Voting Rights Project: Arizona Preliminary Findings

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I. Introduction

In the wake of the highly contentious 2020 election cycle, voting laws—already widely recognized as a topic of great import—came to the forefront of national politics. As the pandemic disrupted everyday life in the spring (during some of the presidential primaries), many states rapidly adopted changes to make voting more accessible, particularly by increasing opportunities for early and absentee voting.[1] Perhaps as a result of these changes, turnout in the 2020 general election reached historic heights. The Pew Research Center estimates that 66 percent of eligible voters cast a ballot—7 percent higher than in 2016.[2]

Advocates for liberalizing voting laws cite this jump in turnout as empirical evidence that decreasing barriers to voting increases political participation, and in turn, strengthens democracy.[3] Meanwhile, many of those who desire more stringent voting regulations saw the increase in turnout as demonstrative of voter fraud. Although claims of widespread voter fraud and the "stolen election" have been widely debunked, these allegations nonetheless permeate electoral discourse.[4] Their ubiquity is not without consequence: Many far-right groups, some of whom control militias, promoted the "Stop the Steal" movement, which notoriously culminated in the January 6 insurrection.[5] It would be a mistake, however, to exclusively attribute allegations

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[1] Mac Brower, "How States Used the Pandemic to Restrict (Or Expand) Voting," Democracy Docket, May 9, 2022. https://www.democracydocket.com/analysis/how-states-used-the-pandemic-to-restrict-or-expand-voting/.
[2] Drew Desilver, "Turnout Soared in 2020 as Nearly Two-thirds of Eligible U.S. Voterws Cast Ballots for President," Pew Research Center, January 28, 2021. https://www.pewresearch.org/short-reads/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/.
[3] Brower, "How States Used."
[4] Jonathan J. Cooper and Bob Christie, "How Election Fraud Conspiracies Could Make Deep Changes to Arizona Voting," PBS, October 20, 2022. https://www.pbs.org/newshour/politics/how-election-fraud-conspiracies-could-make-deep-changes-to-arizona-voting.
[5] Atlantic Council's DFRLab, "#StopTheSteal: Timeline of Social Media and Extremist Activities Leading to ⅙ Insurrection," Just Security, February 10, 2021. https://www.justsecurity.org/74622/stopthesteal-timeline-of-social-media-and-extremist-activities-leading-to-1-6-insurrection/.

of fraud to a small group of individuals. On the contrary, many lawmakers have challenged the results of the 2020 presidential election (while accepting the results in their own elections if they won).[6] Moreover, those who do not personally claim that the election was illegitimate have nonetheless often promoted voter restrictions in order to ostensibly decrease the public *perception* that there may have been fraud.[7]

Arizona has emerged as one of the hotbeds of these restrictions.[8] As one of the swing states that was critical to President Joe Biden's ultimate victory, Arizona became a particular target of former President Donald Trump's conspiracies.[9] Relatedly, despite the fact that the state population is quite evenly divided between Democrats and Republicans, prominent members of the Arizona Republican Party, such as 2022 gubernatorial candidate Kari Lake, have been notably aggressive in their election denialism.[10] Although statewide audits did not find any evidence of fraud, in 2021 and 2022, Republicans—who controlled the state house, senate, and governorship at the time (before losing the governor's race in 2022)—made significant attempts to alter the conditions of voting.[11] In fact, as of March 2022, 10 percent of all proposals to change voting laws had been initiated in Arizona.[12]

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[6] Karen Yourish, Larry Buchanan, and Denise Lu, "The 147 Republicans Who Voted to Overturn Election Results," *New York Times*, Updated January 7, 2021. https://www.nytimes.com/interactive/2021/01/07/us/elections/electoral-college-biden-objectors.html.
[7] Maggie Astor, "'A Perpetual Motion Machine': How Disinformation Drives Voting Laws," *New York Times,* May 13, 2021. https://www.nytimes.com/2021/05/13/us/politics/disinformation-voting-laws.html.
[8] Will Wilder, "Ariona Is the Epicenter of the Fight for Voting Rights Today," Brennan Center for Justice, June 2, 2022. https://www.brennancenter.org/our-work/analysis-opinion/arizona-epicenter-fight-voting-rights-today.
[9] Maggie Astor, "Arizona Attorney General Debunks Trump Supporters' Election Fraud Claims," *New York Times*, August 1, 2022. https://www.nytimes.com/2022/08/01/us/politics/arizona-attorney-general-dead-voters.html.
[10] Caitlin Gilbert and Sam Learner, "How Arizona Became Ground Zero for Election Deniers," Financial Times, November 2, 2022, https://ig.ft.com/arizona-election-deniers/.
[11] Astor, "Arizona Attorney General."
[12] Kirk Siegler and Liz Baker, "Arizona Republicans Continue Pushing Voting Restrictions, Risking Backfire," NPR, March 4, 2022, https://www.npr.org/2022/03/04/1083501487/arizona-republicans-continue-pushing-voting-restrictions-risking-backfire.

II. Background

State lawmakers have enacted these proposals at a rapid clip. Between the beginning of 2021 and the writing of this report, 35 bills impacting voting have been signed into law in Arizona.[13] On the one hand, one law alerts formerly incarcerated people when they are eligible to vote and another mandates that "replacement ballot centers" are accessible beginning at 6am."[14] On the other hand, legislation that passed also included initiatives to make same-day voter registration illegal and require identification at dropoff locations for votes to be "counted on-site."[15] Overall, the Voting Rights Lab classifies nine laws under "improves voter access / election administration," five as "mixed or unclear," eight as "neutral," and 13 as "restricts voter access / election administration." Media coverage has largely focused on the restrictive laws. This is likely because it appears that the restrictive laws outweigh the expansionary ones—not only in terms of quantity, but also in terms of scope.

In particular, two laws have received significant attention. Both target mail voting, which is noteworthy because of its enormous popularity in the state.[16] The first is House Bill 2492, which passed in 2022 and requires voters to demonstrate evidence that they are citizens in order to cast mail ballots in presidential elections. The law is controversial in part because in 2013, the US Supreme Court determined that while Arizona could implement similar requirements for state elections, doing so for federal races violates the National Voter Registration Act.[17] Although

[13] "Bill Search," Voting Rights Lab, Accessed July 21, 2023, https://tracker.votingrightslab.org/pending/search/state/arizona.
[14] Ibid.
[15] Gloria Rebecca Gomez, "New AZ Laws Are Now in Effect: Here Are Some of the Most Controversial," AZ Mirror, September 26, 2022, https://www.azmirror.com/2022/09/26/new-laws-are-now-effect-here-are-some-of-the-most-controversial/.
[16] Amy Sherman, "Voting by Mail Has Been Popular in Arizona for Decades. Now the State GOP Wants to Ban it, Politifact, March 17, 2020, https://www.politifact.com/article/2022/mar/17/voting-mail-has-been-popular-arizona-decades-now-s/.
[17] Nick Corsantini, "Arizona Passes Proof-of-Citizenship Law for Voting in Presidential Elections," *New York Times*, March 31, 2022, https://www.nytimes.com/2022/03/31/us/politics/arizona-voting-bill-citizenship.html.

state officials have argued that the Court's prohibition on citizenship requirements was limited to congressional elections and thus does not apply to presidential ones, the law is nonetheless ripe for legal contestation and has already been challenged by Mi Familia Vota, Voto Latino, and the Department of Justice.[18] These lawsuits are ongoing and until and unless one is successful, tens of thousands voters will likely be ineligible to vote by mail because they have not supplied their proof of citizenship to the state.[19]

Second, Senate Bill 1485, which passed in 2021, replaced the "Permanent Early Voting List" (PEVL) with the "Active Early Voting List" (AEVL). This was not merely a change in name. Now, voters will be removed from the AEVL (meaning they will not automatically be sent a ballot by mail) if they have not cast a mail ballot in the past four years.[20] According to the Campaign Legal Center, "had S.B. 1485 been enacted in 2019, around 126,686 Arizonans who voted in 2020 would have been taken off the PEVL."[21] Given the tight partisan divide in Arizona's politics—Biden defeated Trump by a mere 10,457 votes in the state—small margins can have huge electoral consequences.[22] If even a fraction of those removed from the AEVL choose not to vote because they do not receive a mail ballot in 2024, that could help determine

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[18] "Arizona Citizenship Requirement Challenge (Mi Familia Vota)," Democracy Docket, Updated July 20, 2023, https://www.democracydocket.com/cases/arizona-citizenship-requirement-challenge/; Dareh Gregorian and Julia Jester, "Justice Department Sues to Block Arizona's Proof of Citizenship Voting Law," NBC News, July 5, 2022, https://www.nbcnews.com/politics/elections/justice-department-files-suit-block-arizonas-proof-citizenship-voting-rcna36808.

[19] Corsantini, "Arizona Passes Proof-of-Citizenship Law."

[20] Kevin Morris and Peter Miller, "Nonwhite Voters at Higher Risk of Being Dropped from Arizona's Mail Ballot List," Brennan Center for Justice, August 11, 2022, https://www.brennancenter.org/our-work/analysis-opinion/nonwhite-voters-higher-risk-being-dropped-arizonas-mail-ballot-list.

[21] Georgia Lyon, "Arizona Governor Signs Bill Into Law Limiting Freedom to Vote Early," Campaign Legal Center, May 11, 2021, https://www.google.com/url?q=https://campaignlegal.org/update/arizona-governor-signs-bill-law-limiting-freedom-vote-early&sa=D&source=docs&ust=1685934405019596&usg=AOvVaw0Y3Ui-VuOsXEnhyyngomAe.

[22] "Arizona's President Results," CNN, Accessed July 21, 2023, https://www.cnn.com/election/2020/results/state/arizona/president.

the outcome of the election. Moreover, there is also reason to believe that the impacts of S.B. 1485 will not be evenly distributed—the Brennan Center estimates that "about 11.6 percent of voters—or more than 340,000 Arizonans—are at risk of being removed, but there are clear racial disparities. While just 8.4 percent of white voters on the list went four years without voting by mail, this was the case for more than 21.1 percent of Latino voters."[23] However, these numbers are predictive estimates; while the law will impact the upcoming presidential election, it did not take effect in time for the 2022 midterms, so its exact impacts have yet to be seen.

III. Methodology & Data

Since the bulk of legislative changes in Arizona were enacted in 2021 and 2022, I analyzed turnout in the most recent midterm elections. It would be difficult to compare a midterm election year to a presidential election year like 2020, so I looked at turnout in the 2018 midterms for comparison. Because we have not had an opportunity to review the recently released Catalist data on the 2022 election, I instead studied Arizona's 15 counties and their respective changes in net turnout—also considering how these changes related to the overall demographic composition of the counties. This data is publicly accessible on the Arizona Secretary of State's website.[24]

IV. Results

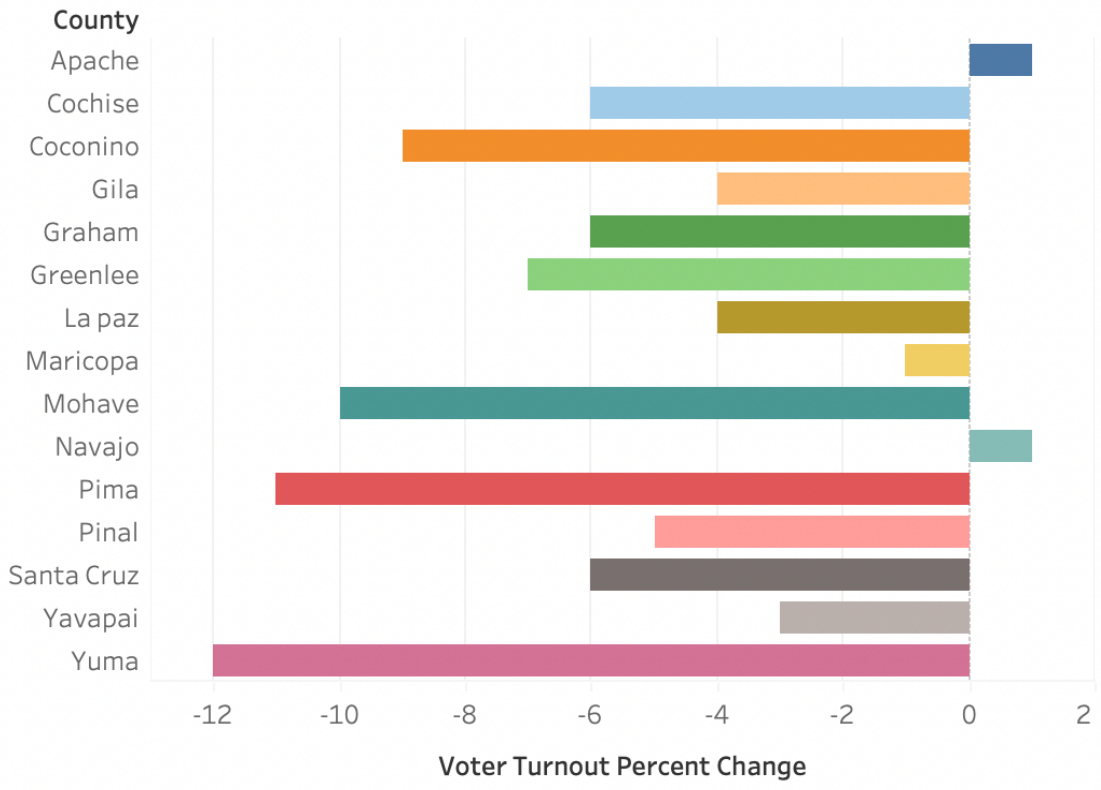
Overall turnout levels as calculated by the state—ballots cast divided by registered voters—dropped 2.29 percent between 2018 and 2022, from 64.85 percent to 62.56 percent. However, the total number of ballots cast in the 2022 elections was greater than in the 2018 elections—2,592,313 as opposed to 2,409,910.[25] Thus, it is possible that the decrease in

[23] Morris and Miller, "Nonwhite Voters at Higher Risk."
[24] "2022 General Election," Adrian Fontes Secretary of State, Accessed June 1, 2023, https://results.arizona.vote/#/featured/33/0; "2018 General Election," Katie Hobbs Secretary of State, Accessed June 1, 2023, https://results.arizona.vote/#/featured/4/0.
[25] Ibid.

calculated turnout was the result of the increase in voters who registered in 2020, as opposed to any changes in legislation.

In terms of particular demographic groups, measuring changes in turnout was difficult due to lack of available data. To resolve this issue, I compared changes in turnout between counties, and cross-referenced these changes with county demographics. As Figure 1 demonstrates, turnout as calculated by the state decreased almost across the board (with the exceptions of the Navajo and Apache counties, where it marginally increased). For Figure 1, I compared the percentage change in voter turnout (defined as the 2022 voter turnout percentage subtracted from the 2018 percentage, divided by the 2018 percentage) across counties.

Figure 1: Change in Voter Turnout from 2018 to 2022 in Arizona Counties



Although turnout generally decreased, I was unable to find a clear pattern to explain the variation in the degree of changes in turnout. Figure 2 compares the change in voter turnout to median county income. Similarly, Figure 3 compares the change in voter turnout to the percentage of racial minorities in each county (defined as the percentage of people who self-identify as any race other than exclusively white). The scatter plots do not seem to demonstrate a clear relationship between the change in voter turnout between 2022 and 2018 with either race or median income. It is possible that the changes in the number of people who voted were unevenly distributed along class or racial lines, but if so, those changes are not reflected on the county level.

Figure 2: Change in Voter Turnout by Median Income in Arizona Counties

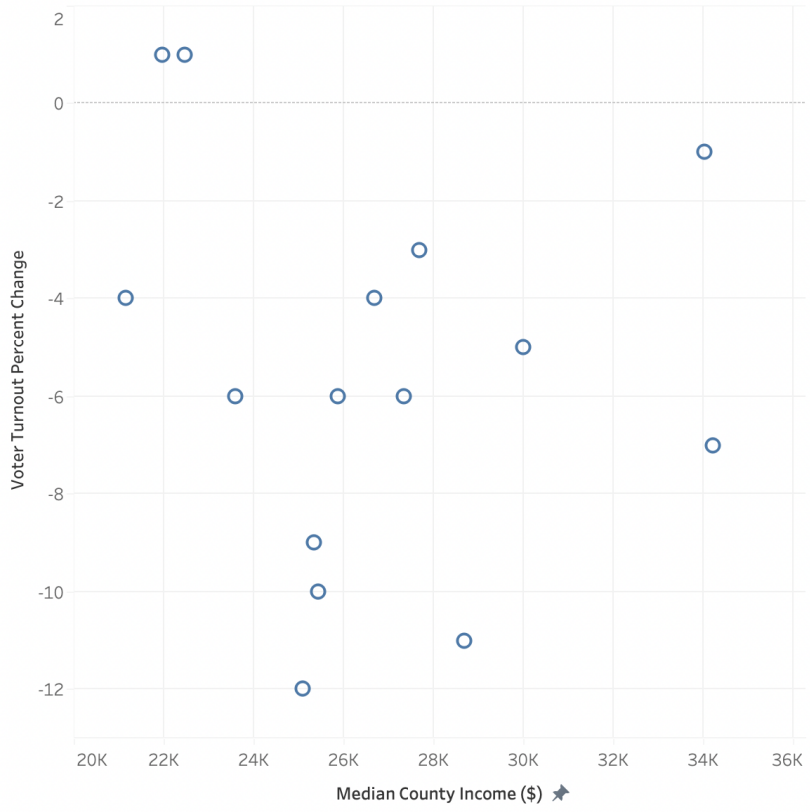
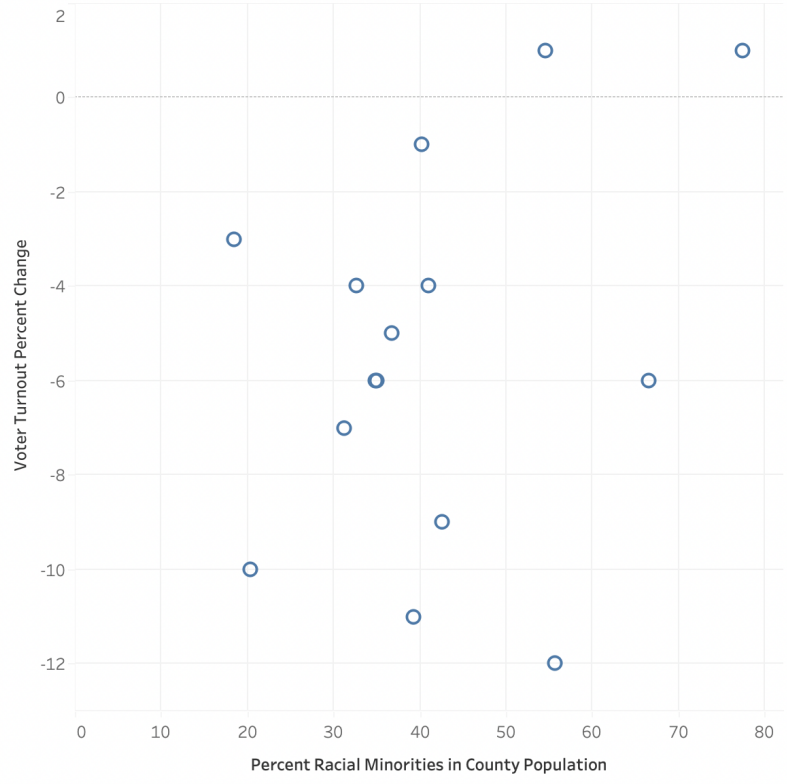


Figure 3: Change in Voter Turnout by Percentage of Population Identifying as a Racial Minority in Arizona Counties



V. Discussion

There has been much debate about how Arizona's recently passed voting legislation will impact turnout in the state. Regardless of whether turnout is measured in terms of ballots cast or the percentage of registered voters who cast a ballot, the difference between 2018 and 2022 turnout in Arizona is marginal. Perhaps the legislation that the state passed to liberalize voting offset some of the restrictions it enacted. Alternatively, it is of course possible that in a counterfactual election in which Arizona had not passed any restrictions, turnout in 2022 would have been higher than in 2018 due to alternative causes motivating people to vote. However, it is

difficult to determine whether this was the case and it should also give us pause that turnout nationally was slightly lower in 2022 than in 2018.[26]

It is also important to remember that one of the most significant pieces of legislation that the state passed, S.B. 1485, had not taken effect by the time of the most recent midterms. Thus, 2024 election data will provide crucial insight into how the change from the PEVL to the AEVL impacts turnout—both in general and amongst particular demographic groups such as low-income voters, Latinos, and people of color.

VI. Conclusion

States have long played a crucial role in regulating access to the ballot due to Article 1, Section 4 of the Constitution, which delegates them the power to regulate election laws.[27] This is especially true after the *Shelby County v. Holder* decision, which limited the power of the federal government to oversee state election laws under the Voting Rights Act of 1965.[28] Through using Arizona as a case study, we can gain better insight into election laws that have passed around the country—particularly in other Republican-controlled swing states.

While the impact of these newest laws is currently difficult to discern, they are a crucial area of future study. Voting rights are the bedrock of democracy, so considering who gets to vote, when, and how, should be an issue of great concern to all Americans. This is especially true in a swing state like Arizona, which plays a central role in determining control of both Congress and the presidency. With more election years to study and more data about turnout amongst specific

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[26] Drew Desilver, "Turnout in 2022 House Midterms Declined From 2018 High, Final Official Returns Show," Pew Research Center, March 10, 2023, https://www.pewresearch.org/short-reads/2023/03/10/turnout-in-2022-house-midterms-declined-from-2018-high-final-official-returns-show/.
[27] U.S. Const., art. 1, amend. 4.
[28] "Shelby County v. Holder." *Oyez,* www.oyez.org/cases/2012/12-96. Accessed July 21, 2023.

demographic groups, future research can continue to illuminate the impact of recent state legislative changes in voting access.