



## America Needs a Federal Elections Agency

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### The Four Problems with America's Elections

#### ***1. All Voters are Not Equal***

Every American should vote by the same rules. But today, that is not the case. While we often talk about elections as if voters across the country are participating in a single event, individual states and counties—and the partisan politicians who run them—largely make their own voting rules. America has approximately 10,500 unique election systems.<sup>1</sup> As a result, basic things like where you live and which party you support can have a big effect on how easy it is to vote, and even how much your vote counts.

In some states, registering to vote is straightforward. You can show up at the polls and get registered on the same day in 21 states,<sup>2</sup> or even be automatically registered ahead of time in 19 states.<sup>3</sup> The same goes for voting: Five states will automatically send you a ballot in the mail each election, 34 states let you request an absentee ballot without an excuse, and 42 let you vote early in the weeks leading up to Election Day.<sup>4</sup> But in other states, these options do not exist. (Some states adopted emergency provisions for the 2020 elections in light of COVID-19; the statistics above do not reflect these temporary changes in policy.)

Even within the same state, voting is often easier in some jurisdictions than in others. If you are in a place with poor or underfunded election administration, you may have to wait in a long voting line,<sup>5</sup> face poll workers who have not been properly trained,<sup>6</sup> or cast your ballot using old, unreliable voting equipment.<sup>7</sup> A short drive away, lines may be shorter, new equipment may be plentiful, and well-trained poll workers may be ready and eager to help. The result of these geographic discrepancies is that some voters must work harder to exercise their basic right to vote. Unfortunately, these geographical discrepancies too often correspond to racial and economic disparities, reinforcing and amplifying existing inequalities within our political system.

The problem does not stop there. If you live in a gerrymandered or lopsided district, your vote might also matter less. In seven states, district lines are drawn by independent commissions that attempt to ensure every voter counts the same, regardless of party affiliation.<sup>9</sup> But elsewhere—in the vast majority of states—partisan lawmakers decide how to draw the lines.<sup>10</sup> They distribute their voters into carefully crafted districts that allow them to continue controlling power statewide, even if most voters actually prefer the other party. Wisconsin is a prime example: A U.S. district court found that the state legislature's heavily gerrymandered district maps enacted in 2011 were "intended to burden the representational rights of Democratic voters throughout the decennial period by impeding their ability to translate their votes into legislative seats."<sup>11</sup> In gerrymandered states, some voters get too much say, while others get too little.

In a worst-case scenario, partisan lawmakers might take advantage of the lack of federal election standards to keep some voters off the registration rolls entirely, or invalidate their ballots due to minor technicalities.<sup>12</sup> Georgia's highly contested gubernatorial race in 2018 brought this concern to the national stage. Brian Kemp, one of the two candidates running for the governor's seat, also ran the state's elections department, which—among other actions—controversially placed more than 50,000 voter registrations on hold for paperwork issues as minor as a missing hyphen in a registrant's last name.<sup>13</sup> The voters whose registrations were held up were disproportionately Black, sparking charges of voter suppression.<sup>14</sup> Ultimately, Kemp won the governor's race—but not before public trust in the state's election system took a hit.<sup>15</sup>

Another clear example of this comes from Florida. A recent study found that in 2018, some Florida counties were disproportionately likely to reject people's vote-by-mail (VBM) ballots.<sup>16</sup> In many cases, where someone lived was a more important factor in whether their ballot was rejected than their party, race and ethnicity, gender, and age. According to the researchers who conducted the study, "the most important predictor in November 2018 of whether a VBM ballot cast in Florida was rejected may be the county where it was cast."

Our patchwork election administration makes voting unnecessarily hard for some Americans, while creating openings for partisan policymakers to rig the rules. This approach to elections, our most basic and essential mechanism for citizen voice in our political process, is unacceptable for the twenty-first century—especially in the richest democracy in the world.

## ***2. Our Elections Face Big Security Challenges***

Every American should have confidence that votes are being counted accurately. Instead, our elections are vulnerable to security breaches and interference.

As any security expert will tell you, there can be real value to distributing elections administration across thousands of separate jurisdictions. When done well, it becomes that much harder for bad actors to tamper with election outcomes on a large scale. But when done poorly—without national election security standards, unified voting data, and robust elections monitoring—this feature can easily become a bug.

Security experts warn us that our elections are not immune to attacks from malicious actors, both foreign and domestic.<sup>17</sup> A recent Senate report found that Russia targeted its interference in the 2016 election at all 50 states.<sup>18</sup> Most states still rely on antiquated voting machines that are susceptible to hacking.<sup>19</sup> Paper ballots, long considered a cornerstone of secure elections because they provide a paper trail against which electronic records can be checked, have not been universally adopted across states.<sup>20</sup> State election officials are regularly encouraged to conduct comprehensive risk assessments to help them detect and fend off bad actors trying to tamper with our elections, yet few have actually done so.<sup>21</sup> These problems recently led the bipartisan Senate Intelligence Agency to call state and local cybersecurity infrastructure "sorely lacking."<sup>22</sup>

Several federal agencies, from the Department of Homeland Security to the Central Intelligence Agency (CIA), have issued guidance to state election administrators trying to prevent and detect foreign interference. But it is ultimately up to individual election administrators to voluntarily accept the guidance of federal election security officials.<sup>23</sup> That is a problem. As the nonpartisan Brookings Institution puts it, "Some states and localities are simply better equipped to protect against cyber intrusions than others."<sup>24</sup> As a result, "an adversary seeking to sow doubt and confusion about the integrity of an election needs to compromise only a few parts of the entire system in order to undermine public confidence."

Our fragmented existing systems are also not well-suited for preventing and detecting small-scale, internal malfeasance. For instance, each state runs its own voter rolls, with cross-checking between states done only on a voluntary, state-by-state basis.<sup>25</sup> This means that, in theory, voters could be registered in two jurisdictions simultaneously and possibly even vote twice. While this sort of problem is very rare<sup>26</sup>—and typically done by accident<sup>27</sup>—it still has the dangerous consequence of reducing public trust in the integrity of our elections systems.

### **3. Voting is Too Complicated**

Voting should be clear and straightforward, but it is not. Americans instead have to navigate a maze of forms and documents, with each jurisdiction offering its own unique pathway from citizen to registered voter. For first-time voters, these complexities can seem especially daunting. Young adults are less likely than older, more experienced voters to know the steps of registering and voting<sup>28</sup> and to think voting is convenient.<sup>29</sup>

Before you can vote, you must be registered—but this is not a straightforward process. To start, there is no national government communications effort geared toward getting new voters registered; rather, you must independently learn about your state's registration requirement and determine whether you are indeed eligible to sign up. You must then figure out how to register, a process that differs from one state to the next: 40 states offer online voter registration, while 10 still make people sign up in person.<sup>30</sup> The deadlines also vary by state: 30 states require voters to register in advance of Election Day, while the remaining 20 allow you to register on Election Day itself.<sup>31</sup> You will likely also have to present valid personal identification during the registration process, or when you go to vote for the first time<sup>32</sup>—meaning you first need to figure out which type of ID is acceptable in your jurisdiction, and then obtain it in time. Finally, if you move to a new address at any point, you may need to complete this registration process over again, possibly in a place with wholly different registration rules.<sup>33</sup>

Similar complexities plague other steps of the voting process. There is extensive variation across the United States in who is eligible to vote following a felony conviction,<sup>34</sup> who can vote with an absentee ballot,<sup>35</sup> where and when polling places are open,<sup>36</sup> what personal identification is required to vote,<sup>37</sup> how voters can track their ballots,<sup>38</sup> and what sorts of remedies voters have if their ballots are rejected due to minor issues—such as a voter signing their ballot envelope or polling register using a signature that does not closely match the one in government files.<sup>39</sup>

It does not have to be so hard. Most other advanced democracies make voting far easier for their citizens. For instance, it is actually quite rare for countries to expect people to sign themselves up to vote; most democracies assume total or near-total responsibility for registering voters (or do not maintain a registry separate from the national census of citizens at all). In France, for instance, the government proactively adds 18-year-olds to the voter rolls.<sup>40</sup> Similarly, Argentina's federal government sends the names of eligible 16-year-olds to local election authorities, who add the voters to the rolls when they turn 18.<sup>41</sup>

In a report on international democracies, the Brennan Center identified just four countries—the Bahamas, Belize, Burundi, and Mexico—that join the United States in placing the onus of registration entirely on individuals.<sup>42</sup> The United States also has one of the lowest rates of voter participation among advanced democracies.<sup>43</sup> Though there are many reasons for this—the widespread lack of electoral competition and the limited number of parties are high on this list<sup>44</sup>—the obstacles to registration also contribute to our more limited levels of turnout.

Our complicated voting system increases the chances that voters unintentionally make mistakes that keep their vote from counting—or worse, get them in trouble with the law. Take the case of a Texas woman who voted in the 2016 election while on supervised release, a preliminary period of freedom for people who have served their full time of incarceration.<sup>45</sup> She thought she was free to cast her ballot, but in Texas, people with felony convictions cannot vote until they have fully completed the terms of their sentence. She was sentenced to five additional years in prison—all because she was not clear on the state's voting laws. While extreme outcomes like this are thankfully rare, nobody should face any time in prison for simply attempting to vote honestly.

#### **4. Federal Oversight is Severely Lacking**

Free and fair elections are essential to our democracy, yet the United States lacks any sort of functioning, empowered regulatory body to administer and enforce election laws.

At present, two main agencies have some responsibility for overseeing federal elections: the Federal Election Commission (FEC) and the Election Assistance Commission (EAC). Despite its broad-sounding name, the FEC does not oversee most aspects of federal elections; rather, it is tasked with administering and enforcing campaign finance law. But its poorly designed structure—a six-person commission, with no more than three members belonging to a single political party—has left it mired in partisan deadlock.<sup>46</sup> The former chair of the FEC, Ann Ravel, wrote in 2017 that the FEC is "betraying the American public and jeopardizing our democracy" by being unable (or, for certain commissioners, unwilling) to investigate and penalize violations of existing law.<sup>47</sup> For most of 2020, an election year, three of the FEC's six seats have remained empty, rendering the agency unable to even reach quorum and call a meeting—let alone enforce the law.

The EAC is the sole federal agency focused on election administration. Its primary roles are to: 1) coordinate best-practice election information with states; 2) create and maintain voluntary standards for certification of state election equipment; and 3) hand out funds for securing and improving election systems made available by the Help America Vote Act (HAVA), a 2002 election reform bill passed by Congress. Like the FEC, the EAC is designed to be bipartisan, with an even number of commissioners from both parties (two Democrats and two Republicans). And also, like at the FEC, the EAC's mandated bipartisanship translates into deadlock amidst hyper-partisan polarized politics. The commissioners cannot even agree on core issues like foreign interference. One Republican commissioner has gone so far as to publicly state that reports of Russian election meddling are "deceptive propaganda perpetrated on the American public."<sup>48</sup>

Partisanship is not the only issue. The EAC has been plagued in recent years with empty commission seats, reduced staff, and budget cuts.<sup>49</sup> Perhaps most importantly, it has not been delegated the authority to enforce its own election implementation and security recommendations.<sup>50</sup>

Though the FEC and the EAC are the two main agencies, a total of 17 federal departments or agencies (not including the federal judiciary and intelligence agencies) play at least some role in managing federal elections. They are governed by nine different federal laws, and overseen by at least 22 different congressional committees.<sup>51</sup> In short, it is a regulatory mess of blind spots and unclear authority.

Stepping back, the picture is grim. In what may be the highest-stakes and most contentious election year in modern history, America's two main federal election authorities are handcuffed by bitter partisan disagreements, inadequate resources, and insufficient power to enforce the law. They are doing little to

safeguard our democracy.

## **We Need National Voting Standards—and a Federal Elections Agency to Administer Them**

The chaotic 2020 election cycle has shown just how damaging this lack of national election standards can be. Virtually every aspect of voting has become fodder in a partisan war of litigation and propaganda, with even the most basic rules up for debate and court challenge. Charges of fraud, interference, and voter suppression are undermining public confidence in our elections,<sup>52</sup> while confusing and conflicting voting rules and lax security standards make it easier for foreign governments to infiltrate our democracy.<sup>53</sup> This is not just a 2020 problem: Court battles over election rules have been growing exponentially over the last two decades,<sup>54</sup> and expert assessments have had American democracy declining by multiple measures for years.<sup>55</sup> A series of recent Supreme Court rulings, meanwhile, has removed important constraints on gerrymandering<sup>56</sup> and made it easier for discrimination-happy states to suppress voters.<sup>57</sup>

Congressional Democrats have addressed many of these concerns with their comprehensive 2019 "For the People" democracy reform bill, popularly known as H.R. 1, that passed in the U.S. House and had 46 co-sponsors in the Senate.<sup>58</sup> The legislation proposes a number of new standards aimed at making America's elections fairer, more secure, and more consistent. But in its current form, it does not do nearly enough to ensure that these standards actually take hold and are updated over time.

Without a strong federal body to administer, enforce, and continue to update national standards, states and local governments will continue to run the show—and they will do so with limited federal oversight scattered across weak, underfunded, and frequently deadlocked commissions.

**America needs a cohesive, independent body to ensure the fairness, security, consistency, and legitimacy of our elections: the Federal Elections Agency.** This agency would be tasked with ensuring that our federal elections meet basic standards, based on five widely agreed-upon principles:

- **Elections should be fair.** Every person's vote should count the same amount, regardless of their party affiliation, race, gender, or age. To the greatest extent possible, election policies should maximize voter participation, especially among groups that have historically faced disenfranchisement and suppression.
- **Elections should be free.** Elections should be free from foreign and domestic interference, intimidation, abuse, and fraud.
- **Elections should be consistent.** Election rules and systems should be consistent, so that voters can more easily understand and navigate the voting process.
- **Elections should be trustworthy.** The results of every federal election should be auditable, and clear remedies should exist when election results are legitimately called into question.
- **Elections should be sufficiently funded.** Election administrators should have the funding they need to ensure the above principles are met.

What would this look like in practice? With proper enabling legislation giving it the authority, the Federal Elections Agency would help administer congressional standards for voting access, legislative district drawing, and election security. It would enforce the rules, so that political campaigns are conducted with integrity,

elections are not marred by fraud or interference, and lawmakers are penalized for attempting to rig the system in their favor. It would modernize and streamline our elections, consolidating and securing important data, and creating evidence-based standards for voting technology. It would raise civic awareness, helping all Americans understand the strengths and shortcomings of our election laws.

Congressional voting access standards would draw from best practices already in place in states across the country. For instance, as currently articulated in H.R. 1, they would give voters in a federal election at least 15 days to cast their ballot before Election Day, ensure all voters can easily request a mail-in-ballot, prohibit the spread of false or misleading election information, and restore voting rights to anyone with a felony conviction who has served their time. States whose existing voting systems have a strong track record of driving higher voter participation and satisfaction, like Colorado and Oregon, could largely keep doing what they are doing—but states with outdated or overly cumbersome voting laws would have to modernize their elections to meet minimum standards.

The Federal Elections Agency could, and should, also take on certain administrative functions that are currently carried out by individual states but are better suited for a federal agency. Perhaps most importantly, per the recommendation of the bipartisan Carter-Baker Commission, the agency should be empowered to create a secure, national voter roll, with all eligible citizens automatically registered to vote.<sup>59</sup> This would take the burden of registering to vote off individual Americans and bring our registration system up to the standards of most other advanced democracies—while simultaneously making it easier to beef up security measures and detect any attempted security breaches.

Standards around congressional redistricting would require that districts be drawn in a fair way that does not unduly privilege one party over another. H.R. 1, for instance, requires that states establish independent redistricting commissions, taking district-drawing out of lawmakers' hands entirely.

Election security standards would be perhaps the easiest to implement, as we already have multiple federal agencies tasked with developing data-backed security recommendations.<sup>60</sup> Currently, these agencies can only assist with election security, "strictly in a supporting role."<sup>61</sup> Under the Federal Elections Agency, their recommendations would be consolidated into a single set of mandatory standards for federal elections, covering everything from securing ballot, voter, and election results data; certifying and procuring new election equipment and software; handling cybersecurity incidents; and auditing election results.

The security division could also regulate the distribution of false or misleading information about federal elections—an increasingly central challenge of conducting elections free from domestic or foreign interference. Furthermore, it could develop and pilot new, more secure election technology, such as the "unhackable" open-source voting system currently being developed by the Department of Defense's Defense Advanced Research Projects Agency (DARPA).<sup>62</sup>

The Federal Elections Agency would not stop at setting federal standards—it would also enforce them. This means monitoring elections to ensure they are free and fair, as well as building out a robust "elections forensics" team that can determine whether fraud, interference, or suppression tipped the balance. It means ensuring that congressional redistricting is truly fair for all voters by reviewing dubious district maps, deciding whether they meet the standards, and—if they do not—requiring that new maps be drawn up. It means penalizing individuals who abuse our election rules, including by engaging in voter intimidation—and acting as an outside auditor for state or local elections, if needed. (If the Voting Rights Act is reconstituted, the agency

could also take over giving states preclearance for changes to their voting rules, a function currently performed by the Department of Justice.)

Of course, the Federal Elections Agency would also need to make sure that election administrators have the money they need to put new federal standards into practice. America's elections are critically underfunded—and have been for decades. In the mid-2000s, surveys showed that election administrators widely supported making voting easier and safer for all Americans, including by centralizing local voter registration data and improving processes for certifying new voting systems, yet most said they lacked the funding to fully implement these steps.<sup>63</sup> The funding gap never closed, and this year, in the lead-up to the 2020 general election, a bipartisan group of secretaries of state pleaded with Congress to approve additional funding to cover the "unexpectedly high costs that state and local governments face in trying to administer safe and secure elections."<sup>64</sup> They were unsuccessful. Perhaps the most desperate present need is funding to upgrade state election equipment. The majority of voting machines used across the country are more than a decade old and present serious security risks.<sup>65</sup>

The agency would also play a critical role in gathering and disseminating data about our elections. Today, elections data is gathered haphazardly across states and local jurisdictions. Inconsistencies abound, making it hard for researchers to study the effects of election policies in order to understand what is working, what is not, and how to improve election rules and administration. Gathering this data in one place and making it available to academics and policy analysts would make it easier to see where our elections need help—and which potential fixes are most promising.

These recommendations could then be compiled for public consumption. Imagine a "State of American Democracy" report, published every year, that clearly lays out how the agency's standards and enforcement have impacted voter access and security, grades states on their elections and offers recommendations for improvement, and proposes big ideas for how Congress could make our elections more representative.<sup>66</sup>

## **How a Federal Elections Agency Would Come into Being and Operate**

All it would take to create this agency is an act of Congress—no constitutional amendment required.<sup>67</sup> Specifically, the House and Senate would pass an "enabling act" that defines the scope of the agency's power, as well as the areas within its jurisdiction, and specifies how the agency would be funded.

We do not envision a mere reordering and consolidation of existing agencies and commissions. Instead, Congress should pass a new law—perhaps an updated version of H.R. 1—that imparts a clear vision of fair and secure elections, enacts a new set of democracy-enhancing rules and regulations, and establishes the Federal Elections Agency to administer and enforce the law.

We can think of this as akin to the Environmental Protection Agency (EPA), but with democracy and elections as the resource that needs protecting.<sup>68</sup> The original EPA was a creation of the Nixon White House, pulling together partial functions of three agencies: the Department of Interior, the Department of Agriculture, and the Department of Health, Education, and Welfare (a precursor of the Department of Health and Human Services). The agency was established to research, monitor, and enforce environmental protection laws. It derived most of its power from the Clean Air Act of 1970, and later the Pesticide Control Act (1972) and Clean Water Act (1972). Today, it enforces a dozen major environmental laws passed by Congress.

The Federal Elections Agency would similarly research, monitor, and enforce election laws, enabled by strong congressional legislation. In some areas, Congress could write very specific regulations (such as those in H.R. 1), and the agency's role would primarily be one of enforcement. But Congress might also instruct the agency to gather additional data and update election regulations over time, in alignment with the overarching standards laid out by the enabling act.

Consider congressional redistricting. District-drawing is not a straightforward process; it requires trade-offs among many competing values, such as partisan fairness, district competitiveness, preserving communities of interest, and minority representation. Congress's enabling legislation might explicitly require states to have independent redistricting commissions draw lines for congressional districts, while also requiring the Federal Elections Agency to study the criteria for districting, determine which are best at ensuring both fair and secure elections, and update its redistricting standards accordingly every decade.

The new agency would fully replace the ineffective EAC, as well as head up election security functions currently overseen by other federal departments.<sup>69</sup> To avoid any confusion, the current FEC (which, as explained above, only oversees federal campaign finance) would either be renamed the Federal Campaign Finance Commission or subsumed within the new, broader elections agency.<sup>70</sup>

The Federal Elections Agency would function as an independent agency—that is, not under the direct authority of the president or any other political body. It would be headed up by five commissioners, who could pass new standards and make enforcement judgments with a simple majority. Commissioners would serve up to four three-year terms. (As a start, all five commissioners would be appointed for three years to get the commission up and running, and then staggered terms would follow.)

The vetting process for new commissioners would be extensive. First, a separate bipartisan, blue-ribbon commission of state and local election officials, academics, and legal experts would put forth a shortlist of names for consideration. The president would nominate commissioners from the list of names, and nominees would be confirmed by the House of Representatives—a more broadly representative congressional body than the Senate.

Good election administration requires deep expertise, along with a willingness to set aside partisanship in order to serve the public interest. As such, we recommend requiring that at least three of the five commissioners have direct experience serving as a state or local election administrator. Moreover, commissioners must be politically independent—defined as not having been affiliated with or represented a political party or any of its candidates or officeholders for at least the previous five years. Commissioners would have to abide by a robust conflict of interest policy: No commissioner could have a financial relationship with an election technology vendor; serve as a local, state, or federal lobbyist; or donate to a political campaign or party during their tenure. There would be a strict revolving door policy, as well: Commissioners could not serve as lobbyists in the five years before or after their tenure. Finally, everyone appointed to the commission would need to pledge their allegiance to the integrity of the voting process and the public interest, and be subject to removal and legal penalties if they were found to violate that pledge.

As an additional safeguard, the Federal Elections Agency would have its own inspector general, charged with investigating allegations of wrongdoing or misconduct within the agency's ranks. We also suggest housing the agency in four separate offices, distributed across the country, to foster its independence and weaken its ties with Washington, D.C.—as well as help recruit qualified commissioners who are uninterested in relocating to

the nation's capital.

Structurally, we envision an agency with three main divisions: enforcement, rulemaking and assessment, and recommendations.

The Enforcement Division would simply have the power to enforce the rules and issue penalties. We believe it is important for this agency to have its own enforcement powers, like the EPA, in order to be able to act somewhat quickly in cases of obvious violations that could impact electoral outcomes.

The Rulemaking Division would, of course, make new rules. But within this division, we also envision a strong role for a "democracy impact" board—sort of like the Congressional Budget Office—that would assess the impact of any proposed changes on key metrics of free and fair elections, including how such changes might affect participation among different groups and communities. To ensure that the Federal Elections Agency's rulemaking is informed by the best empirical research, the agency should work with a permanent council of esteemed social scientists, selected in partnership with the American Academy of Arts and Sciences. This assessment team could also issue non-binding democracy-impact estimates for state-level changes to election policies.

The Recommendations Division would make recommendations for reform, along the lines of the Carter-Baker or Bauer-Ginsburg commissions.<sup>71</sup> But unlike those commissions, it would be a permanent division of the Federal Elections Agency, conducting ongoing hearings and studies, publishing the aforementioned State of American Democracy report on an annual basis, and issuing recommendations for improvement in each year following a presidential election, so that a new administration and a new Congress could promptly act on them. This division would ensure that we are paying constant attention to the state of our democracy, and monitoring the extent to which we continue to have free and fair elections as the bedrock of our system of government.

While the agency should have real independence from the executive branch, it also needs some clear line of accountability to the voting public. To this end, we recommend empowering the president to select one of the five commissioners as the agency's chair. This person would be tasked with taking on key administrative functions, like overseeing day-to-day management of the agency, appointing senior staff, and submitting a budget to Congress. But on substantive matters, such as standard-setting and enforcement, the chair would get one vote—just like other commissioners.

The Federal Election Agency will need sufficient funding to ensure fair and secure elections in every state. Recent estimates put America's current spending on elections administration at around \$2 billion.<sup>72</sup> Some of these costs will likely decrease as election systems are streamlined and data is centralized. This has certainly been the case with Electronic Registration Information Center (ERIC), a voluntary consortium of states that share and jointly clean their voter registration data.<sup>73</sup> But America's elections are also in dire need of additional spending. The United States currently spends around \$8 per voter, which is toward the low end of the spectrum;<sup>74</sup> other countries spend anywhere from \$3 to \$200 per voter.<sup>75</sup> Part of this range can be explained by how established democratic elections are in a given country; newer democracies face greater startup costs and therefore must spend more. Even compared to other established democracies, though, the United States spends fairly little. The 2015 Canadian elections, for example, were estimated to cost around \$13.50 per voter.<sup>76</sup> All told, the Federal Election Agency's budget might amount to several billion dollars—and we consider this quite the good investment. It is also essential that the budget be funded through some sort

of automatic process, to avoid future legislators wielding the budgeting process as a political weapon.

We can anticipate some obvious objections, which some Republicans raised in response to Democrats' attempts to provide more funding for election security in 2020: that this is a waste of money or a power grab, and that state and local administrators are perfectly capable of doing their jobs without interference from Washington. We readily acknowledge that there are many talented and highly capable election administrators across the country. This agency is not an attempt to usurp their power. It is designed to support them, and to ensure they have the resources they need to be successful. It is also an attempt to ensure that election administrators are not subject to the whims of partisan legislatures and governors and secretaries of state, who may put political pressure on them to help one party over the other, or one group of voters over another. And, yes, not all election administrators are competent or fair. By raising standards and support, we will ensure that election administration is trusted and trustworthy, so that the overwhelming majority of sincere administrators are not undermined by the few bad apples.

Our current approach to election administration may have made sense in an earlier era, when politics was more local. But today, American politics is national.<sup>77</sup> The federal government wields considerable power, and people tend to vote according to their beliefs about federal politics and parties. Moreover, small distortions and disturbances in key states can have national impacts; everyone's local election system affects everyone else. Add in the high stakes of our elections, the unfairness inherent in a voting system that varies so significantly by place, and the real possibility of local elections systems being hacked by malicious actors, and it no longer makes sense to leave election administration, congressional mapmaking, and voting rules for federal elections to the states.

We understand concerns that this agency could be used for partisan advantage. We share that trepidation. After all, any time you centralize power, you raise the stakes of control over that power. Yet we also have working examples of independent federal agencies that are shielded from partisan influence while retaining accountability to the public. The Federal Reserve is a prime example: While it was created by and remains accountable to Congress, its members serve for staggered, limited terms, its Board of Governors cannot include elected officials or members of the presidential administration, and its funding is not allocated through the highly partisan congressional budgetary process.<sup>78</sup>

This is one reason we want to make sure that the agency has a strong mandate based on widely supported principles of democratic fairness and elections, as well as an empowered inspector general to monitor any potential abuses of that power. We also note that a new president will only be able to appoint one person at a time, only from a list of broadly acceptable candidates, and only with confirmation from the lower House. Moreover, appointed commissioners must have a long track record of nonpartisanship and expertise in election administration, and conflict of interest restrictions mean they cannot reap undue benefits from their commission service. Taken together, these structural choices make us optimistic that the agency will serve its purpose in protecting and strengthening our democratic system.

No agency will be perfect. But as with any change, the test should not be to compare it to some idealized standard of perfection but, rather, against the current status quo and the consequences of doing nothing. Our current patchwork system of election administration and standard-setting is a mess of inconsistencies. It is rife with unfairness and partisan manipulation, and it privileges the voices of some voters over others, both intentionally and unintentionally. It poses a fundamental security risk to the integrity of our electoral process, as well as high barriers to citizen participation that are extreme by the standards of other advanced industrial

democracies. If we do nothing, our elections will continue to lose legitimacy as partisans exploit the rules for their own gain; foreign and domestic hackers exploit security gaps; and complications and inconsistencies fuel litigation, conspiracy theories, and voter confusion.

## Conclusion

America's elections are suffering from a crisis of confidence. In 2018, shortly ahead of the midterm election, around four in 10 American voters did not believe U.S. elections were fair.<sup>79</sup> Two years later, the results look even worse: A full 46 percent of Americans are not confident that the general election will be conducted fairly and accurately.<sup>80</sup>

As we have all learned over the past few years, democracy is not self-sustaining. It requires our continual commitment to its principles. It also requires proper structures and scaffolding to ensure fairness, because—as James Madison observed so many years ago—we are not angels. If the rules are soft, they will be exploited. And if they are exploited too much, the basic shared sense of fairness and legitimacy on which democracy depends begins to rot and crumble. This is the current predicament of American politics, and now is a time for rebuilding and reinvigoration.

If a fair, secure, and straightforward system of elections is the foundation of a functioning democracy, we need to invest in it, and we need to do it now. Just as we invested in a national highway system in order to upgrade our national economy following World War II, replacing the inconsistent and inadequate system of local and state roads, so do we need to invest in a national elections system today to replace the inconsistent and inadequate system of local and state rules. The future of our democracy depends on it.

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