prior to 1870 to keep their enfranchisement regardless of any other qualifications. Unfortunately for people of color, the states kept control of voting rights until the twentieth century.

Part II: 20th Century History

In 1915, the first step toward progress of changing the racial discrimination in voting policies was established when the Supreme Court ruled that the grandfather clause was in direct conflict with the fifteenth amendment in the case of *Guinn v. United States*. This federal court decision also outlawed literacy tests for federal elections, but not state elections. In 1944, the Supreme Court made further advancements in *Smith v. Allwright*

by outlawing white only primary elections, which were due to policies that prohibited members of minority communities from partaking in the voting process, by declaring that the nomination process was a public matter and bound to the fifteenth amendment. In 1957, the Civil Rights Act was established and it created the Civil Rights Commission which, among other duties, was in charge of investigating voter discrimination. Three years later, the Supreme Court outlawed gerrymandering, the rearrangement of voting districts used to keep black votes from counting, in the case of *Gomillion v. Lightfoot* (Rowen). The official end to the poll tax came with the ratification of the twenty-fourth amendment in 1964. Not only did this amendment completely outlaw the use of poll taxes or any other tax as a means of preventing citizens from exercising their right to vote in federal elections, but the Supreme Court took it a step further by applying this amendment to the states through the equal protection clause of the fourteenth amendment (Kozak 178). In 1965 President Lyndon B. Johnson signed into law the Voting Rights Act (VRA), which provided for federal action in enabling blacks to exercise their right to vote. This act placed the role of providing enfranchisement into the grasp of the federal government and the executive branch. Due to the VRA of 1965, it was now a requirement of the states to not only strictly follow the fifteenth amendment, but also to present any proposed changes to the state's individual voting laws to the Attorney General for approval before they could be instituted as a law. President Johnson had signed such a strict act that even the most defiant areas of the south had no choice but to begrudgingly accept the new laws (Grofman et. al 17-21).

The rapid changes presented with amendments and Supreme Court rulings were continually contested throughout the civil rights era. However, time and time again, the

federal government was shown to have the overall power in the realm of voting policies. For example, *Harper v. Virginia Board of Elections* in 1966 completely eliminated a poll tax in any election. Also in 1966, the Supreme Court case of *South Carolina v. Katzenbach* upheld the VRA. The VRA was also renewed in 1970, the same year the ban on literacy tests was upheld by the Supreme Court case of *Oregon v. Mitchell* (Rowen).

In the midst of the fight for enfranchisement for the black population, there were many other fights occurring for enfranchisement of other citizens and changes to the voting laws of the nation. The women's suffrage movement was stirring up during the same time as the nation was beginning to fight to enfranchise the black population. Similar to the way the government addressed the issues facing the black population, the federal government addressed the women's suffrage issue with another amendment to the Constitution. The nineteenth amendment, which was ratified in 1920, guaranteed the right to vote to all United States citizens regardless of their gender (Kozak 175-176). Another federal government action that expanded the right to vote occurred four years later in 1924 when the Indian Citizenship Act provided all Native Americans the rights of a citizen and therefore provided them the right to vote in federal elections. In 1961, another amendment was passed that expanded the enfranchisement roles once again. The twenty-third amendment allowed residents of the District of Columbia to vote in presidential elections. Then, in 1971, enfranchisement was expanded further to include citizens eighteen years of age or older, rather than the previous age requirement of twenty-one; this was established with the twenty sixth amendment (Rowen).

Part III: Recent History

Currently, the topic of voting rights has reemerged into the political discussion with the issue of states' voter identification laws. As explained in the literature presented by the United States Government Accountability Office, "Congress has addressed major functional areas in the voting process, such as voter registration. However, the responsibility for administration of state and federal elections resides in the state level" (Gambler et. al 3). The new issue is still currently being shaped by state legislation and Supreme Court rulings. In 2006, the VRA was renewed yet again for another twenty-five years. In the renewal of this act, Section V was altered but not removed, despite many claiming that Section V of the VRA overstepped the bounds of federalism since it requires federal approval before a state can change a state law on voting (Karlan 6). The dissatisfaction with parts of the Voting Rights Act was at the federal level when the case *Shelby County v. Holder* was heard by the Supreme Court in 2013. The Court struck down Section IV of the act, which had created a formula for the government to use to determine if a state's voting jurisdiction would require prior approval before changing its voting laws. Since this part was deemed unconstitutional, Section V lost its strength. Subsequently from this recent Court decision, many states have been expeditiously moving to change their voting laws, mainly requiring stricter identification rules (Rowen).

The history of the evolving enfranchisement is not the only changes that have occurred in the political history of America. The way citizens vote has also evolved over time. The changes in the way the enfranchised cast their ballots in turn created Supreme Court rulings that also protected the rights of the voting populace. One of these vital cases was *Burdick v. Takushi* (1992). This case not only determined whether a ban on

write-in voting was constitutional or not, but also created the standard to which future identification laws would be held (Sobel 81). In the case notes for *Burdick* it is explained that:

The right to vote is express[ed] in the Constitution and its amendments, while the right to participate is protected by the freedom of association. Although freedom of association was not explicit in the Bill of Rights, the Supreme Court has clearly stated that ‘[t]he right to associate with the political party of one’s choice is an integral part of this basic constitutional freedom.’ These guaranteed freedoms provide the basis for the right to participate in elections by casting a vote (13 Pace L. Rev.).

In this case, which originated in Hawaii and litigated its way up to the Supreme Court, the court upheld the ban on write-in voting deeming that it only imposed a small burden on the voter’s rights and was reasonable in relation to the state’s interests (13 Pace L. Rev.). However, in the dissent Justice Kennedy sharply made note that, “The right to vote freely for the candidate of one’s choice is of the essence of a democratic society and any restrictions on that right strike at the heart of representative government” (Smith & Sobel “Demands” 104). The dissent written by Justice Kennedy can be seen throughout the current literature on the subject of voter identification laws as evidential support for deeming the new strict laws as unconstitutional. This case marks a crucial point in history because not only did it establish a test in which the current laws were balanced against, but it also was used as the standard in *Crawford v. Marion County Election Board* (2008). The case notes from *Burdick* outline three factors to be assessed when applying strict scrutiny to determine the constitutionality of a voting law. The three factors are: “the circumstances behind the law, the interests that the state claimed to be protecting, and the interests of those who were disadvantaged” (13 Pace L. Rev). This application of standard of review is readily applied to recent cases on the subject matter of voter identification laws.

The *Crawford* case spurred a lot of the discussions on the topic of voter identification. The *Crawford* case originated in Indiana and was litigated up to the Supreme Court. The Court deemed the strict voter identification law of Indiana to be constitutional. However, this ruling came with a highly divided court. The majority ruled that the cost on the voter's rights was minimal and therefore there was not a significant infringement on rights; deeming the law constitutional. The dissent argued in the case that the requirement of government photo identification in order to enact a fundamental right of voting was a burden to citizen rights, especially those of minority groups. The dissent in their opposing arguments also made claims that the details of the *Crawford* case did not provide enough evidence in order to meet the standard of review that had been established in *Burdick* (Sobel 81).

American citizens' rights at the polls continue to change as the new identification laws develop. In 2002, the Help America Vote Act (HAVA) created a requirement that newly registered voters are required to provide photo identification at the polls the first time they vote. This requirement mixed with the repeal of Section IV of the VRA has opened the door to the creation of new legislation requiring stricter rules regarding identification at the polls when casting a ballot. A year prior to the enactment of HAVA, four states began the now rapid trend of requiring voter identification. In 2001, Arkansas, Georgia, Michigan, and North Dakota created laws that provided minimal changes to their previous voting requirements. After the repeal of Section IV of the VRA and the passage of HAVA, voter identification laws have evolved in state legislatures and the number of states creating these laws has rapidly grown. In 2001 there were only fourteen states with voting requirements that made identification necessary, but by 2014 there

were thirty-four states either with laws or in the process of passing voting identification laws. The map in table one shows the states which currently have varying voter identification laws. The map, which is from the National Conference of State Legislatures, shows the wavering grade of strictness which the laws in these states carry (Appendix II, Table I). Later in this study when looking to the arguments either defending or against these laws it will be made more clear the likely motivations behind the recent drive for the increase in identification laws. Regardless of the reasons behind this evolution in voting requirements it is clear that there is a large potential for changing the demographics of the voting populace with the creation of stricter identification laws (Hicks et al. 20-21).

The essence of the essential need for this study can be seen by the fact that courts are still currently deciding and shaping the constitutionality of these new strict identification laws. Just as recently as August 2015, the United States 5th Circuit Court in New Orleans declared that a 2011 Texas voter identification law had a discriminatory effect on minorities and that the law violated the Voting Rights Act, specifically Section II of the act (Weissert). It is unknown currently how this recent ruling will affect the voter identification laws of other states or if the case will be heard by the Supreme Court. However, it does show the need for a detailed study into the discriminatory effects of such laws on the voting populace. The following segment will dig further into the more recent cases that have been shaping these new stringent laws through the lens of showcasing the various arguments surrounding the subject of voter identification laws.

Section III: The Arguments Across the Aisle

The history provided in the previous section creates a clear image of how voting rights have developed and how they are currently changing with the new voter identification laws. The new laws though are not being passed without resistance. Arguments in support of the laws and against the laws continue to shape this new political issue.

The biggest argument for the passage of stricter voter identification laws are that they protect the integrity of the electoral system from cases of voting fraud. The majority of proponents for the new laws use the fact that elections must be safe housed against fraud as the propeller to move the laws through legislation. However, providing evidence for the issue of voter fraud has proven to be quite difficult. In the *Crawford v. Marion County Election Board* case, the state of Indiana upheld the strictest photo identification laws despite there being zero record of any in-person voter fraud in the state's history (Smith & Sobel "Voter-IDs" 107). Texas initiated a detailed investigation to find evidence of voter fraud to support their new voter identification legislation. The state spent \$1.5 million to show that voter fraud was a strong enough issue to protect the electorate against. The investigation, however, only provided thirteen cases of voter fraud over the two year investigation time period. Out of those thirteen cases, six were actually from a time period before the investigation was initiated. So in support of justifying the strict photo identification laws, Texas was able to find a total of seven fraudulent votes out of 4.4 million total votes during the investigations two year time period (Davidson 94-95).

A recent study by Justin Levitt, a professor at the Loyola Law School in Los Angeles, addressed the problematic issue behind the argument that the protection of fraud is a strong enough foundation to insist on the issuance of new stringent voter identification laws. In his comprehensive investigation he explains that the value of these laws can be found through weighing the cost of obtaining the requirements that would satisfy the new legislation against the benefits which can be derived from the laws. The cost of the new laws would vary from state to state depending on the strictness of the legislation; however, the benefits across the board are that the laws insure the integrity of the election process. Levitt explains that though fraud does occur during elections, the type of fraud that the laws are designed to protect against is not the form of fraud which occurs. In-person voting fraud is, as he explains, “a slow, clucky way to steal an election” (Levitt 1). The form of voting fraud that is more likely to cause a detriment to the integrity of an election would likely be found through absentee ballots, the exact form of voting which the new legislations push the voting populace towards. In an absentee voting system fraud is often found in the ways of vote buying, coercion, fake registration forms, voting from the wrong address, or ballot box stuffing. The measures created in voter identification laws provide no protection against any of the aforementioned forms of fraud, rather to only people coming to the polls trying to cast fake ballots. Levitt began in 2000 to track cases of voting fraud that the new identification measures could protect against. Over a fourteen year timespan he was able to find only thirty-one credible allegations of potential in-person voting fraud out of over 1 billion votes cast in general, primary, special, and municipal elections across the nation. However, in his research Levitt was able to find over 3,000 voters, in general elections, that were turned away

from the polls in four states that have had a few election cycles with these new rigorous identification laws (Levitt 1-2). Considering both sides of the argument it is understandable that the subject of voter identification laws is an ever increasing topic of research in the field of political science. It is valid to consider if the cost of losing honest voters due to lack of proper identification is worth the benefit of the fraud the laws claim to protect against.

The other side of this debate on voter identification laws is in effort to remove them from state legislation. The opposing member's base their arguments on the fact that they believe these laws are unconstitutional. The fight against voter identification laws insists that the new pieces of legislations are unlawful. According to Justice Kennedy's dissent in the 1992 case *Burdick*, "even depriving one voter of the exercise of the fundamental right to vote is too substantial an impact to withstand constitutional scrutiny" (Smith & Sobel "Demands" 103). The main dispute from this side of the debate is that these new laws will disenfranchise certain voters. The requirement of procuring a state approved identification is claimed by many to be a new form of infringement on the constitutional right to vote. The argument against such laws is that, "The violation of the right to vote need not be an absolute denial of a voter's entry into the polling booth. Abridgement may lie in the creation of burdens that discourage one's qualifying for or exercising the right of voting" (Smith & Sobel "Voter-IDs" 107). This idea of infringement is supported by Section II of the Voting Rights Act which states, "proof of intent to discriminate is not required" ("Voting Rights Act"). In a counter argument on the subject of constitutionality of voter identification laws, the Supreme Court Justices John Paul Stevens and Antonin Scalia argued in *Crawford v. Marion County Election*

Board, that the burden placed on voters was so minuscule that the laws in Indiana were not discriminatory. However, in the majority written by Justice Stevens, he recognized that while in this case in particular the requirements for voting were not large enough for Indiana citizens to suffer injury worth deeming the laws unconstitutional, if new evidence were presented in the future that would provide stronger proof a significant burden on voters, then the court would readdress the issue of the legality of the laws. In the dissent in this case, Justices David Scouter and Ruth Bader Ginsburg argued that the majority did not hold these laws to the standard which had been established in the *Burdick v. Takushi* case. The dissent also argued that there was not strong enough evidence of possible voting fraud to make the injury to citizens' fundamental rights acceptable (Sobel 81). The literature portion of this thesis will later show how this subject matter is likely to be reviewed by the Supreme Court again. The overall purpose of this particular study however, will not be to definitively proclaim whether such laws are constitutional, that matter will be left to the courts to decide.

Aside from the issue of constitutionality there is another aspect of voter identification laws that is often debated. The issue is whether the laws are illegal not simply because of their infringement of rights due to discrimination, but also because the requirements of the new legislation infringe on the right to privacy of American citizens. Robert Ellis Smith is a publisher for Privacy Journal. He is widely recognized as the leading expert on privacy issue in the United States, due to his experience as a journalist, lawyer, and author. Richard Sobel is a Visiting Scholar at the Buffett Center at Northwestern University. He is a commonly known expert in public policy analysis and issues regarding the Supreme Court and privacy matters. Smith and Sobel explain in

their article that the requirement of asking people to show their personal identification to poll workers in order to participate in an essential right of citizenship would constitute a search. And under the Fourth Amendment only people suspected of committing a crime, in these cases that crime would be fraud, should be subjected to the invasion of search. This is because the identification required to participate in voting would provide poll workers with more information about the potential voter than just a reassurance that the voter is who they claim to be (Smith & Sobel 103-104). The essential argument which these two authors are making is similar to the arguments against the former “stop and frisk” laws. Due to the fact that citizens on the street acting within a reasonable manner have not created reasonable suspicion to deem a search necessary, they are not required to furnish identification when randomly stopped. Another example to clarify Smith and Sobel’s argument would be that when an officer pulls a citizen over for a traffic violation, the officer has the right to see the person’s identification since that person has established reasonable suspicion by violating traffic ordinances. In the first scenario the citizen did not provide probable cause to require them the need to provide someone with identification, but in the second scenario the person has provided enough probable cause to deem at least a search of their identification necessary. In Smith and Sobel’s argument eligible voters have not violated any laws or ordinance which would give anyone the necessary probable cause needed to require a search of their personal identification.

The counter argument to Smith & Sobel is the identification which would meet the state’s requirements would give the poll worker the voter’s name, age, address, and possibly more depending on the amount of data placed on a state’s particular identification card. Though Smith and Sobel believe this is an excessive amount of

personal information being provided to the poll workers many would claim that the majority of this information is already available to the poll workers through the poll book. However, the issue that Smith and Sobel have isn't with the type of information that is being provided to the poll workers, but rather the act of requiring the voters to produce their identification would be equivalent to a search without the probable cause necessary to constitute such search. The constitution is designed to protect citizens from such an infringement without providing probable cause, and according to Smith and Sobel, the government requiring a citizen to do so is a violation of the Fourth Amendment (Smith & Sobel "Demands" 103-104). This argument from Smith and Sobel is a continuation of the debate against voter identification laws and how they are a legal breach of a citizen's rights.

The debate on this subject matter notably also tends to be a partisan issue. Members of the Republican Party tend to support these new stricter laws; whereas members of the Democratic Party tend to vote against them and fight for their repeal. It is usually members of the Republican Party that fear the loss of election honesty due to voting fraud, whereas members of the Democratic Party fear that voter's rights will be suppressed, along with voters discriminated against under the guise of protection from fraud. As a result, members of the Republican Party are the individuals who typically vote in support of the new laws, whereas Democrats vote against them. Furthermore, Democratic judges dissent against the laws and Republican judges tend to uphold them (Sobel 82). In 2011 and 2012 there was at least 180 new voting restrictions presented to state legislatures across 41 states, almost all by Republican Party members. The Republican Party members were also responsible for the 27 election changes being

passed in nineteen states during that same time period. In Republican controlled governments, states across the nation are seeing rapid ranges to the election systems of their respective states. This is spurring an increase in court cases as Democratic Party members fight in dissent of the new legislation (Berman “The GOP”). The issue of partisan preferences over the matter of voter identification only further intensifies the debate on whether such laws are truly necessary to protect the sanctity of American elections.

The pull over the legality of these new laws between the two parties comes from the constant determination to maintain control over the composition of the electorate. Historically, political parties have created various tactics to ensure the voting populace would be shaped in their favor. In the decades that followed the Civil War, Southern Democrats used language in legislation that spoke of protection of the purity of elections. These politicians created laws that disenfranchised the black and poor white population of the southern region, the individuals who would have likely voted for the opposing parties, all under the guise of protecting elections from fraud (Davidson 93).

In today’s modern legislatures, new laws are appearing that are strongly reminiscent of the former unconstitutional regulations. The Republican Party claims that the new voter identification laws are a necessary measure to ensure that elections occur without fraud. The laws also come with an added benefit for the Republican Party—that the Democratic vote would be weakened since the majority of citizens who would fall in the category of voters unable to meet the identification requirements would likely vote for the Democratic Party (Davidson 94). As explained by William Hicks, Seth McKee, Mitchell Sellers, and Daniel Smith in their recent study, “The political party in control of

state government might try to change a state's electoral rules as a way to reduce participation among supporters of the opposing party in the short term—even if such rules might include long-term electoral costs for their own party” (Hicks et al. 18). In recent elections, the issue of voter turnout has been increasingly gathering more interest. Both political parties are constantly increasing efforts to get their supporters to the polls, along with finding ways to deter the opposing party supporters from casting ballots. The theory of demobilization presented by Hicks, an assistant professor at Appalachian State University, and his colleagues is that just as in the past, efforts were made to change legislation in order to deter particular voters from participating in elections, now the Republican Party is supporting new laws determined to keep Democrats from voting. In the study they explain the “Republicans have embraced the mantra of Paul Weyrich, co-founder of the Heritage Foundation, who infamously stated in 1980, ‘They want everybody to vote. I don’t want everybody to vote...As a matter of fact our leverage in the elections quite candidly goes up as the voting populace goes down’” (Hicks et al. 19). The issue of voter identification laws is a completely polarized matter that has Republicans favoring the passage of increasingly austere legislation pitted against Democrats determined to protect the right of citizens to vote, along with increasing their mobilization efforts (Hicks et al. 20). The ultimate winner of this partisan battle is yet to be determined as new laws, court cases, and empirical studies emerge constantly. The final verdict on the legality of the laws will be determined by the highest court, and with the recent surge of voter identification issues making headlines, that verdict is likely to be seen sooner, rather than later.

Section IV: Recent Headlines Concerning Voter Identification Laws

Aside from the lengthy bickering between political parties over voter identification laws; this subject matter has been making headlines as of late as a result of a handful of state's new electoral changes. Within the last year, Texas, Alabama, North Carolina, Wisconsin, Virginia, Kansas, Ohio, Georgia, and Missouri have all made headlines due to their respective voting identification laws. The varying laws within these states, and the states that will be included later in the empirical study, can be seen in the Voter Identification Laws Table (See Appendix II, Table II). This table shows how the various laws have different degrees of strictness based on the forms of identifications that are allowed to be presented at the voting places. The information for this table was collected from Ballotpedia.org and The National Conference of State Legislatures (NCSL). These sites explain that the least strict states require no ID requirement for voting, the next level would be states that require a non-photo ID requirement, after that level are moderately strict states that require photo IDs for a requirement to vote but still have significant options to suffice the requirement, the next level are strict non-photo ID requirements where there are limited sources to comply with the requirements, the strictest level are states that require limited sources to suffice a photo identification requirements ("Voter Identification Laws by State").

The matter of voter identification laws is particularly valuable during this year considering that a major presidential election will occur in November. It is a vital election year and the question of how citizens of varying states will be able to access their constitutional right of casting their ballots is still unclear and unanswered across many states in the nation. Not only is this issue of utmost importance due to the fact that it is a

presidential election year, but it is the first presidential election that will occur without the full protection of the Voting Rights Act. As stated previously, when discussing the history of voting laws it was noted that in 2013 Section IV of the Voting Rights Act was removed. This is the section which provided the necessary strength for Section V, which required a state to gain federal approval prior to the passage of laws that change their respective voting laws. Without Section IV and the weakening of Section V, states are no longer required to gain federal approval prior to passing new voting laws. These laws have rapidly been flooding the state legislatures since the decision to remove Section IV. Advocates against the new laws have challenged their legality; however, with the crucial election year now upon us the judges are running out of time to hear these cases, since there is a point which a court can no longer change voting regulations right before an election (Lachman). This section of this study will provide a more comprehensive insight into the immediate value in understanding the new laws changing the way Americans cast ballots, and also into the most recent discussion surrounding this topic.

During every election cycle the political fight between presidential candidates is often contested most furiously among the battleground states. One of these battleground states that has tipped the scales in electoral votes in past elections is Ohio. The impending presidential election will be no different. In order to win this election the presidential candidates need to win in Ohio. However, the election will likely differ in Ohio this year than in past elections since Ohio has established new voting and registration laws since the repeal of Section IV of the VRA in 2013. Ohio legislators eliminated same-day registration and lowered the number of days their citizens were allowed to vote early. This new legislation was argued again in court, resulting in a settlement which restored

some days of early voting, but did not provide citizens with the opportunity to engage in same day registrations which had occurred in previous elections (Lachman). The settlement was reached through Secretary of State Jon Husted, a Republican, and the ACLU. Though the settlement provided small concessions to the priorities of the ACLU, who are determined to protect the voting rights of citizens, the settlement still reduced the ease and accessibility of voting in Ohio. Same day registration enabled over 90,000 Ohioans to voice their opinion during the 2012 elections. The legal representatives of the ACLU had agreed to eliminate the week people could register and vote during the same day in order to maintain a few days of early voting along with extended voting hours (Roth “Settlement”). Since this state is such a vital component to winning an election it will be intriguing to see how these new regulations will affect the ultimate outcome on election day.

In Georgia, a bill in early 2015 was presented that would have cut early voting from twenty-one days to only twelve days. The bill passed a House committee in February 2015 and looked like it would make it easily through a Republican legislature. However, as the bill passed in the House a strong mobilization of voting rights activists surged and the bill ended up falling short of the support needed to pass. In the state of Georgia having the right to access the polls early is vital to allowing all citizens the right to vote since 44% of the voters in the previous election had utilized the ability to cast votes early (Roth “Voting Rights”). The effort of voting rights and civil rights activists to kill a bill that would impede many people, especially racial and ethnic minorities, from voting shows how the battle over voting rights is intensifying across the nation.

In Wisconsin voting rights activists spent much of 2015 fighting back against not just new voter identification laws which had passed, but also against more cuts to early voting days (Lachman). As the official presidential election year began, a federal judge in the state threw out the portions of the lawsuit against the new laws; however, the judge did allow the lawsuit against the restrictions on early voting days to continue and the forms of identification people are allowed to show at the polls. The new voting identifications that are being challenged in this lawsuit were passed in 2011. The laws have been contested and litigated against, but were ultimately implemented in 2015 after the U.S. Supreme Court declined to review the 7th Circuit U.S. Court of Appeals' decision. If this new challenge had prevailed in the courts, citizens of Wisconsin would have been able to present more forms of identification, rather than the currently approved Wisconsin driver's licenses, state-issued ID cards, military IDs, passports, tribal IDs, naturalization certificates and college IDs. The group challenging the voter identification laws is hoping that legislation will allow at least for the use of other states' drivers licenses to be used as identification forms at the polls (Marley). Considering how long these laws have spent going through various forms of litigation it is highly unlikely that a decision on any changes would happen prior to the 2016 election.

In North Carolina a large group of voting restrictions was implemented during the last year. As with many other states the new voting restrictions were met with heated contestation, and, despite some retreat from the Republican legislation which would allow voters without proper identification to sign affidavits proclaiming that they cannot reasonably obtain the identification, a trial over the voting laws is currently pending (Lachman). The new voting laws, which the Republican majority had pushed through in

2013, reduced the number of days for early voting, ended the ability to register and vote on the same day, enacted more stringent identification rules, and ended efforts to encourage youth voters to register. Despite the severe cuts to voting rights of North Carolinians the legislators did allow for later poll hours for the few days of early voting that would remain and allocated three million to educate the state's population of the new laws (Barrett). Like Ohio, North Carolina is an important state in presidential elections since it carries fifteen electoral votes. The results of the pending judicial decision could have a large impact on the upcoming election year, along with providing insight into how future voter identification laws will be read by judges (Blinder & Otterbourg). This is yet another case currently entangled in litigation over the issue of voter identification laws that could play a role in the first presidential election since the elimination of Section IV of the Voting Rights Act.

The issues with the voter identification laws are loudest in North Carolina. Civil rights activists are holding protests and massive marches to call attention to the injustices that these laws create (Berman "Thousands March"). Stories of those whose voting rights are being restricted by the new laws are beginning to come out of the state as the tension over the legality of the laws increases. One of these stories is of Reba Bowser, who is eighty-six years old and has been voting since the Eisenhower era. When she moved to North Carolina early in 2014 she brought her expired driver's license from her previous state of residence, two different birth certificates, a social security card, a Medicare card, and her apartment lease to her new local DMV office. Despite the extensive amount of documents she presented, she was still denied a voter identification card due to the fact that the name on her birth certificate did not match her current last name because of her

marriage which had occurred in 1950. After her application to receive a voter identification card was denied, her story went viral, which urged the DMV office to claim they had made a mistake and eventually issue Reba her voter identification card (Berman “Thousands March”). Reba is not alone in this issue. Ninety-four year old Rosanell Eaton, who had been forced to pass a literacy test under Jim Crow laws in order to first vote over seventy years ago, was forced to make eleven trips to state agencies in order to receive her voter identification card. It is issues like this that fueled tens of thousands of people to march in the streets of Raleigh, North Carolina in support of repealing these new laws (Berman “Thousands March”). The burdens these laws place on individuals are much more apparent when seen through the stories of these women who were forced to take extreme steps in order to maintain their constitutional right to vote.

The state of Texas is also having a heated battle over voter identification laws that have spent the last few years maneuvering through the court system. After the VRA was weakened in 2013, the state legislature in Texas enacted an extremely strict set of voter identification laws that was originally blocked by the federal government. For example, the new requirements in Texas don’t even allow for a state university identification card to be used for identification purposes at places of voting. A panel of federal appeal judges ruled in August 2015 that the laws had a discriminatory effect and that they violated the still enforced Section II of the VRA. Texas is seeking to have the full court of federal appeals hear the case, it is also likely that this case could work its way up to the Supreme Court (Lachman). Despite still being litigated through the legal system, elections in Texas will move forward under the law. Until a final decision on the case from the full appeals court or from the Supreme Court, all elections in Texas will be held with the rigorous

voter identification laws in place (Weissert). If the case against the laws is to succeed in the court system this may pave a way for future cases to be struck down using Section II of the VRA as a method to convince the court of the discriminatory effects of the law.

Virginia, like many other states, has an impending trial on their voter identification laws that will be heard in federal court this year. The lawsuit claims the laws, which were first enacted in 2013, create a significant burden on Virginians who are more than likely unable to secure the required identification (Lachman). The story unfolding in Virginia is essentially the same as other states across the nation; the civil rights organizations and the Democratic Party are fighting to stop laws created through strong Republican Party support. The proponents behind the lawsuits against the new strict voter identification laws claim that the laws create new barriers that impede African American, Latino and poor voters from utilizing their constitutional rights. Republicans in Virginia believe if the lawsuit successfully overturns the ID requirements, then the Democratic Party will have a significant edge in the coming November election. This impending trial in Virginia is yet another example of the fight that is occurring across the nation to ensure that every citizen who is eligible to vote can exercise that right without facing unreasonable and unnecessary obstacles. This case also highlights how the two parties are standing in complete opposition to one other on this issue. The Democratic Party is fighting against these laws while the Republicans firmly believe that the laws are necessary to prevent fraudulent elections (Portnoy). Virginia is another key swing state in the coming general election and its outcome might be affected by the decision made during this case concerning their voter identification laws.

In Kansas, another trial against voting identification laws is looming. This case is also being brought forth by the ACLU. They have sued the state on the grounds that the laws have created a two-tiered voting system. This is because the voter identification requirements were deemed unconstitutional by a 2013 Supreme Court ruling on an Arizona case, however, the unconstitutionality only applies to federal elections. Therefore, Kansas and Arizona allow the strict voting identification requirement for state level elections, but not for federal elections. The ACLU claims that this two-tier system is unlawful since citizens in Kansas must register to vote separately for federal and state elections. In the registration for the state level elections citizens are required to provide identification such as a birth certificate, passport, or other state issued document, which the registration for the federal elections does not require (Lachman). These cases add to the continuing pressure on the subject of voter identification laws, especially during a crucial election year.

Missouri has also recently passed new voter identification laws that will require their citizens to present government issued photo identification in order to cast a ballot in the upcoming elections. The controversy surrounding this new law is not just that the laws present a chance of disfranchisement to certain citizens who would likely support Democratic Party candidates, but also that the facts presented to push the passage of the law seem to have some faults behind them. Missouri first began to strengthen the requirements for voters to present identification at the polls back in 2006. Since the weakening of the VRA, Senator Will Kraus led the charge to push the new voter ID laws through legislation. Senator Kraus firmly supported the new laws to combat in-person voter fraud, which he stated was a serious threat in Missouri. Senator Kraus referred to a

report from the Heritage Foundation that claimed that there have been seventeen convictions for fraudulent elections in Missouri since 2005. However, these convictions all had to do with false voter registration, an issue that the new voter identification laws, which Kraus successfully pushed through, have no jurisdiction over. The new law would not have protected any of those cases from occurring. Instead the elections integrity unit at the Secretary of State's office in Missouri has reported that there have been zero cases of in-person voter fraud (Aton). Regardless of the conflicting facts the new law is now in place, ironically at the same time that Missouri citizens will be required to present passports in order to board even domestic flights. This is due to the fact the Kraus and his fellow senators continue to disregard the identification requirements of the federal government which would allow Missouri citizens to travel freely between states, but rather they invest their time in establishing identification laws for their citizens to vote (Diuguid).

In Alabama the passage of a new voting identification requirement came with discontent similar to many other states. The lawsuits against the laws did not come however, until the new laws were paired with the closing of many of the department of motor vehicle offices across the state. Not only are the citizens of Alabama required now, like many states, to provide state approved identification at the polls in order to vote; but the primary source of obtaining their state approved identification is from department of motor vehicle offices which are being closed not just at an alarming rate, but in counties with predominately racial minority citizens. These actions by a Republican run Alabama government are highly questionable and are resulting in civil right violation lawsuits. In the lawsuit presented by the ACLU, thirty-one DMV offices across Alabama have closed

just as the new laws have gone into effect. The issue which the ACLU is fighting is that every county with a population of at least seventy-five percent African-American citizens has seen their DMV office closed (Lachman). The tensions over the newly enacted voter identification law in Alabama led to the empirical research of this thesis. Since a significant portion of department of motor vehicle offices across the state of Alabama has recently closed their doors due to budget cuts, it creates a problematic situation on how citizens will be able to obtain the necessary identification to vote. The main source that Alabama citizens have to access their free state voter identification cards is through the department of motor vehicle offices. However, residents of many counties now face the issue of having access to these offices only one day a month. Later in this thesis I will use the issue occurring in this state to see if there is a discernable effect that the number of available DMV offices in a county has on turnout during elections.

All across the nation, cases are progressing through the court systems that are challenging the creation of new identification requirements for voting. Issues surrounding the legality of these laws will likely intensify as the presidential election draws closer. This year's election is crucial not only due to the fact that the oval office is changing administrations for the first time in eight years but also because of the fact that this is the first election in over fifty years without the strength of the full force of the VRA protecting the constitutional right for citizens to access the polls. As the election draws closer the issue of these laws will continue to make headlines across the nation.

Section V: Past Studies on Turnout, Discrimination and Voter Identification Laws

The first four sections of this study have provided a clear background and a detailed overview of the growing tensions over voter ID laws. These tensions have encouraged scholars to conduct empirical studies on the effects these laws may have on the electorate and turnout. These studies provide a foundation for the original study I conducted, which will follow this section.

The first study that I will discuss was done by Timothy Vercellotti of Western New England College and David Andersen of Rutgers University. In a previous study of the 2004 election, they found that non-photo identification requirements lowered turnout among African American and Hispanic voters. That led the authors to wonder if there was a possibility of a learning curve with identification requirements. They examined turnout in states with new identification laws to see if voters could learn by experience when it comes to voting requirements. They hypothesized that new and existing identification requirements would likely have an effect on turnout but they expected the greatest effect would occur in states with the identification laws in place for the first time during the 2004 election. Their data was collected through the November 2004 Current Population Survey. They coded fifty states and Washington D.C. into one of three categories. The first category being states that required photo or non-photo identification for the first time in 2004. The second category was states that had those requirements in place in 2004 and during previous election cycles. Lastly, the third category was states that required something less than identification cards to vote. The dependent variable in their study was whether a survey respondent reported voting in the November 2004 election. The categories of new ID laws and old ID laws used dummy variables as

predictors and the rest of the states as the reference category. The models the authors developed also included other factors that would have likely had an effect on turnout; such as whether a state was a battleground state or closely contested. They controlled for states that allowed same day registration. Also, they used a dummy variable to separate the southern and northern regions of the country to see if there was a difference in turnout based off of geographic regions. At the individual data level the authors coded for gender, household income, race/ethnicity, age, residential mobility, marital status, and employment. These variables were included because they are thought to influence turnout in elections.

The study found the identification requirements had little effect on turnout when looking at the entire sample of data. However, when dividing the data into various groups the authors found that there was a significant effect of photo ID on turnout for two subgroups; young voters (18-24) and Hispanics. This shows that within their study the possibility of a learning curve in terms of adjusting to the requirements of identification laws is at best modest and only evident for two groups of voters (Vercellotti & Anderson 117-120). This study came prior to the repeal of Section IV of the VRA and the laws addressed within the study were less stringent than the more recent laws that have passed in states. Though slightly dated this case is a great foundation point when looking empirically at the effect that such laws can have on turnout and how they can discriminatorily affect certain voting demographics.

The next study that I examined was published in 2008 to determine if voter identification laws effected different groups at the individual level. This study was conducted by Jason D. Mycoff of the University of Delaware, Michael W. Wagner of the

University of Nebraska, and David C. Wilson of the University of Delaware. The authors addressed whether strict identification requirements at the polls influenced voter turnout either at the aggregate or individual levels. They hypothesized the laws would have little to no effect on either level, especially when taking into account the political motivations for voting. They denote that identification laws could potentially create new barriers for voting in two ways. The two ways they recognize as possible barriers are that voters who fail to supply the necessary identification will be turned away from the polls and that acquiring the necessary identification requirements come at a monetary or preparatory cost. They argued however, that citizens, if particularly interested in the political process, should have no significant difficulties overcoming the barrier that identification laws place on them. The authors collected data from four federal elections covering the time span of 2000 to 2006 to study the effects at the aggregate level. For the individual level the authors gathered data from the 2006 Cooperative Congressional Election Study (Mycoff, Wagner, Wilson 121).

The main variables they looked at were voter turnout and strictness of voter identification laws. The aggregate turnout in this study is the percentage of the voting age population that casted ballots between 2000 and 2006 in federal elections and the self-reported individual turnout measures. The authors created a six point scale, which they called ID Requirement. They also included a dummy variable in the study that represented whether a state required a photo or non-photo identification. They examined the data in two parts; first looking to see the relationship between turnout and state identification laws using an analysis of variance technique. The second part of their examination of the data was a hierarchical regression model. This method allowed the

authors to find the effects of each variable of interest after controlling for other factors. They found that the voter identification requirement variable and the interaction of year and the voter identification requirement variable were non-significant at the state level of turnout. This suggests that from 2000-2006 turnout and identification requirements were unrelated. Even on the individual level there was no significant evidence that identification requirements were likely to reduce turnout (Mycoff, Wagner, Wilson 122-123). This study does not show evidence of such laws causing a discriminatory effect on the voting electorate. However, just like the previous article this study comes before the stripping of the VRA and the laws established since the occurrence are far harsher than the ones studied by these authors.

Despite the non-significant results established in the previous study, not every empirical study developed using the data of elections prior to the weakening of the VRA provided null results on the matter of the effects of voter identification laws. A study by Shelley de Alth for the Harvard Law & Policy Review found significantly different results from the previous two studies. She studied the change in voter turnout on the national level from 2002 to 2006. Through her analysis she found that photo and non-photo identification requirements decreased turnout between 1.6 and 2.2 percentage points. According to the author, percentage points of these numbers imply that in the 2006 election 3 to 4.5 million voters were essentially disenfranchised. Her assertion that is since the burden of millions of voters risking the loss of their right to vote outweighs any state's notion of protection of fraud, the emerging voter identification laws are, to her standards, unconstitutional (De Alth 185-186).

The data in support of her argument concerning unconstitutionality of voter ID laws, came from a variety of sources, and included legal restrictions, the political context, and demographic characteristics. She also did a comparison analysis of the 2006 election to the 2002 election. The dependent variable in her study was voter turnout, which was calculated as total votes cast divided by the citizen voting age population. In her study, total votes cast was measured by the highest vote total in a given state in each year. The citizen voting age population for her study was collected from the U.S. Census. The independent variable was categorized by photo ID, non-photo ID, and no ID requirement. She created dummy variables for the various types of elections in which the votes were being cast; such as Governor, Senate, or House. She created another dummy variable for states that had initiatives on the ballots. The results of her data showed that as states increased the strictness of the voter identification laws there was some signs of decline in turnout. She found that states with non-photo identification laws showed a 2.2 percentage point decline in turnout, and states with photo ID laws had a 1.6 point decline in turnout (De Alth 194-202). This is one of the first studies prior to the weakening of the VRA that shows a significant negative relationship between stricter voter identification laws and turnout.

The key empirical study on the effects on voter identification laws since the repeal of Section IV of the Voting Rights Acts was conducted by the United States Government Accountability Office. This study was first presented in a report to Congressional Requesters in September 2014. The report was compiled of two parts; the first being an extensive review of available literature on the subject of voter identification and its costs, whether available data had provided support of whether voter identification

laws have affected turnout, how many provisional ballots were cast due to identification problems, and what challenges exist in using only available data to estimate the incidence of in-person voting fraud. The literature review portion consisted of specifically chosen studies that were all conducted prior to the repeal of Section IV. In this section the GAO found that an estimated 84 to 95 percent of registered voters owned the required identification to meet the individual states' requirements. The studies also showed that these rates varied among racial and ethnic groups. One of the studies they examined in particular stated that while 85 percent of white registered voters had the required ID to vote, only 81 percent of African-American registered voters had the necessary documents. The literature scrutinized by the GAO also stipulated that the direct costs of obtaining the necessary identification for voting across seventeen states, which all require photo or government identification, ranged from \$14.50 to \$58.50.

Another set of ten studies analyzed by the GAO showed the various effects on turnout, similar to the previous studies cited in this thesis. All of the studies on turnout effects examined by the GAO were from general elections prior to 2008. Half of the studies explored found that identification requirements had no statistically significant effect on turnout, four found declines in turnout; and one found an increase. To determine the existence of in-person voting fraud they identified and reviewed over 300 studies to determine whether they contained data related to in-person voting fraud or included a methodology for determining voting fraud. On the federal level they were only able to find a total of fourteen possible cases of in-person voting fraud throughout the entire timeframe of the study, which was January 2013 to August 2014 (United States GAO 3-9).

The largest part of the GAO report came from a quasi-experimental analysis to create a comparison of voter turnout in Kansas and Tennessee to the turnout in four other states that did not have voter identification requirements during the 2008 or 2012 general elections. The states selected for this study were carefully chosen based on the fact that both Kansas and Tennessee did not have any other changes to their voting laws during either election cycle that would cause an unexplainable variance in the data on voter turnout. Also, both of these states had similar election environments, in terms of races and competitiveness of ballot initiatives. The comparison states for this study were Alabama, Arkansas, Maine and Delaware. These states did not have voting identification requirements for either the 2008 or 2012 elections. The comparison states were selected based off of their similarity to the treatment states in terms of election environments. The data was not only reviewed by the GAO to verify its soundness but it was also independently reviewed by a third party. The data in this government produced study found that turnout decreased in both Kansas and Tennessee between the two general elections at a significantly greater rate than the comparison states. The difference between the comparison states was an estimated 1.9 to 2.2 percentage points in Kansas and 2.2 to 3.2 percentage points in Tennessee. Despite the GAO painstakingly taking care to ensure the quality of data and the soundness of the results, both Kansas and Tennessee state governments have rejected the results of this study (United States GAO ii-81). The GAO carefully created this study and found that voter identification laws do show significant decreases in voter turnout, regardless of each state's decision to accept the results.

The various studies presented show that there is very much still a debate on the discriminatory effects of voter identification laws. Since the issuance of the GAO report, Alabama, as explained in Section IV of this thesis, has been making headlines for the correlation between the requirements of their new voter identification laws and with the difficulties to obtain the required identification to satisfy those laws. A table providing a concise overview of the mentioned studies can be seen in Appendix II, Table III. This table shows a clearer image of how the research into the effects that voter ID laws have on turnout since the repeal of Section IV is considerably lacking. When looking at these past studies it is important that as states continually increase the strictness of their identification requirements for voting the need for a new empirical study examining the potential discriminatory effects of voter ID laws on turnout is needed.

Section VI: Original Empirical Evidence

The previous sections have provided an extensive overview of the current state of voter identification laws around the country; from the history of voting rights to the current political struggle over the legality of newer rigorous laws. These previous sections have given the necessary background to present my empirical research. This research has built upon the previous literature available within the field in order to better show how these laws may have a discriminatory effect that would impede certain voting demographics from exercising their constitutional right to vote.

In order to create a study which could show the possible negative effects that such strenuous identification laws could have on certain groups I collected various data. This data collection covers several variables in each of the following states; Indiana, Alabama, Texas, Louisiana, and Mississippi. Each state was chosen with careful consideration. Indiana was selected due to the fact that the Supreme Court upheld the state's voting identification laws in *Crawford v. Marion*. This state was selected to be used as the essential control subject in the empirical study since the Supreme Court deemed that the laws requiring citizens to provide identification in Indiana were reasoned to be non-discriminatory. Alabama was selected due to that fact that their recently enacted voting identification laws have been raising alarming controversy. Similarly, Texas was selected because their voting identification laws were struck down in 2015 by the 5th Circuit Appeals Court due to the claim that the laws are believed to have discriminatory effects. Mississippi was selected because it is the home state of this university and Louisiana because it had one of the first voter identification requirement laws in the country and due to regional proximity to controversial states like Texas and Alabama.

After selecting each state I compiled research on a group of variables for each state. The variables selected were as follows: number of Department of Motor Vehicle locations in each county, the county population as of 2014, the percent of the county population under eighteen years of age, the percent of the county population which identifies itself as Caucasian, the county land area in square miles, the percent of the county population living below the poverty line, the number of votes for the Republican Party in the 2012 general election in each county, the number of votes for the Democratic Party in the 2012 general election in each county, and the number of votes for a third party candidate in the 2012 general election in each county. The data for this study was collected from each state's department of motor vehicle website, the United States Census website, and from Politico.com. The information collected from the United States Census website was established during the last national census collection in 2010, so the data is from that year. The data collected from each individual state's DMV website is the most current information available in order to provide an accurate listing of currently open offices. The variable of DMV office is a key component in the conduction of my study. Since all states in this study require identification that must primarily be acquired from DMV offices; it is vital to know how many of these offices exist in each county of every state. The information gathered from Politico.com covers election results for each county of each state for all parties listed on each individual's state ballot. Since some states list multiple third parties on their ballots these multiple third parties were combined.

The state of Alabama currently possesses a mobile Department of Motor Vehicle office system. This means that several counties only have an office open for a set amount

of days either per week or per month. Since the counties do not have a constant office in which voters may obtain the necessary documents in order to fulfill the voting law requirements, it was not possible to provide those particular counties with a data point of one for the number of DMVs in the vicinity. Therefore, in order to recognize this discrepancy in the numbers, I established a system in which .25 is the equivalent of a DMV office that is open for one day a month, .5 is the equivalent of a DMV office that is open for one or two days a week, and .75 is a DMV office that is open for three days a week. For all other states, since they do not partake in the mobile DMV office program the numerical number for the data is such that 1 is the equivalent of a single normally operating office that is open at least four days a week, 2 is the equivalent of two normally operating DMV offices, and so forth as the number of offices in the county increases. Data for each of these variables was collected for every single county within all the states in this study.

The percent below the age of eighteen was subtracted from the total population in order to find each county's voting age population. Then the number of participants who voted in the 2012 election was combined to find the percentage of the voting age population that voted during the previous general election. These numbers then are used to determine the possibility of either a positive or negative relationship between the population density in each county and the number of DMVs in each county. It is my belief that based on the information supplied from the previous literature section that as the burden from obtaining the required documents to satisfy the new identification laws increases the turnout to vote, especially among minority and socio-economically disadvantaged voters, will decrease. Based on past research it is my opinion that

individuals who rely on public transportation, the transportation of others, elderly in the care of other individuals, and the socio-economically disadvantaged would be heavily burdened in the process of trying to acquire their necessary identification because of the DMV offices' unavailability. My hypothesis is as it becomes more burdensome to obtain the identification needed to vote, the less that certain demographics will turnout. This is due largely to the fact that as the ability to get needed identification becomes more difficult, the cost for voting for certain individuals becomes too high. Through the intensive research leading up to this original empirical study I believe the data will show that these laws create a hindrance on voting that would rise to the level of a discriminatory effect.

The first table created with the data I collected was a simple observation between the number of department of motor vehicles and the changes in turnout. This observation was established by looking at the states as a whole. It showed how turnout changed throughout counties that had less than one DMV, counties that had at least one DMV, and counties that have more than one DMV. This simple correlation led to inconclusive results (see Appendix II, Table IV). The data suggests, for all states in the study, that the turnout percentage for counties with less than one DMV would be 57.7%, the turnout for counties with at least one DMV would be 56.39%, and the turnout for counties with more than one DMV would be 48.39%. This suggestion in the data in this table is that the more DMVs in a particular county the lower turnout is among voters in that county. This data though lacks essential controls and information that would cause changes in the results. Further investigation into the data is therefore needed.

After studying the first table created from the data I collected, I deemed it necessary to adjust turnout to account for variance on factors such as population density, socioeconomic status, and race. Socioeconomic status is a particularly important factor due to the fact that the past sections of research has shown that it could particularly influence a potential voter's ability to access the required documents necessary to access the ballot. A person in a county with less than one DMV or none who falls below the poverty line is far more likely to be burdened by voter identification laws than a person in a higher populated area with more DMVs readily available to them. Also, factoring in race allows for a statistical analysis of the potential discriminatory effect that these laws have. Therefore, I tested the changes in turnout against the number of DMV locations, population density, percent of the population below the poverty level, and the percent of the population that classified as a minority race in a regression analysis. I also included an interaction between DMVs and population density because it is my proposition that the more DMVs available within a population the easier the access to the necessary requirements for voting becomes.

This more detailed analysis of the data (see Appendix II, Table V) provided clearer answers to how turnout is effected by voter identification laws. In the state of Alabama (second column of results) the higher population densities (i.e., cities) and more DMVs led to an increase in turnout among voters. The inverse of this would state that the fewer DMVs available to the eligible voting population would lead to a decrease in turnout. The strongest empirical evidence of this is found in Alabama; however, the pattern of results indicates that this is a similar case among the other states, with the evidence of voter turnout being affected by the identification requirements second

strongest in Mississippi. This is due to the fact that both Alabama and Mississippi have lower population densities and have larger portions of their populations below the poverty level. In Louisiana and Texas the higher population densities and larger portion of the population above the poverty line created less of a negative relationship in terms of turnout.

This data analysis shows that the fewer DMVs there are, especially in places of lower population density or greater poverty, the more likely there is a negative effect on turnout. To combat such an issue would require states to either repeal the laws to lift the increased burdens on the eligible voting population or to increase the number of DMVs so that all citizens have access to the required identification.

Section VII: Conclusion

The previous sections have covered varying aspects of voting rights and the voting identification laws that are increasing across state legislatures in the country. The first section provided a detailed history of voting rights activism that has led to the current situation of stringent identification laws being created in the wake of the destruction of the Voting Rights Act. After such a torrid history of tirelessly fighting for all citizens to have access to their fundamental right to participate in the United States election process, it has become an increasing need to understand the effects of such laws on the voting populace.

The issue of whether there is a necessity for voter identification laws is often a partisan debate. The Republicans argue the need to protect the purity of the election process from fraud, while Democrats argue the laws are creating unneeded burdens on the citizens of states. Despite the fact that evidence of fraud continuously comes up short (Levitt), leaving the needs of the state to appear weak in the face that growing evidence is showing a clear burden on voters (GAO). A large part of the partisan arguments against these laws is not that they are discriminatory but they discourage primarily Democratic Party members from voting. This argument became more valid as Republican Representative, Glenn Grothman stated during an interview following the Wisconsin 2016 primary election, “Well, I think Hillary Clinton is about the weakest candidate the Democrats have ever put up. And now we have photo ID, and I think photo ID is going to make a little bit of a difference as well” (Wright). This statement then sparked a strong response from the Democrats with Martha Laning, a chairwoman of the Wisconsin Democratic Party, to state, “Well there it is—If you can’t win Wisconsinite’s votes the

fair and square way, you impose voter ID to gain an advantage so you win” (Wright). Considering that legislation is still being passed and the court cases concerning the legality of these laws is still moving through the system; which aisle of this partisan battle that will ultimately win this argument is far from determined. However, these arguments are pushing even further for the need of empirical evidence to support whether either side may possibly be correct.

Though these laws are rather new and spreading across legislatures rapidly, key studies have been done on the matter. These studies have had varying results, but the key problem is that the studies have been created from data that was available prior to the gutting of the Voting Rights Act. Building on the information provided from prior literature and past empirical studies, I created a new study to test for the discriminatory effects of the new laws being established. The data showed the less DMVs available the lower the turnout in the region. Though the application of the data for this study is a new approach to help find answers as to how the voter ID laws affect turnout, the data again is from elections prior to the repeal of Section IV of the VRA. It will not be possible to fully grasp the plausible effects which these laws could have on turnout until after the 2016 Presidential Election.

The fact of the data is that turnout is burdened by the requirement to access a DMV to obtain the documents necessary to access a fundamental right. It has been made clear by the *Crawford* case, which established that Indiana’s voter identification law was constitutional, that a state can create requirements to access a ballot if the state’s need is not outweighed by the burden of the citizen. Since there is a clear burden on voters, in the states presented in the study, one can confer that the laws have established a

discriminatory effect on a certain demographic of the eligible voting populace. The creation of new hurdles in order to access a ballot box not only discriminates against certain groups which would have a more difficult time accessing the necessary documents needed to vote, but also, it is evident that turnout is affected due to the laws.

Appendix I

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Appendix II

Table I: Voter Identification Laws in Effect in 2016 from NCSL

Strict Photo ID	Strict Non-Photo ID	Photo ID requested	ID requested; photo not required	No document required to vote



Table II: Voter Identification Laws for States Referenced in This Thesis

State and Date Law was Enacted	Forms of Identification Accepted at Voting Places
Texas (2013)	Texas driver’s license, a Texas Election ID Certificate, a Texas personal ID card, a Texas concealed handgun license, a United States military ID card with the photograph, a United States citizenship certificate with the photograph, or United States passport
North Carolina (2015)	North Carolina driver’s license, North Carolina learner’s permit, North Carolina provisional license, North Carolina DMV ID card, United States passport, United States military ID card with the photograph, United States Veterans ID card with photograph, Tribal enrollment card issued by a federally-recognized tribe, Out-of-State driver’s license or non-operator’s ID card only if voter

	registers in county within 90 days
Wisconsin (2011)	Wisconsin driver's license, Wisconsin ID card, United States military ID card with photograph, United States passport, a certificate of naturalization that was issued not earlier than two year prior, unexpired driving receipt issued by Wisconsin DOT, unexpired ID card receipt issued by Wisconsin DOT, ID card issued by a federally recognized Indian tribe in Wisconsin, unexpired ID card issued by a Wisconsin-accredited university or college that contains date of issuance, signature of student, and expiration date; must be presented with proof of enrollment
Virginia (2013)	Virginia voter registration card, Virginia driver's license, United States military ID with photograph, any federal, state or local government-issued ID with photograph, employer-issued photo ID card with photograph, concealed handgun permit, student ID from any higher education institution in Virginia with photograph
Kansas (2011)	Kansas driver's license, Kansas state ID card, concealed carry handgun licenses, United States passport, government employee, military, student, public assistance and tribal IDs with photographs are also accepted
Ohio (2006)	Ohio driver's license, Ohio state ID card, United States military ID card, United States government issued photo ID card, current utility bill, current bank statement, current government check, current paycheck
Georgia (2006)	Georgia driver's license, Georgia state ID card, tribal ID cards, United State passports, employee ID cards, United States military ID cards, free voter ID cards
Missouri (2013)	Missouri driver's license, Missouri state ID cards, United States passport, current utility bill, current bank statement, current paycheck
Alabama (2013)	Alabama driver's license, Alabama state ID cards, free voter ID cards, any state issued ID card with photograph, federal issued ID card with photograph, United States passport, employee ID from federal government, Alabama, county, municipality, board or other entity of the state with photograph, valid student or employee ID from a public or private college or university in Alabama with photograph, United States military ID with photograph, tribal ID with photograph
Louisiana (1997)	Louisiana driver's license, Louisiana special ID or other generally recognized photo ID that contains name and signature, utility bill, payroll check or other government document that includes the voter's name and address can be presented with signing an affidavit
Mississippi (2013)	Mississippi driver's license, photo ID issued by a branch, department or entity of the state, United States passport, employee ID card, firearms license, student ID from Mississippi accredited university, college or junior college with photograph, United

	States military ID with photograph, tribal ID with photograph, any photo ID issued by any branch, department, agency, or entity of the state or federal government, free Mississippi voter ID card
Indiana (2005)	Photo ID must meet four criteria to be acceptable, it must: display photo, display name that must conform to voter registration record, display an expiration date and either be current or have expired sometime after the date of the last general election, and must be issued by the State of Indiana or the United States government

Table III: Prior Studies on the Effects of Voter ID Laws on Turnout

Study Finding No Effect/Positive Effect on Turnout	Mycoff, Wagner, and Wilson (Null Results: In elections from 2000-2006 Voter ID and Turnout Unrelated)
Study Finding Negative Effect on Turnout	<ol style="list-style-type: none"> 1. Vercellotti and Anderson (Lowered Turnout Amongst African American and Hispanic Voters) 2. De Alth (Decreased Turnout 1.6 to 2.2 Percentage Points between 2002-2006) 3. GAO (Decreased Turnout in Kansas 1.9 to 2.2 Percentage Points; Decreased Turnout in Tennessee 2.2 to 3.2 Percentage Points)

Table IV: 2012 Turnout Based on Number of DMVs

Turnout	Mean (# of DMV<1)	Mean (# of DMV=1)	Mean (# of DMV>1)
All States in Study	57.70	56.39	48.39
Alabama	60.96	52.84	56.83
Louisiana		59.98	55.95
Mississippi	62.83	54.67	48.51
Texas	53.52	55.12	36.88
Indiana		58.87	52.21

Table V: Turnout Based on Number of DMVs Interacted with Population Density,

Controlled for Poverty and Race

	All Turnout	AL Turnout	LA Turnout	MS Turnout	TX Turnout	IN Turnout
Number of DMV locations	-2.934 [4.964]	-3.395 [2.383]	-2.643 [2.767]	-6.447 [2.608]*	-1.228 [10.950]	-2.23 [11.435]

Pop Dens	-0.011 [0.019]	-0.099 [0.025]**	-0.008 [0.010]	-.108 [0.048]*	-0.017 [0.040]	-0.048 [0.055]
Persons below poverty	-0.413 [0.487]	-0.076 [0.214]	-0.016 [0.189]	-0.368 [0.278]	-1.337 [1.098]	-1.886 [1.358]
Person white	0.014 [0.156]	-0.272 [0.058]**	-0.138 [0.104]	-0.274 [0.090]**	0.055 [0.338]	-0.383 [1.409]
Interaction	0.002 [0.003]	0.049 [0.014]**	0.002 [0.005]	0.043 [-0.025]	0.001 [0.005]	0.006 [0.007]