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## Adoption of Online Voter Registration Systems as the New Trend of US Voter Registration Reform

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### INTRODUCTION

Low voter turnout has been always a big concern in both Japan and the United States. In the 2017 Japanese general election, voter turnout was 53.68 percent,<sup>1</sup> compared to 60.2 percent in the 2016 US presidential election.<sup>2</sup> Voters in the two countries, however, face different registration conditions. In Japan, when people turn eighteen, they need only submit their certificates of residence to the local government three months prior to an election to be automatically added to the voter roll. In the United States, eligible voters must register to vote, and each state has its own election laws, with varying residency requirements across states. In the early 1960s, thirty-eight states required an individual to be resident in the state for at least one year before being entitled to register to vote.<sup>3</sup>

In the United States, the passage of the Voting Rights Act of 1965 established a federal guarantee of the right to vote regardless of race, color, sex, religion, or national origin and abolished discriminatory voting practices such as literacy tests and poll taxes.<sup>4</sup> Although the Voting Rights Act addresses discriminatory registration and voting procedures, a significant reason for ongoing low voter turnout is that voters must register themselves prior to Election Day. Therefore, to increase voter turnout in the United States, it is necessary to reform voter registration procedures. In this

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regard, the enactment of the National Voter Registration Act of 1993 by the federal government constituted a major electoral reform.<sup>5</sup> It allows citizens to register to vote when they apply for a new or renewed driver's license at a state's department of motor vehicles. The National Voter Registration Act was expected to lower barriers to voter registration, but its effects on voter turnout have been unclear.<sup>6</sup>

States have been developing their own measures to facilitate voter registration. For example, on January 1, 2016, Oregon became the first state to adopt automatic voter registration for eligible unregistered voters who visit the DMV to apply for, renew, or replace their Oregon drivers' licenses.<sup>7</sup> Another measure to increase voter turnout is the adoption of Election Day registration, although this still requires voters to register themselves.<sup>8</sup> As of March 2018, seventeen states and Washington, DC, had adopted Election Day registration.<sup>9</sup>

Online voter registration (OVR) is another measure becoming increasingly popular across the country. It is implemented as a supplementary way for voters to register. Through OVR systems, eligible voters can complete the registration forms on their state's designated website and submit them electronically to election officials. Michael Hanmer, associate professor of government and politics and specializing in electoral reform at the University of Maryland, acknowledged in a phone interview that OVR can be quite effective in lowering voter registration barriers for younger people, who do not tend to use postal services for registration or much else.<sup>10</sup> Arizona became the first state to implement OVR in 2002. As of December 6, 2017, OVR has been adopted in thirty-seven states and Washington, DC, according to the National Conference of State Legislatures.<sup>11</sup>

Previous studies have evaluated the implementing of OVR in some states. Of the several reports on OVR published by the Pew Charitable Trusts, the best known describes a joint research project by the Washington Institute of the Study of Ethnicity and Race at the University of Washington, Seattle, and the Election Administration Research Center at the University of California, Berkeley. Published in April 2010, it evaluates OVR systems in Arizona and Washington. It reveals that OVR systems can reduce election administration costs and that the accuracy of voter registration databases is enhanced by voters inputting their own personal information.<sup>12</sup> Expanding on the information in the report, Tischenko discusses Oregon's experience of implementing OVR to evidence the associated cost benefits and possibilities for reducing errors and barriers to voters' election participation.<sup>13</sup> Bedolla

also expands on the report by highlighting the case of California and shows that Latinos used more OVR than Asian-origin naturalized voters in the 2012 election; she then suggests what the state could do to make OVR even more accessible to eligible voters.<sup>14</sup> These journal articles provide only short-term analysis of the cost benefits or a few case studies of some states that have adopted OVR. Meanwhile, from a broader perspective, Gregorowicz and Hall indicate that OVR has the potential to especially increase registration and turnout among certain demographic groups, such as those with the lowest levels of income and education; it can also reduce the administrative burden associated with paperwork and data entry on local election officials.<sup>15</sup> Another article discusses whether or not OVR is a bipartisan issue. In their comprehensive analysis of the adoption by some state legislatures of OVR, Hicks, McKee, and Smith reveal that there is potential for divisiveness related to the conditions such as the amount of polarization of the chambers among elected members of the Republican Party, although OVR is widely hailed as a bipartisan reform.<sup>16</sup>

In this article I consider OVR as a new trend in US voter registration reform. I discuss the reasons for the growing popularity of OVR in the context of voter registration reform rather than focusing on individual case studies. I address the following questions: (1) why OVR is rapidly being adopted in many states; (2) whether or not implementing OVR is a bipartisan issue; and (3) what role the Presidential Commission on Election Administration (PCEA) has played in adopting OVR. Generally speaking, electoral reforms are state concerns in the United States. In this article I highlight that the PCEA endorsed expanding OVR by its recommendations published in 2014. Drawing on news articles, official reports, and three interviews with individuals involved in election administration, I demonstrate the importance of implementing OVR in the ongoing reform of voter registration in the United States. In concluding, I will discuss the future of OVR, suggesting that it has a vulnerability that may cause states that have not yet implemented it to be slow to do so.

## I. THE SIGNIFICANT BENEFITS OF ADOPTING OVR

There are various reasons why many states have adopted OVR systems so rapidly. States have implemented OVR over a period of years since 2002 (see table). Some states enacted legislation to introduce OVR services, whereas others have deemed this to be unnecessary. Whether legislation is required to establish OVR depends on the laws in each state: if the secretary

**Table.** US states’ implementation of online voter registration

Year Implemented	State(s)
2002	<u>Arizona</u>
2008	Washington
2009	<u>Kansas</u>
2010	Colorado, Indiana, Louisiana, Oregon, Utah
2011	<u>New York</u>
2012	California, Maryland, Nevada, South Carolina
2013	Minnesota, Virginia
2014	Connecticut, <u>Delaware</u> , Georgia, Illinois, <u>Missouri</u>
2015	<u>Alaska</u> , Hawaii, Massachusetts, Nebraska, Pennsylvania, <u>Vermont</u> , Washington, DC, West Virginia
2016	<u>Alabama</u> , <u>Iowa</u> , <u>Kentucky</u> , New Mexico,
2017	Florida, Idaho, Ohio, Rhode Island, Tennessee, Wisconsin

\*Underlined states did not require legislation to establish OVR.

Source: National Conference of State Legislatures, “Online Voter Registration,” December 6, 2017.

of state already has the authority to establish OVR based on existing statutes, then she/he can proceed without new legislation.<sup>17</sup>

I will begin by explaining statewide voter registration databases. Election administration in the United States is a matter for states and local governments. The 2000 presidential election sparked a national debate on election reform and the role of the federal government in election administration. The well-known problems with punch-card voting systems in Florida raised concerns about the use of old voting equipment. After the 2000 election, the reform debate focused on improving election administration and ensuring that all citizens could meaningfully participate in the electoral process.<sup>18</sup> Congress soon enacted the Help America Vote Act (HAVA) of 2002. In addition to supporting states in updating their voting equipment, it requires them to establish statewide electronic voter registration databases. Section 303 of HAVA provides that “each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level.”<sup>19</sup> This replaced the previous system of county election departments maintaining their own

separate voter registration lists. HAVA also established the Election Assistance Commission (EAC) as an independent and bipartisan body responsible for providing guidance to states on meeting HAVA requirements. The EAC also “serves as a national clearinghouse of information on election administration, accredits testing laboratories and certifies voting systems, as well as audit[ing] the use of HAVA funds.”<sup>20</sup> The HAVA authorized nearly \$4 billion over three years to improve election administration. Most of that money was provided to states, which used it to improve election administration, replace punch-card and lever voting machines, and meet voter registration requirements using modern technology.<sup>21</sup>

By establishing statewide voter registration databases pursuant to the HAVA, states were expected to increase the accuracy and completeness of voter registration rolls. It required states to set up statewide databases by January 1, 2004. Most states, however, were unable to meet that deadline. More than forty states received a waiver allowing them an extra two years to complete the task.<sup>22</sup> Also, in the databases that have been established, some problems still persist, resulting in long lines on Election Day and the use of provisional ballots.

With paper-based registration, election officers review the paper forms submitted by voters and input voters’ personal information into the applicable statewide database. When they put the information into the database, however, they may make entry errors, since voters’ handwriting may be hard to decipher at times. By contrast, it is significant that OVR enables eligible voters to directly electronically input their personal information into their state’s designated website, thereby shifting toward a paperless registration process. Thus, OVR can reduce the administrative burden. Voters’ applications are electronically reviewed by election officers, who no longer need to input information themselves; if confirmed to be valid, new registrations are added to the voter registration roll.<sup>23</sup> According to the EAC, OVR has a low percentage of invalid registrations.<sup>24</sup>

Most states allow voters to use OVR systems with their state-issued ID or driver’s license.<sup>25</sup> States differ, however, in their identification requirements for voters to be permitted to use OVR. For example, Florida requires voters to submit their Florida-issued state ID or driver’s license, the issued date thereof, and the last four digits of their Social Security number.<sup>26</sup> Similarly, Iowa requires voters to submit their Iowa-issued state ID or driver’s license and the last five digits of their Social Security number.<sup>27</sup>

There are significant benefits realized by states implementing OVR. The first is substantial savings on election administration costs. County and local

election officials spend about one-third of their budgets on voter registration.<sup>28</sup> Implementing OVR gives states cost benefits, such as saving on printing and postage for paper processing. In 2012, California quickly recouped the initial cost of establishing its OVR system and saved almost \$2 million through its implementation.<sup>29</sup> In Maricopa County in Arizona, the first state to implement OVR, savings of about \$0.80 per voter registration were reported,<sup>30</sup> with almost \$1.4 million saved by using OVR during the four-year period from 2008 to 2012.<sup>31</sup> The State of Washington, which in 2008 became the second state to adopt OVR, has also experienced cost savings by reducing the shipping costs of sending registration forms to the counties. Every registration through OVR reportedly saves \$0.25 compared with the cost of paper-based registration. Consequently, in Washington over 60 percent of the cost of implementing OVR (\$278,000) has been recouped by the saving of \$176,000.<sup>32</sup>

The second key administrative and social benefit of implementing OVR is that it reduces the high potential for error in traditional paper-based systems, thereby enhancing the accuracy of voter registration records. The quality of voter registration records can affect citizens' ability to vote and the difficulty of detecting fraud committed by local election officers. Citizen mobility can lead to incorrect information in voter registration records, with approximately 12 percent of US citizens moving house each year. One study suggests that as many as 8 percent of registration records are invalid or significantly inaccurate.<sup>33</sup> With OVR systems, voters who move can easily update their recorded address and other relevant personal information, thereby reducing the number of out-of-date records at polling places.

Inaccurate voter lists have long been a significant problem in the United States. When a poll worker cannot find the name of a voter attending a polling place, that voter is given a provisional ballot. Provisional ballots, however, differ from regular ballots: provisional ballots are kept separately until such time as election officials can determine whether or not they should count toward the vote total. States have different laws regarding the use of provisional ballots, so whether or not these ballots are counted depends on where voters live and on who runs elections there.<sup>34</sup> For instance, in Ohio, about 20 percent of provisional ballots were discarded in the 2008 presidential election.<sup>35</sup> OVR is expected to reduce errors on voter registration lists, which are often caused by registrants' handwriting, so that accuracy is increased. This should reduce the numbers of provisional ballots needed.<sup>36</sup>

The third significant benefit is that OVR is considered secure. As

mentioned, OVR requires citizens to identify themselves using their state-issued IDs or drivers' licenses, accompanied in some states by the last few digits of their Social Security numbers. The National Conference of State Legislatures identifies three additional security measures that OVR provides. First, OVR systems often include "captcha" boxes that require registrants to decode images that a computer cannot decode, thereby preventing hacking by programmers. Second, data are encrypted and data logs highlight unusual activity that can be investigated. Third, their multiscreen systems that offer just one question per screen are harder to hack.<sup>37</sup>

The traditional paper-based registration system poses the risk of revealing personal information to unknown individuals representing major parties, candidates, or third-party organizations. By contrast, OVR can directly connect voters with their state's registration system without revealing their personal information to unknown individuals.<sup>38</sup> Accordingly, in a 2015 briefing by the Pew Charitable Trusts, seven states reported reduced fraud risk as a key benefit of implementing OVR, while all states with OVR had adopted safeguards against cyberattacks and none had experienced a security breach.<sup>39</sup>

The fourth significant benefit of implementing OVR is greater convenience for voters. On election days, many voters must wait for a long time to cast their vote at a particular polling place. For instance, in 2012 some voters in Florida had to wait in line for three to four hours,<sup>40</sup> while four-hour lines were reported at polling places in Virginia and Texas.<sup>41</sup> More accurate voter lists reduce delays and congestion at polling places, thus doing away with such long lines on election days.<sup>42</sup>

Additionally, to increase voter turnout, it is important to make the registration process much easier. As Wolfinger and Rosenstone note, allowing registration at any time during the workweek would increase national turnout, and people living in states where registration offices remain open beyond normal business hours are more likely to vote.<sup>43</sup> In this regard, OVR can be considered an ideal solution, since it enables voters to register online at any time. This is far more convenient for voters compared to their having to mail paper forms. Since 2013, several states have either added mobile capabilities to their OVR system or launched a mobile version.<sup>44</sup> This development can further ease the voter registration process. In California, eligible voters can register or renew their registration by smartphone. Moreover, California's OVR service is provided in ten languages, including Japanese. In the first three months of 2016, over 560,000 Californians used the OVR website to register to vote or update their registration information.

Notably, over 36 percent of OVR registrations during that period were by citizens aged between seventeen and twenty-five, demonstrating a preference among younger voters for using the OVR system.<sup>45</sup>

Recent years have seen significant growth in the number of voters registering through OVR. In 2012, only 5.3 percent of registrations were through OVR; in 2014, it constituted 6.5 percent of total registrations; it accounted for 17.4 percent of total registrations during the 2016 election cycle. The department of motor vehicles, however, continues to handle the highest proportion of registrations—(32.7%) for the 2016 presidential election.<sup>46</sup>

## II. IS OVR A BIPARTISAN TREND?

Electoral reforms are very controversial in the United States because partisan interests shape perceptions of the key issues. For example, voter identification laws, which mostly have a negative impact on racial minorities, are among the most common ways of influencing election outcomes.<sup>47</sup> Since the 2000 presidential election, concern about voter fraud has increased; to reduce such fraud, thirty-four states had, by 2016, established laws requiring voters to present proof of identity at polling places. Individual members of racial minorities are less likely than whites to have a valid proof of identity, such as a driver's license. Therefore, some scholars argue that this trend is motivated by partisan strategy: As a general rule, Republicans support voter ID bills, whereas Democrats oppose them.<sup>48</sup>

Apart from voter ID issues, OVR is often mentioned by the NCSL and scholars as involving the question of whether it is truly bipartisan. Former PCEA commissioner and Arizona election official Tammy Patrick has emphasized that all eligible voters may use OVR, regardless of which party controls their state, and that OVR has not changed political landscape in any state that has implemented it. While acknowledging the relevance of the digital divide, she also has maintained that, in many states, the focus of concern has shifted to the divide between urban and rural, rather than the socioeconomic divide in many states.<sup>49</sup> National Conference of State Legislatures commentator Wendy Underhill asserts that adopting OVR is a trend toward nonpartisanship across states because it appeals to efficiency-minded lawmakers from all: she points out that both Democratic states, such as Maryland and Washington, and Republican states, such as Arizona and South Carolina, have implemented OVR.<sup>50</sup> Likewise, Barry Burden, a political science professor at the University of Wisconsin, Madison, states,

“It’s being adopted in red states and blue states. It’s just taking off everywhere.”<sup>51</sup> As explained in the previous section, OVR saves money for state governments, reduces election fraud and errors, increases the accuracy of statewide databases, and simplifies the registration process for voters. Thus, OVR can provide certain benefits to both parties, which explains the high popularity of OVR across states.

Ohio provides a good example of bipartisan efforts to establish an OVR system. Ohio state senator Frunk LaRose (R), who sponsored SB 63 to implement OVR, explained:

The establishment of OVR is a major victory for voter access and efficiency. By modernizing our voter registration system, we are dramatically improving convenience for the average voter while helping our state and local governments save money and keep accurate records. We’re also taking an important step to improve the integrity of the voter registration process and prevent fraud.

He then emphasized that this was realized by “bipartisan collaboration.”<sup>52</sup> In Ohio, the senate, house, and governorship are Republican controlled. All thirty-three senators voted for the bill, and only two of ninety-seven representatives (one Democrat and one Republican) opposed it.<sup>53</sup> Consequently, the OVR bill was enacted in 2016 and came into effect on January 1, 2017.

However, achieving bipartisan agreement has not proved so easy in all states that have implemented OVR. In Wisconsin, the relevant bill was opposed by Democrats. SB-295 was sponsored by State Senator Devin LeMahieu (R). It contained a provision that would eliminate special registration deputies, who were often volunteers trained by a local clerk’s office to register members of the public to vote (e.g., the League of Women Voters). Republicans argued that implementing OVR would eliminate the need for special registration deputies. Although Democrats supported OVR, they worried that removing the assistance of special registration deputies would negatively affect seniors, low-income voters, and students.<sup>54</sup> With Republicans controlling both the state senate and house, the bill was passed, and Governor Scott Walker (R) signed it into law March 16, 2016.

In Florida, the senate and the house were also controlled by Republicans, and the governor was Republican Rick Scott. State Senators Garrett Richter (R) and Jeff Clemens (D) cosponsored SB-228 to implement OVR in Florida in 2015. Governor Scott and his chief election official, Secretary of State

Ken Detzner, strongly opposed the bill because they were concerned about the possibility of cyberattacks.<sup>55</sup> Although the bill was enacted, all opposing votes in the senate and the house came from Republicans.<sup>56</sup> When Governor Scott signed the bill “with some hesitation,” he expressed his personal concern about cybersecurity: an issue that Detzner had raised with lawmakers.<sup>57</sup>

Hicks, McKee, and Smith in 2016 examined the likelihood of partisan positions affecting the passage of OVR bills in many states, despite a perception in the general population that both parties overwhelmingly accept OVR. Specifically, they discovered that 94 percent of Democratic legislators supported online registration reform, compared to 73 percent of Republican lawmakers.<sup>58</sup>

As the case of Florida shows, bills to implement OVR are passed in red states. However as Hicks, McKee, and Smith discovered, Republican lawmakers still tend to be less supportive of OVR than their Democratic peers. In particular, Republicans are more likely to raise questions about the risk of fraud through cybersecurity breaches. Texas is another example here. In 2015, online voter registration bills were dead, although they were coauthors from both parties. At a House panel, there was deep skepticism from at least Harris County, the state’s largest, about bringing OVR to Texas. Rep. Mike Schofield (R) asked, “We don’t think it’s secure enough for a driver’s license, but we think it’s secure enough for voting?” Also, Harris County tax assessor–collector Mike Sullivan (R) was among those who testified against the bill. He said that the current system of voter registration worked well and did not need changing and expressed unease about the security of the state software for handling registration.<sup>59</sup>

At the national congressional level, it is more obvious that Democrats favor OVR while Republicans are less likely to. Since 2009, more than ten pieces of legislation requiring states to implement OVR have been submitted to both houses of Congress. Among them, only one bill was introduced by a Republican congressman: Kevin McCarthy (R-CA) sponsored H.R.4449, the Responsible Online Voter Empowerment Registration Act of 2010, which directed the EAC to reimburse each eligible state for the costs incurred in establishing, if it so chooses, an OVR program meeting specified requirements.<sup>60</sup> John Lewis (D-GA) introduced identical bills in the House in 2012, 2013, 2015, and 2017. In 2012, H.R.5799, the Voter Empowerment Act of 2012, had 140 cosponsors;<sup>61</sup> H.R.12, the Voter Empowerment Act of 2013, had 179 cosponsors;<sup>62</sup> and H.R.12, the Voter Empowerment Act of 2015, had 187 cosponsors.<sup>63</sup> In 2017, H.R.12, the

Voter Empowerment Act of 2017, had 186 cosponsors, including House minority leader Nancy Pelosi; all cosponsors were Democrats. The bill aims to amend the National Voter Registration Act of 1993 to require states to make OVR available, while also reauthorizing support for state and local governments to ensure voting access for individuals with disabilities.<sup>64</sup> In the Senate, Kristen Gillibrand (D-NY) has introduced a companion bill to Lewis's four times. The latest version, S. 1437, the Voter Empowerment Act of 2017, would require each state to accept OVR applications and ensure that all individuals applying through OVR are registered to vote. It has 14 Democrats cosponsors, and 2 Independents, including Bernie Sanders.<sup>65</sup> The proportion of OVR-related bills introduced and cosponsored by Democrats in Congress therefore indicates that Democrats favor requiring states to adopt OVR more than Republicans do in the congressional legislation process.

### III. THE ROLE OF THE PCEA

While partisan difficulties in Congress have prevented states from being mandated to implement OVR, the PCEA, which was established by President Obama, played an important role in encouraging OVR implementation. The PCEA has contributed to expanding OVR in many states.

Unlike the EAC, which continues to submit annual reports to Congress, the PCEA was dissolved thirty days after publishing its 112-page report in January 2014. The PCEA's report made numerous recommendations to state election administrators, such as that they improve the maintenance of polling places. It also suggested that states should adopt OVR systems allowing secure and direct data entry by prospective voters through multiple, state-approved, web-based internet portals.<sup>66</sup> Although the PCEA did not have any specific authority, it seems to have influenced state decisions to adopt OVR. As of December 6, 2017, thirty-seven states and Washington, DC, had OVR systems (see table).

As mentioned earlier, the 2012 presidential election was blighted because long waiting times at some polling places discouraged voter participation. During his election-night victory speech, President Obama alluded to the problem when he thanked voters, "whether you voted for the very first time or waited in line for a long time—by the way, we have to fix that."<sup>67</sup> On March 28, 2013, he established the PCEA by Executive Order 13639; its objectives were to identify best election practices and to make

recommendations to promote the efficient administration of elections, so as to ensure that all eligible voters would have the opportunity to cast their ballots without undue delay.<sup>68</sup> The PCEA's members were chosen on a bipartisan basis, and half were distinguished individuals with knowledge of or experience in the administration of state or local elections. Robert F. Bauer, Obama's campaign lawyer, and Benjamin L. Ginsberg, Romney's campaign lawyer, were appointed cochairs of the PCEA,<sup>69</sup> which raised the commission's credibility. Tammy Patrick pointed out that the PCEA's members were well respected and that all election officials on the commission were trusted by other officials and stakeholders. She also emphasized the bipartisan and practical nature of the PCEA, with cochairs who were well-regarded political figures and attorneys. Another important point raised by Patrick was that the PCEA's recommendations were presented with extensive supporting data and research, thereby robustly demonstrating to states that they could both save money and improve citizens' voting experience.<sup>70</sup> The panel was free to decide who would attend its series of hearings, and they heard from academics specializing in data analysis and election officials at state and local levels, with each hearing open to comments from the public.<sup>71</sup> They even consulted Disney theme park officials because of their expertise in managing long lines.<sup>72</sup>

The PCEA played an active role in informing state election officials and policymakers to increase the number of states with OVR. PCEA members testified in both House and Senate hearings and addressed legislators in many states, such as Wisconsin, Ohio, and Florida, to explain the merits of implementing OVR.<sup>73</sup> Even after the commission's dissolution, a Washington, DC-based think tank, the Bipartisan Policy Center (BPC), continues the PCEA's work on implementing its recommendations. Former member of the commission Tammy Patrick joined the BPC, and all commissioners advised the BPC during its implementation phase.<sup>74</sup>

The PCEA's former cochairs, Bauer and Ginsberg, wrote to the secretary of state of Ohio Jon Husted to offer information and their expertise on OVR. In their letter of May 19, 2015, they conveyed their willingness to explain the benefits of implementing OVR to Ohio election policymakers if they would consider its introduction.<sup>75</sup> The recommendations resonated with Jon Husted, who considered future improvements in election administration. He acknowledged that the recommendations vouched for OVR as a commonsense way to improve accuracy, reduce lines, and most important, better serve voters.<sup>76</sup> Just over a year later, in June 2016, the bill to establish OVR in Ohio was passed with strong bipartisan support, and Governor

Kasich (R) signed SB-63 into law.<sup>77</sup>

Also, the BPC and the PCEA were especially engaged on the issue of OVR in Florida throughout the first few months of 2015 through BPC senior adviser Donald Palmer, a former director of elections in both Florida and Virginia. He worked to educate policymakers in the state on the importance of OVR and worked with local election administration officials to provide information and expertise on how such a system might be implemented in Florida specifically.<sup>78</sup> County supervisors in Florida, including Republican election supervisors, used the PCEA report to educate legislators in their efforts to bring OVR to the state. Brian Corley, a Republican election supervisor, mentioned that the PCEA report was crucial in their efforts with this issue and that it led to a bipartisan and overwhelming support of OVR in Florida.<sup>79</sup>

Although some doubt if the PCEA recommendations greatly affected expanding OVR because many states moved to implement OVR prior to the PCEA recommendations, a bipartisan foundation, Democracy Fund, established by eBay founder and philanthropist Pierre Omidyar, admitted that bipartisan recommendations and the support of PCEA commissioners helped double the number of states with OVR in the two years after the recommendations were released and that the PCEA's bipartisan nature was an important factor in many states adopting OVR.<sup>80</sup> Patrick also suggested that in states already considering adopting OVR, the PCEA's recommendations legitimized its implementation, since they were made by a respected, bipartisan commission.<sup>81</sup> Furthermore, Underhill recognized that the PCEA's recommendations probably encouraged some states to move toward implementing OVR, although many states were already considering OVR around that time.<sup>82</sup> Thus, it can be understood that the PCEA's recommendations helped more states to adopt OVR.

After the PCEA released its recommendations, the Republican National Lawyers Association responded with its own report. The RNLA agreed with most of the PCEA recommendations but made supplemental recommendations for states planning to implement OVR.<sup>83</sup> First, although it recognized the benefits of implementing OVR, the RNLA highlighted the susceptibility of OVR systems to fraud; it warned that such fraud would undermine confidence in the electoral system. Second, it advocated adding safeguards to protect the integrity of the electoral system from cyberattack and to ensure that only eligible voters could utilize the OVR system. Third, it insisted that the information provided by an applicant, such as driver's license number, date of birth, or Social Security number, be verified against

information stored in department of motor vehicles databases. Finally, it insisted that states work to prevent piracy and the hacking of the OVR portal. The RNLA urged states to consult with the IT authority responsible for ensuring the integrity of state data and system processes and for monitoring attacks on state computer systems. In this regard, it emphasized the role of states in maintaining security against cyberattack.<sup>84</sup>

Overall, the RNLA largely endorsed the PCEA's recommendations on states implementing OVR. This is especially important given the extreme partisan polarization of current US politics, which makes it very difficult to reach bipartisan agreement on issues shaping the voting experience, such as voter registration reform, mandating of voter IDs, and provisional ballots. The RNLA's report suggests it shares the PCEA's views on the benefits of adopting OVR, which is evidently considered to differ from other (more divisive) election reforms such as early voting.

Thus, the PCEA's recommendations have been widely endorsed by think tanks, election experts, and the media. Thomas E. Mann and Raffaella Wakeman of the Brookings Institution applauded the PCEA's findings as "well-researched, sensible and constructive."<sup>85</sup> Michael Hanmer explained, "The PCEA was highly regarded, and states got signals from the PCEA."<sup>86</sup> Richard L. Hasen, an election expert and law professor at the University of California, Irvine, praised its recommendations as "very sensible . . . on issues for which there's mostly common ground among Republicans and Democrats."<sup>87</sup> Finally, Wendy Weiser, director of the Democracy Program at the Brennan Center for Justice, called the PCEA's recommendations "a significant step forward."<sup>88</sup>

#### CONCLUSION: THE FUTURE OF OVR

OVR is a popular measure in US voter registration reform. As the state pioneers of implementing OVR, Arizona and Washington reported several benefits, such as administrative cost savings and improvement in voter roll accuracy, which soon came to the attention of other states' policymakers. Such benefits are welcomed by both Democrats and Republicans, so adopting OVR has been widely considered a bipartisan election reform against the backdrop of extremely polarized American politics. Additionally, the PCEA's recommendations encouraged several states to move toward implementing OVR, since the commission was highly regarded and bipartisan. This policy trend led to the rapid adoption of OVR in states throughout the United States. There are now only twelve states yet to

implement OVR.

So what will happen next? Will congressional bills to mandate states' adoption of OVR be passed, like the unusual intervention of HAVA over fifteen years ago? There seems to be little prospect of this outcome. Tammy Patrick suggested to me that passing congressional bills is not really necessary because so many states have already moved to implement OVR, though she acknowledged that many congressional bills on OVR have been submitted to the Congress in recent years.<sup>89</sup> Wendy Underhill's view was as follows: "I don't see any likelihood of that [congressional bills] coming to pass here in the next couple of years." She mentioned that a few bills relating to OVR had been introduced in Congress but that none have gained steam.<sup>90</sup> Drawing a comparison with Japan, Michael Hanmer noted the importance of recognizing that the US election system is decentralized and that each state has the right and authority to manage its own election system. He added that "states are driving to implement OVR, and eventually all states will have it."<sup>91</sup> Therefore, while national law requiring all states to adopt OVR seems unlikely, more states will probably join the current trend of implementing OVR in the coming years.

In September 2018, Oklahoma launched an OVR service to voters as the first phase. OVR legislation was enacted in 2015, however, it didn't start to offer the service immediately because the department of public safety's computer system did not meet the legally mandated technical requirements. Now voters in Oklahoma who have registered to vote may update their information, such as their address and party affiliation, online. Voters will be able to utilize the system in 2020.<sup>92</sup> Additionally, in Texas, which has one of the lowest voter registration rates in the United States and where online voter registration bills were dead in 2015, Rep. Celia Israel (D) introduced House Bill 361 to establish an OVR system. She said that she would continue the fight to create the system because it was embarrassing that so many states had it and Texas didn't.<sup>93</sup>

The speed of adopting OVR seems likely to slow, however, due to increasing concerns over security vulnerability. Since the 2016 presidential election, more questions have been raised regarding security breaches and hacker attacks on OVR systems. In the summer of the 2016, the Illinois voter registration system was cyber attacked. Brent Davis, director of operations at the Illinois State Board of Elections stated that "the cyber-attack exposed a security flaw in one field of Illinois' OVR application that could be exploited by a hacker."<sup>94</sup> Sweeney, Yoo, and Zang have shown that attackers can cheaply obtain voter identity data, such as voter names, dates

of birth, and government-issued numbers, from government offices, data brokers, and the dark net. By then changing voters' registered data, such as their addresses, attackers could prevent the voters they impersonate from being able to vote at polling places.<sup>95</sup> As more security concerns are raised by election officers and academics, the remaining twelve states yet to adopt OVR may become more reluctant to do so. Underhill pointed out that the 2016 election brought concerns about election security to the forefront. She forecast that two or three more states would adopt OVR within a couple of years, suggesting that the trend of adoption has slowed.<sup>96</sup>

There is a wide partisan gap in views on many issues of voter registration reform, including automatic voter registration and photo ID laws in the United States.<sup>97</sup> Thus far, OVR has generally been a very popular reform measure in an era of clearly polarized US politics. Such bipartisan support makes OVR unique among US voter registration reform topics. Although the serious risk of OVR systems being attacked by hackers has become evident, it can be seen that the trend toward other states joining will slowly continue.

#### NOTES

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<sup>3</sup> Raymond E. Wolfinger and Steven J. Rosenstone, *Who Votes?* (New Haven, CT: Yale University Press, 1980), 61–63.

<sup>4</sup> Bridgett A. King, “Introduction: Why Don’t Americans Vote? The History of the Franchise in the United States,” in *Why Don’t Americans Vote? Causes and Consequences*, ed. Bridgett A. King and Kathleen Hale (Santa Barbara, CA: ABC-CLIO, 2016), xxv.

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<sup>42</sup> PCEA, “American Voting Experience,” 24–25.

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