

TEXAS PUBLIC POLICY FOUNDATION

HOW TO ENSURE THAT ONLY CITIZENS VOTE

WRITTEN BY **The Honorable Chuck DeVore**

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KEY POINTS

- **Election law and procedures** should ensure that only citizens vote.
- **Historically, inappropriately pumping up** the vote has been a path to gaining power.
- **Due to federal law**, states cannot enact a higher standard for federal elections but can for state and local elections, as Arizona has done.

EXECUTIVE SUMMARY: THE IMPERATIVE FOR ONLY ENFRANCHISING CITIZENS

How important is it that only citizens register to vote and cast a ballot? And, as importantly, that citizens only vote once and in the correct jurisdiction? An investigation into the history of voting requirements sheds light on both.

When non-citizens vote for any reason, citizens' votes are diluted and thus disenfranchised. Discussions over what to do about non-citizen voting run the gamut from "it's good and there should be more of it" ([City and County of San Francisco, 2026](#)) to "it rarely happens and doing something about it will disenfranchise naturalized or natural born citizens" ([Contreras, 2026](#)) to polling that shows that 90% of Americans say it's "important to stop noncitizens from voting" ([Underhill, 2025](#)).

Regarding the polling showing that 90% of Americans are concerned about non-citizen voting, it is instructive to note that public trust in elections has declined from 72% of Americans being "very" or "somewhat confident" in the accuracy of elections during a presidential election year in 2004 to 57% in 2024. Americans saying they were "not at all confident" in election accuracy more than tripled from 6% to 19% over the same time ([Gallup, 2024](#)). Because this polling was conducted before the presidential elections, it likely reflected partisan expectations. Even so, in 2024, there was a yawning gap between Republicans and Democrats on the question of whether "votes cast by people who, by law, are not eligible to vote" is a major problem: 74% to 14%, respectively, a 60-point margin. In 2004, the gap was less than half of that: 28%. This is reflected in policy choices, with Democrat elected officials in Congress proposing bills to make it easier to register to vote and cast a ballot, even to the point of banning requiring identification or citizenship verification, as introduced in 2021 as the "For the People Act" ([H.R. 1](#)), compared to

In the early years of our American republic, requiring a property threshold to vote was justified under the principle that those who have a direct stake in the nation or state should have the right to determine their leaders.

Republican elected officials proposing requiring ID to register to vote and cast a ballot in 2025 with the “Safeguard American Voter Eligibility Act” or “SAVE Act” ([H.R. 22](#)).

Moving beyond public perception and peering under the hood at how elections are run reveals a host of problems, with the officials responsible for administering elections found not to follow their own state election law or best practices, as well as simple failures to execute ([DeVore, 2021](#)).

For instance, in Texas’s Harris County, the third most populous in the nation, lawsuits by the Public Interest Legal Foundation and the County’s responses show that County elections officials routinely registered people to vote even after they indicated that they were not citizens or didn’t specify whether or not they were citizens ([PILF, 2018](#); [PILF, 2020](#)). This, after registrants applied for a Texas driver’s license and were simultaneously presented with a voter registration form per the Motor Voter law, even though they did not affirm U.S. citizenship in violation of the Texas Election Code [Chapter 13](#).

The United States Constitution, [Article I, Section 4](#), and [Article II, Section 1](#), vests states with primary authority over the administration of elections, including the power to prescribe qualifications for voters in state and local contests, subject to federal constraints

for congressional and presidential elections. This framework underscores the imperative for states to safeguard the integrity of their electoral processes by ensuring that only U.S. citizens may vote.

THE HISTORY OF ENFRANCHISEMENT AS IT RELATES TO ELECTIONS TODAY

In the early years of our American republic, requiring a property threshold to vote was justified under the principle that those who have a direct stake in the nation or state should have the right to determine their leaders. Founding Father John Jay, an author of *The Federalist* papers, governor of New York, and first Chief Justice of the United States Supreme Court, frequently noted that, “Those who own the country ought to govern it” ([Jay, 1833](#)). This sounds harsh to our modern ears, but the fear of mob rule was very real.

In the first six presidential election cycles through 1808, the right to vote underwent a gradual evolution, with most states requiring voters to own property or pay taxes. The property requirement was generally set at a certain threshold of acreage or, for urban voters, a specified level of wealth (often £40–£50). Even so, these requirements varied significantly by state. [Section 6](#) of Pennsylvania’s 1776 constitution eliminated the property qualification altogether, substituting a taxpayer suffrage rule: freemen aged 21 or older who had paid public taxes and resided in the state for one year could vote. In contrast, [Article IV](#) of New Jersey’s 1776 constitution retained a £50 proclamation money clear estate requirement, which—amid the circulation of depreciated Continental paper dollars—could be met more flexibly with currency or personal property, in effect easing the wealth barrier for some voters. New York, on the other hand, had a stricter interpretation of enfranchisement rules in the first few elections. In the gubernatorial election of 1789, for example, barely more than 12,000 voted ([Jenkins, 1846](#)) out of a population of about 340,120 people, with 83,700 free white males aged 16 and over ([University of Wisconsin-Madison, n.d.](#)), meaning votes cast equaled about 3.5% of the total population. Nine years later, during the

1798 gubernatorial election, only 29,644 men voted ([American Antiquarian Society, n.d.](#)) out of a population of about 589,051 ([Forstall, 1996](#)), representing about 5% of the population.

But when Vermont—essentially four New York counties that did not recognize New York’s authority to tax or police—became a state in 1791, it entered the Union with one of the most expansive suffrage rules of the time. Its constitution (originally adopted in 1777 and reaffirmed thereafter) extended the vote to every man of full age (21 years) who had resided in the state for one year, was of quiet and peaceable behavior, and took the freeman’s oath, with no property qualification or racial restriction ([Constitution of Vermont, 1777](#)).

By 1800, three states—Kentucky, New Hampshire, and Vermont—had achieved universal white male suffrage by eliminating property or taxpaying requirements for voting among adult white men ([Students of History, n.d.](#)). By 1828, suffrage expanded significantly, with ten states permitting white male suffrage without qualifications, while eight restricted the vote to taxpayers, and six retained the traditional property-ownership requirement ([Students of History, n.d.](#)).

North Carolina became the final U.S. state to eliminate its property ownership (or equivalent taxpaying) requirement for voting as a result of a constitutional referendum on August 6, 1857 ([North Carolina Referendum, 1857](#)).

When political power is at stake, however, ambitious people seek advantage. Tammany Hall started as a social club before Aaron Burr transformed it into a powerful political organization ([DeVore, 2022](#)).

Thus, during the era of property-ownership requirements to vote, New York’s infamous Tammany Hall machine gamed the system, loaning money to poor farmers, mechanics, and transients to satisfy the property requirement ([New York, 1917](#)). This tactic was effective in flipping New York for the Democratic

Republicans and Jefferson in the election of 1800 ([Myers, 1901a](#)).

Innovating ways—in other words, committing election fraud—to overcome wealth restrictions to allow citizens to vote is one thing, but pushing the bounds on citizenship itself is quite another. Yet, this is what Tammany did for decades. But when New York’s 1821 constitution effectively eliminated the property requirement, Tammany risked being a victim of its own success ([New York Constitution, 1821](#)). Fortunately for Tammany, a new avenue of leveraging election advantage opened up with immigration from Ireland, which steadily grew from 1815 until it reached a flood driven by the Great Potato Famine (1845–1855). But first, Tammany had to reverse its nativist impulses and its hostility to the Irish, who initially were bound to Tammany’s rival, De Witt Clinton, mayor of New York. Of Irish descent, Clinton, while serving in the U.S. Senate, had supported the successful effort to reduce the naturalization period from 14 to 5 years ([Myers, 1901b](#)). By 1840, Tammany had conveniently ditched its antipathy towards the Irish—and the Irish towards Tammany—and the machine went into full gear, creating a naturalization bureau to speed the citizenship process not only for the Irish but also for the French and Germans ([Myers, 1901c](#)). Tammany did this via “naturalization committees” that expedited paperwork, supplied witnesses, and influenced judges. Then precinct captains and ward bosses dispensed jobs, housing aid, legal help, and emergency relief in exchange for Democratic votes. By 1855, Irish immigrants made up roughly one-third of the city’s electorate, enabling Tammany to control mayoralty nominations, city patronage, and often New York State politics ([Moynihan, 1963](#)). Given the decentralized nature of immigration control and citizenship at the time, one might be excused for thinking that Tammany developed a political advantage to the fullest extent they could get away with.

The preceding brief history shows how the voting process can be leveraged to partisan advantage. This is key to understanding why today’s battle over citizenship verification to vote is a legal and moral

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argument as to whether it is acceptable to loosen or eliminate verification to leverage raw political power.

PRACTICAL CONSEQUENCES OF LARGE VARIATIONS IN VOTER ELIGIBILITY STANDARDS

In the early years of the United States, the effect of any broad variation in enfranchisement standards and enforcement was mitigated by the Electoral College. If New Jersey accepted nearly worthless Continental dollars to prove wealth sufficient to vote or Vermont allowed all free men, regardless of race, the effects were confined to the state and its Electoral College. But in April 2026, Virginia became the 18th state, plus the District of Columbia, to enact the National Popular Vote Interstate Compact ([DeVore, 2026](#)). The scheme is activated when enough states join to equal or exceed 270 electoral votes, after which these jurisdictions pledge to vote their Electors to the candidate that wins the popular vote. With Virginia, the gambit is up to 222 electoral votes. That this grouping of jurisdictions is attempting to amend the Constitution without going through the trouble of amending the Constitution was recently joined by Virginia, which is highly ironic, given that the Father of the Constitution, James Madison, called the Commonwealth his home.

Of note, the states that have approved the national popular vote plan also have the weakest voter ID and verification regimes ([NCSL, 2026](#)). This means that states with no effective checks on citizenship eligibility or on government ID requirements to vote

(such as California, Illinois, and New York) could swamp the votes of states that take voter verification more seriously (such as Florida, Ohio, and Texas).

Of course, this is a good argument for national standards, such as those proposed in the 2025 federal Safeguard American Voter Eligibility Act ([H.R. 22](#)).

Aside from the effect that uneven voter registration standards and polling-day verification might have on a national election under a national popular vote scheme, there are other practical effects in elections below the presidential level. Election fraud is more likely in local, low-turnout contests, especially when winning a primary is tantamount to winning the general election due to one party's dominance. For example, in Compton, California—a Democratic stronghold—a 2021 city council runoff decided by a single vote was overturned after four ineligible non-resident ballots were identified ([Heritage Foundation, n.d.](#)). Similarly, in Edinburg, Texas (Hidalgo County, South Texas), a 2023 city council race won by just 10 votes was judicially overturned due to illegal voting ([Cabrerera, 2024](#)). The Heritage Foundation's Election Fraud Database catalogs dozens of such proven instances nationwide in local races.

In the cases cited above, the election fraud effort is typically tied to an expectation for illicit gain in office. But races for higher office can be subject to ideological imperatives that demand victory at all costs. In 2016 and 2017, America's two most populous states, California and Texas, swapped their election code rules on mail-in balloting: Texas banned payment for gathering ballots and limited ballot handling to close relatives, while California adopted Texas's old rules ([DeVore, 2020](#)). In the 2018 election cycle, California Democrats, with significant help from their allied labor unions, went all-in on the new rules, aggressively going door-to-door, first to encourage voter registration, and then to get people to ask for a mail-in ballot, and finally, to "help" them fill out the ballot ([Davis, 2020](#)).

Adding detail, in May 2020, the Ranking Member of the U.S. House of Representatives Committee on House Administration issued a report on the massive 2018 ballot trafficking effort in California, noting that:

Operatives encourage, and even assist, these unsuspecting voters in requesting a mail-in ballot; weeks later when the ballot arrives in the mail the same ballot brokers are there to assist the voter in filling out and delivering their ballot. This behavior can result in undue influence in the voting process and destroys the secret ballot, a long-held essential principle of American elections intended to protect voters. These very scenarios are what anti-electioneering laws at polling locations are meant to protect against (Davis, 2020).

Industrialized mail ballot harvesting represents the operationalizing of Lani Guinier's theories on adopting John C. Calhoun's "concurrent majorities" argument as set out in her 1991 article "The Triumph of Tokenism: The Voting Rights Act and the Theory of Black Electoral Success" (Guinier, 1991). Guinier explicitly invoked Calhoun's model—originally designed to give a sectional minority (the slaveholding South) a veto over the numerical majorities of the North—as a template for protecting discrete racial minorities from "the tyranny of the majority." The supreme irony of using Calhoun's artifice in defense of Southern slavery aside, she argued that simple one-person, one-vote majoritarianism produced only token Black electoral success; true fairness, she contended, required structural mechanisms so that permanent minority groups could exercise effective consent or influence over outcomes.

Because Guinier's formal proposals (cumulative voting, supermajority requirements, or interest-group vetoes) never made it into state election codes, aggressive ballot trafficking—targeted at minorities, including young voters—became the inelegant sledgehammer that accomplished the same practical effect. Door-to-door labor-union operatives weren't interested in a secret ballot or

an informed citizen making a choice based on their enlightened self-interest; rather, they merely sought to engineer an outcome by guiding low-propensity voters through registration, ballot requests, and even completion of the ballot itself. The result was higher net votes from demographic blocs assumed to favor one ideological side—or made to favor it by "helping" the voter make the "correct" selection—effectively creating a de facto "concurrent" weight in the electorate without ever amending the Constitution or statutes. This came at a steep price: it subordinated the informed, independent choice of the individual citizen in casting a secret ballot in private to the group-oriented goal of electoral success for the left. Where the secret ballot was meant to insulate the voter from pressure or influence (a bedrock principle since the Progressive Era reforms of the late 19th century), harvesting moved the electioneering into the living room, often with partisan brokers present. The practical result of the 2018 midterm elections in California was a net loss of seven Republican congressional seats, more than the national average. Ballot trafficking gave Guinier her concurrent majority by other means.

The discussion of California's loose mail-in balloting law and practical implementation, combined with an effectively non-existent voter ID requirement, is relevant to our discussion of ensuring only citizens vote because it illuminates the extent to which that system can be manipulated for partisan end—especially if that partisan end believes that minorities, even non-citizen minorities, must vote, so long as that vote is properly curated by the correct side.

ENSURING THE RIGHT TO VOTE EXTENDS ONLY TO CITIZENS

Today's effort to enact citizen-only voting requirements traces back to concerns about election integrity, amplified by federal legislation that inadvertently created loopholes for non-citizens. The National Voter Registration Act, passed in 1993, mandates that states "accept and use" a uniform federal voter registration form for federal

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elections ([U.S. Department of Justice, 2024](#)). This law requires only a sworn affirmation of citizenship without documentary proof per [52 U.S.C. § 20504](#). This federal form contrasts with state authority to impose stricter requirements for state and local elections, leading to differences in voter eligibility standards that have been litigated.

A pivotal case establishing this dynamic is *Arizona v. Inter Tribal Council of Arizona, Inc.* ([2013](#)), in which the U.S. Supreme Court held that states must accept the federal form as sufficient for federal elections, thereby preempting Arizona’s attempt to require documentary proof of citizenship (DPOC) for all registrations. The case arose from a citizen-led ballot initiative, Proposition 200, that was placed on the ballot in 2004. Notably, the initiative was opposed by statewide elected officials from both parties, the Arizona Republican Party, and the AFL-CIO. It passed 56% to 44% and received 47% of the state’s Hispanic voters’ votes per exit polling ([CNN, 2004](#)).

In an opinion by Justice Scalia, the Supreme Court emphasized that while the NVRA governs the “manner” of federal voter registration, states retain broad discretion over voter qualifications for non-federal races. This ruling invalidated Arizona’s blanket DPOC mandate but opened the door to bifurcated systems, in which applicants who

use the federal form without proof are limited to “federal-only” ballots, excluding state and local contests.

In the 7-2 decision in *Arizona v. Inter Tribal*, Justices Clarence Thomas and Samuel A. Alito, Jr., wrote dissenting opinions that take on greater weight given the shift in the Court’s membership since. Thomas argued that the NVRA only requires the states to use the federal requirements as part of the state’s voter registration process and that states have the power to determine voter qualifications for federal elections. Separately, Alito argued that the Constitution grants states the power to determine voter qualifications in federal elections and that the NVRA does not limit the states to solely use federal requirements for voter registration. He also argued that states have an interest in preserving the integrity of the election process; thus, the majority’s opinion should have applied the presumption against preemption to this case. With four members of that majority now no longer on the court, three of them replaced by conservatives, there is a chance that a similar case might be met with a 5-4 majority that could overturn or at least significantly modify the *Arizona v. Inter Tribal Council* precedent.

Arizona responded to the Court’s ruling by establishing a dual voter registration system through administrative interpretation and implementation (accepting the federal form without proof of citizenship for federal elections only, while requiring proof for state and local elections under the existing statute) ([Arizona Attorney General’s Opinion I13-011, Oct. 7, 2013](#)). This established the dual-track approach: full-ballot access requires a DPOC, such as a birth certificate, passport, or driver’s license indicating citizenship, while federal-form registrants without proof are designated as federal-only voters per [Arizona Revised Statute § 16-166](#). This framework was influenced by federal precedents, such as the Help America Vote Act (HAVA) of 2002, which allows states to verify citizenship through databases maintained by the Social Security Administration (SSA) and U.S. Citizenship and Immigration Services (USCIS) ([52 U.S.C. § 21083](#)).

Subsequent litigation has tested and affirmed aspects of this model. In 2021, the Supreme Court upheld Arizona’s out-of-precinct voting ban and ballot-harvesting restrictions, reinforcing state authority to enact reasonable safeguards against fraud without violating the Voting Rights Act ([Brnovich v. Democratic National Committee, 2021](#)). More recently, in 2024, the Court partially reinstated Arizona’s proof-of-citizenship law, allowing enforcement for state registration forms while rejecting broader applications to federal forms for presidential ballots and mail voting ([Republican National Committee v. Mi Familia Vota, 2024](#)).¹

The *per curiam* order² granted emergency relief to Republicans, emphasizing the need to prevent non-citizen voting in state elections amid rising concerns over border security. On August 16, 2024, Texas Attorney General Ken Paxton was joined by 23 other state attorneys general in asking the Supreme Court to allow the Arizona law to go into effect ([Texas Attorney General, August 16, 2024](#)).

The dissenting justices, including Justice Sotomayor, criticized the decision as potentially burdensome, but the majority’s action underscores federal deference to state innovations in election administration.

Conservative organizations have long advocated such measures. The Heritage Foundation’s Election Integrity Scorecard rates Arizona highly for its citizenship verification protocols, noting that without DPOC, self-affirmation alone invites abuse, as evidenced by their database documenting over 1,500 proven instances of voter fraud nationwide, including non-citizen cases ([Heritage Foundation, 2021](#)).

Similarly, the Texas Public Policy Foundation highlighted in its 2021 report, “Election Integrity Case Studies & Policy,” how fragmented verification processes erode trust, recommending DPOC as a

constitutional remedy aligned with state sovereignty ([DeVore, 2021](#)).

Critics from left-leaning groups, such as the Brennan Center for Justice, argue that DPOC requirements suppress turnout among eligible citizens without documents, but these claims are overstated and ignore available alternatives, such as database checks ([Morris & Herzig, 2025](#)).

Empirical data from Arizona shows minimal disenfranchisement, with most affected voters failing to provide proof due to oversight rather than ineligibility, and states can mitigate this through education and free ID programs ([Arizona Secretary of State, 2024](#)).

Even in California, election integrity activists qualified a statewide ballot initiative for the 2026 general election, popularly known as the California Voter ID initiative, that would, if approved, implement new identification and verification requirements for all future elections ([California Voter ID initiative, 2026](#)). The initiative would require that voters show a government-issued ID for in-person voting; if voting by mail, provide the last four digits of their unique government-issued ID number; and require county election officials to use government data to make their “best effort” to verify that registered voters are U.S. citizens and annually report the percentage of each county’s voter rolls that have been citizenship-verified.

Critics, including voting-rights groups like the ACLU, League of Women Voters, and others, argue it is unnecessary (given that documented non-citizen voting is rare in California—of course, it is rarely investigated in the first place), and could create barriers for eligible voters. Similar arguments have been made in Texas, though no one has yet stepped forward to claim an inability to vote due to the burden of obtaining and presenting a government-issued ID ([Balk, 2026](#)).

1 The U.S. Supreme Court granted cert in this case on June 29, 2026.

2 A *per curiam* order (“per curiam” is Latin for “by the court”) is a type of judicial decision or ruling issued collectively by a court, often an appellate court, without attributing authorship to any specific judge or justice. It is used when the orders are straightforward, non-controversial, summary dispositions, or unanimous cases in which the court wishes to present a unified voice.

Arizona’s innovative bifurcated voter registration system serves as an exemplary model for other states, particularly those like Texas facing similar vulnerabilities from non-citizen participation.

As of 2025, Arizona remains the sole state to mandate DPOC for state elections, but its model has influenced proposals in Texas and elsewhere, including the Safeguard American Voter Eligibility (SAVE) Act introduced in Congress in 2025 that would require proof of eligibility for federal elections.

Arizona’s innovative bifurcated voter registration system serves as an exemplary model for other states, particularly those like Texas facing similar vulnerabilities from non-citizen participation. By requiring documentary proof of citizenship for state voter registration forms while accommodating the federal form under the National Voter Registration Act, Arizona has struck a balance between federal compliance and robust state-level protections. This approach not only aligns with constitutional principles but also addresses empirical evidence of non-citizen voting risks, as documented in conservative analyses highlighting instances of fraud in voter lists ([Spakovsky, 2024](#)).

The system’s partial upholding by the U.S. Supreme Court in recent years reinforces its viability as a blueprint for reform.

HOW ARIZONA’S FEDERAL-ONLY VOTER SYSTEM WORKS

Arizona’s bifurcated system creates two voter classes: “Verified Voters,” whose citizenship is confirmed via DPOC or database verification, eligible for full ballots; and “Federal-Only Voters,” registered via the federal

form without proof, limited to U.S. House and Senate races per [Ariz. Rev. Stat. § 16–127](#). This distinction addresses the NVRA’s preemption while preserving state control over non-federal elections.

Recent statistics reveal approximately 41,000 federal-only voters in Arizona, a number that has grown modestly since 2020, when it stood at around 11,600 ([Arizona Free Enterprise Club, 2022](#)). These voters are disproportionately concentrated in areas with high transient populations, such as college campuses in Maricopa and Pima Counties, where students often lack immediate access to citizenship documents ([Fifield, 2023](#)). Even so, Arizona has seen the same issues Texas has experienced, with noncitizens registered to vote, using the same method of detection. In the first six months of 2023, 1,324 registered voters who were summoned for jury duty reported that they were ineligible on account of not being citizens ([Fifield, 2023](#)). Maricopa County reported that 468,798 people were summoned to jury duty in FY 2023 ([Maricopa County, 2024](#)). Maricopa County is about 62% of Arizona’s population; thus, we can infer that 821 of the prospective jurors who claimed not to be citizens and were registered voters were from Maricopa County over a six-month period, with 821 divided by 234,399 (half a year’s worth of summons) equals 0.35%. Given that the non-response rate to jury summons has been as high as 56%, this suggests the non-citizen rate may be more than double, up to 0.80% ([Maurer, 2013](#)). With 4,340,860 registered voters in Arizona as of April 2026, this suggests that the total number of registered voters who aren’t citizens may range from 15,193 to 34,727 ([Arizona Secretary of State, n.d.](#)). Of very interesting note, as of January 2, 2026, Arizona had 44,627 federal-only voter registrants (active and inactive combined), strongly suggesting that a very high proportion of these federal-only voters are, in fact, not citizens ([Arizona Secretary of State, 2026](#)).

Administrative challenges arise from managing dual voter lists and ballots. Election officials must maintain separate rolls, prepare specialized

federal-only ballots, and ensure compliance at polling sites, thereby increasing the risk of errors such as miscounting or improper ballot issuance, per [Ariz. Rev. Stat. § 16-602](#). In high-volume counties, this bifurcation complicates logistics and may add costs. Moreover, federal-only voters are restricted to in-person voting to prevent mail ballot fraud, adding to precinct-level burdens.

Litigation has exacerbated these issues. In February 2025, the 9th U.S. Circuit Court of Appeals blocked Arizona laws requiring proof of citizenship for mail voting and presidential voting by federal-only voters, ruling that they violate the NVRA and the Uniformed and Overseas Citizens Absentee Voting Act in *Mi Familia Vota v. Fontes* (2025).

This decision, while preserving federal access, underscores the need for streamlined state processes to avoid ongoing court battles. Earlier, in September 2024, the Arizona Supreme Court ruled that nearly 98,000 voters with unconfirmed citizenship—due to a motor vehicle division data error—could vote full ballots, temporarily expanding access but raising integrity concerns (*Richer v. Fontes*, 2024).

Comparing the Arizona jury duty non-citizen responses to Texas's just after the April 2019 *LULAC v. Whitley* settlement against the Texas Secretary of State ([Texas Secretary of State, 2019](#)), shows jury summons cancellation flags totaling 6,000 in 2020 ([DeVore, 2021](#)). There were 16,955,519 voters registered in Texas in November 2020 ([Texas Secretary of State, n.d.](#)). Harris County, which accounted for 16.2% of Texas's population in 2020 ([U.S. Census Bureau, 2021](#)), issued 534,700 jury summonses in 2019 ([Ketterer, 2020](#)). Scaling up to the state level, we estimate that about 3.3 million jury summonses were issued in 2019, meaning that 6,000 non-citizen responses would yield a 0.18% response rate, for a potential total of about 31,000 registrants in Texas who were not citizens based on jury duty responses.

By requiring documentary proof of citizenship for state voter registration forms while accommodating the federal form under the National Voter Registration Act, Arizona has struck a balance between federal compliance and robust state-level protections.

In the wake of the 2019 *LULAC v. Whitley* lawsuit, Texas lawmakers passed and Governor Greg Abbott signed three bills to improve Texas's voter lists while adding safeguards. These measures enshrined regular citizenship checks of voter lists and allow funds to be withheld from counties that fail to remove noncitizens from their voter lists ([Texas Secretary of State, 2024](#)).

However, in recent years, the number of people removed from Texas's voter rolls for being noncitizens has decreased, with only 88 removed in 2025 ([Nelson, 2025](#)).

Even so, Texas Secretary of State Jane Nelson, in cooperation with some county election officials, checked the U.S. Citizenship and Immigration Services SAVE database (a federal immigration-status verification tool expanded under the Trump Administration) ([USCIS, n.d.](#)) against Texas's 18.7 million registered voters and found 2,724 registrants who are suspected of being noncitizens. As with a similar effort to clean the voter lists in 2019 ([Texas Secretary of State, 2019](#)), LULAC, Common Cause, and other groups sued to prevent the action on March 26, 2026 ([Campaign Legal Center, 2026](#)). The legal complaint seeks to prevent the removal of any registrant until "it can be conclusively proved that such voters are not currently U.S. citizens" ([Contreras, 2026](#)).

To mitigate administrative complexities and enhance security, states should adopt a precinct-based model assigning federal-only voters to dedicated polling places equipped exclusively for federal ballots.

In the context of citizen-only voting, this case underscores a basic problem: reliance on self-attestation during registration leaves voter rolls vulnerable to erroneous inclusions, yet even modest, data-driven efforts to identify and verify eligibility trigger immediate litigation. The small number flagged during this effort suggests that noncitizen registrations are not widespread, but the aggressive legal response to their investigation reveals how procedural safeguards for citizens can be weaponized to obstruct roll-cleaning altogether.

Bifurcating voter rolls—creating a verified-citizen tier requiring documentary proof of citizenship at registration (or through targeted post-registration audits cross-referencing state DPS and federal SAVE data)—would address this tension. It would allow states to maintain accurate, citizen-only active lists while minimizing erroneous challenges to eligible voters, reducing litigation risk, and fulfilling the constitutional mandate that only citizens vote. Without such structural separation or upfront verification, states remain trapped in cycles of flagged lists, notices, and lawsuits that delay or deter enforcement of citizenship requirements.

PROPOSAL: DIVIDING FEDERAL-ONLY VOTERS INTO DEDICATED PRECINCTS

To mitigate administrative complexities and enhance security, states should adopt a precinct-based model assigning federal-only voters to dedicated polling places equipped exclusively for federal

ballots. This builds on Arizona’s existing framework, which mandates precinct-based polling, prohibits countywide voting centers, and requires hand-counted verification ([SB 1338, 2022](#)).

Under this proposal, inspired by the model Proof of Citizenship Act, federal-only voters would be geographically mapped to specific precincts using GIS tools, thereby reducing the need for dual ballot preparation at standard sites.

Key elements of the model include:

- **Proof of Citizenship Required for Voter Registration:** All non-federal form registrations must include DPOC, verified before roll addition. Acceptable proofs: driver’s license, state ID, birth certificate, or passport ([Ariz. Rev. Stat. § 16-166\(F\)](#)).
- **Citizenship Verification Process:** Officials cross-check with state motor vehicle, SSA, and USCIS databases. Unverified federal-form applicants become federal-only voters unless proof is provided.
- **Voter Classifications:** Verified Voters receive full ballots; federal-only voters are limited to congressional races and must vote in person at designated precincts.
- **Pathways to Upgrade:** Federal-only voters receive notifications explaining restrictions and upgrade processes. They can submit DPOC at any time or via provisional ballots, with federal votes counted immediately and full counts provided upon verification before canvassing.
- **Dedicated Precinct Implementation:** Using the Arizona law’s precinct mandates, counties designate 1–2 dedicated sites per district for federal-only voting, staffed with simplified ballots. This complies with HAVA accessibility rules and reduces errors by segregating processes.

- **Triggers for Expansion:** If the federal form is amended or *Arizona v. Inter Tribal* is overturned, DPOC applies universally. States must sue to obtain citizenship data if denied access.

This precinct model aligns with federal law by honoring the NVRA for federal races while asserting state authority elsewhere. The Heritage Foundation recommends similar bifurcations, noting they deter fraud without suppressing turnout ([Spakovsky, 2024](#)).

Obstacles include initial logistical costs for precinct mapping and potential Voting Rights Act challenges alleging disparate impact. However, as upheld in *Brnovich*, reasonable regulations survive scrutiny if not intentionally discriminatory. Litigation from groups like the Brennan Center may arise, but their claims of suppression are rebutted by the low federal-only voter rate in Arizona, 34,000 out of 4.3 million registered voters (under 1% of registrants) ([Morris & Herzig, 2025](#)).

Lastly, whenever partisan advantage can be obtained through illegal means in the voter registration or election process, some will pursue it despite the risk of criminal prosecution or civil penalties. Political power is a powerful motivator. From the earliest days of the republic to the establishment and operation of the infamous Tammany Hall machine, to today, there is a constant reminder that for some, a person, whether a citizen or not, may not be seen as a sovereign individual capable of exercising enlightened self-interest at the ballot box, but rather merely as a means to an end: power.■

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