March 24, 2021

Dear Chairperson Lofgren, Chairwoman Klobuchar, Representative Sarbanes, and Senator Merkley,

We write to express our strong support for a front-end opt out model of automatic voter registration (AVR) in the For the People Act, and ask that you reject proposals to convert the automatic voter registration provisions in the For The People Act to a back-end model.

A front-end system provides potential registrants with notice and opportunity to decline, or "opt out" of, registration at the time those individuals interact with relevant government agencies and conduct transactions that trigger automatic voter registration. A back-end AVR system does not inform applicants that they will be registered or provide them with an opportunity to opt out while they are interacting with relevant agencies. Instead, it provides that opportunity via a mailer or email sent after the agency transaction in question. **To be clear, both AVR models utilize relevant documents that have been provided to filter out ineligible individuals when those documents are available.**

AVR has proven to be effective across the board at increasing registration rates and accuracy, no matter how states have chosen to design their systems.[1] But we have a strong preference for a front-end model, which is the model used by the overwhelming majority of states that have adopted AVR.[2] It is more easily adaptable to the unique characteristics of each state, more efficient, and, above all, more protective of vulnerable communities, including non-citizens, domestic violence survivors, and people with convictions in their past.

Front-End Provides Better Protection for Vulnerable Communities

The front-end system provides the best protections possible for ineligible individuals and individuals with security concerns against the risk of inadvertent registration and its attendant consequences. While both forms of AVR have design features to minimize these risks,[3] only front-end systems provide the protection of ensuring that applicants, before they are registered: 1) understand that they are getting registered; 2) know the eligibility requirements for registering; 3) learn that they can opt out; and 4) have an easy way to opt out. Back end systems provide this information to registrants via mail or email after their registration information is shared with election officials.

Some proponents of back-end AVR falsely suggest that only a back-end system relies on documentation to filter out people who are ineligible from the system. That is simply not true.

---

[1] Kevin Morris & Peter Dunphy, *AVR Impact on State Voter Registration*, 2019, https://www.brennancenter.org/publication/avr-impact-state-voter-registration.

[2] Nineteen states and Washington, D.C., have approved AVR. Only three states have back-end systems. See Brennan Center for Justice, "Policy Differences of Automatic Voter Registration," https://www.brennancenter.org/our-work/research-reports/policy-differences-automatic-voter-registration?_ga=2.18546426.2117781582.1615417552-367247733.1572881406.

[3] Among other things, both systems provide that the registration of an ineligible person that is inadvertent, rather than a willful attempt to break the law, cannot be used as evidence that they committed a crime. *See* H.R. 1 § 1015.

Both systems use whatever documentation of ineligibility is available to ensure that people who are demonstrably ineligible are not registered to vote.

But AVR must be designed also to provide protection when there is no such documentation. It must protect non-citizens renewing a driver's license, who need not provide any identification besides the expiring license. It must protect domestic violence survivors who are eligible to vote, but do not want their home address to show up on the voter rolls. It must protect people with convictions who are barred from voting by unjust state laws. A front-end system ensures all of these people get the notice they need to make an informed decision and opt out before they leave the agency. In a back-end system, they receive it in a mailer weeks later, which they may never see, or may get in a language they do not understand. We are not comfortable with the risk that creates.

It is true that Alaska, Colorado, and Oregon have effectively implemented back-end AVR systems. The For the People Act will leave these systems in place.[4] But the agencies that administer AVR in those states are uniquely suited for back-end systems because they already maintain unusually reliable data on eligibility. The same cannot be said for the hundreds of agencies that would administer AVR across the country under the For the People Act. So, in order to implement a safe system of back-end AVR, the options are: 1) require every AVR state agency to begin requiring each customer to provide documentary proof of citizenship (which will significantly undermine access to necessary services, let alone voter registration); 2) severely restricting the reach of AVR to those agencies that already have reliable citizenship and eligibility data (which will dramatically reduce the reach of AVR); or 3) live with the risk of inadvertent registrations (which will expose innocent people to unnecessary risk and add inaccuracies to the voter rolls). We cannot accept any of these options, and we do not believe Congress can either.

Front-End is Effective, Efficient, and Established

The benefits of front-end AVR extend beyond protections for vulnerable communities:

- A front-end model is more effective at getting voters registered for all elections in closed primary states because it prompts them to affiliate with a party if they like. After Oregon implemented its back-end version of AVR, which requires registrants to fill out and mail back a form to affiliate with a party, the number of unaffiliated voters jumped significantly – from 24% in 2013 to 45% in 2017.[5]
- A front-end system is more cost-effective. A back-end system requires elections officials to send thousands of notices to potential registrants. Mailing notices costs money. And we have equity concerns about relying on mail or email to reach every voter.
- A front-end model incorporates a well-established approach to voter registration: each registrant must attest that they meet all eligibility requirements, including citizenship, before being registered. A back-end system, on the other hand, registers any individual that fails to respond to the mailer or email sent after the transaction.

---

[4] *See* H.R. 1 § 1020(3).

[5] These findings are based on an analysis of Oregon's voter files that is on file with the Brennan Center. This increase in unaffiliated voters was particularly concentrated in lower income neighborhoods.

In short, the For the People Act provides for a tried-and-true method of AVR that will work in every state across the country. It is one of the many reasons that the bill would have a transformative effect. We urge you to focus on passing HR1 and reject calls to change the bill's AVR provisions for the worse.

Sincerely,

(alphabetically)

Asian Americans Advancing Justice – AAJC
Asian American Legal Defense and Education Fund – AALDEF
Brennan Center for Justice at NYU School of Law
LatinoJustice PRLDEF
National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund