

STATES OF CHAOS

A 50-STATE SURVEY OF THE LONG-TERM
IMPLICATIONS OF *MOORE V. HARPER* AND THE
INDEPENDENT STATE LEGISLATURE THEORY

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INTRODUCTION

On December 7, 2022, the United States Supreme Court will hear arguments in a case that could have profound implications for American democracy and governance: *Moore v. Harper*. The outcome of this case could potentially leave as big an impact on American elections as cases like *Citizens United v. Federal Election Commission* or *Shelby County v. Holder*. This report describes what's at stake and identifies more than 200 election laws across the country that could be affected.

The specifics of *Moore* center around gerrymandering. When state legislatures are given the power to draw new voting maps, they're virtually guaranteed to draw districts that disproportionately favor the party in power. That's exactly what the North Carolina Legislature did in 2021. A group of voters challenged the gerrymander in state court, and the North Carolina Supreme Court ruled that the Legislature violated the North Carolina Constitution's Declaration of Rights,¹ which vests all political power in "the people"² and guarantees that elections "shall be free,"³ that no one may "be denied the equal protection of the laws,"⁴ freedom of speech,⁵ or freedom of assembly.⁶

Ordinarily, this would be the end of the story. In America's federalist system, a state's supreme court has the final say when interpreting its state constitution. However, the North Carolina General Assembly appealed the decision to the U.S. Supreme Court. In the appeal, they asked the High Court to overrule the North Carolina Supreme Court's decision using a fringe reading of the U.S. Constitution called the independent state legislature theory.

WHAT IS THE INDEPENDENT STATE LEGISLATURE THEORY?

The independent state legislature theory (ISL) claims that only the U.S. Congress or state legislative bodies can make rules about federal elections. Not state constitutions, state courts, governors, election administrators or voters.

This radical view comes from a section of the U.S. Constitution's Elections Clause, which states, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof[.]"⁷ Proponents of ISL argue that the line "by the Legislature thereof" means that only state legislatures can make rules about federal elections and therefore cannot be subject to any checks and balances that states have adopted as a part of their ordinary legislative process.

Courts have rejected arguments brought under ISL before. The Supreme Court has held that the Elections Clause does not stop a governor from vetoing a redistricting plan if the state constitution allows it,⁸ nor prevent voters from rejecting a redistricting plan via referendum⁹ or adopting an independent redistricting commission using the ballot initiative process.¹⁰ Until now, the Court has held that election-related laws like redistricting plans are "legislative function[s]," "to be performed in accordance with the State's prescriptions for lawmaking, which may include the referendum and the Governor's veto."¹¹

1 Harper v. Hall, 868 SE 2d 499 (N.C. 2022).

2 N.C. Const. Art. I, Sec. 2.

3 N.C. Const. Art. I, Sec. 10.

4 N.C. Const. Art. I, Sec. 19.

5 N.C. Const. Art. I, Sec. 14.

6 N.C. Const. Art. I, Sec. 12.

7 U.S. Const. Art. I, Sec. 4.

8 Smiley v. Holm, 285 U.S. 355 (1932).

9 Ohio ex rel. Davis v. Hildebrandt, 241 U.S. 565 (1916).

10 Arizona State Legislature v. Arizona Independent Redistricting Commission, 135 S. Ct. 2652 (2015).

11 *Id.* at

If the Supreme Court breaks with this precedent and recognizes ISL, there will be little to stop state legislatures from heavily gerrymandering congressional districts. After the Supreme Court refused to allow federal courts to stop partisan gerrymanders,¹² state courts and state constitutions became the next best option to check legislative overreach. The Court's decision in *Moore v. Harper* could eliminate that check. If the Court abandons precedent and overturns its past decisions, other checks on gerrymandering, including independent redistricting commissions and gubernatorial vetoes, could be next.

WHAT DOES THE INDEPENDENT STATE LEGISLATURE THEORY MEAN FOR ELECTIONS?

While *Moore* is about unrestrained partisan gerrymandering, ISL could jeopardize many aspects of federal elections that Americans take for granted. If a state legislature gets the final word in federal elections, then any state constitutional provision, state court judgment or ballot measure relating to those elections could be at risk.

America's elections are filled with rules and practices that were not created by a state legislature and cannot be unilaterally changed by a state legislature. Every state has a constitution with provisions relevant to federal elections that bind the state legislature. Twenty-four states allow voters to propose and pass laws through the initiative process without going through the legislature at all.¹³ Under ISL, a legislature could disregard these constitutional provisions and voter-initiated laws entirely. Instead, it could override them in defiance of their state's constitutional structure, longstanding practices and popular sentiment.

Since legislators are often loath to change the system that puts them in power, adopting ISL would potentially eliminate the most effective avenues for election reform and innovation. It would also upend the existing election process in every state.

WHAT KINDS OF ELECTION LAWS ARE AT RISK?

The consequences of ISL could be enormous, cutting across geography, political affiliation and ideology. It would impact elections everywhere from Florida to Iowa, and from Maine to Alaska. It would affect policies including automatic voter registration, voter ID requirements, and the right to a secret ballot. Long-standing constitutional protections, hard-won ballot initiatives, and carefully-reasoned state judicial decisions would all be at risk.

For example, a voter might live in a congressional district drawn by a redistricting commission. That voter might be able to count on being able to vote absentee if they are sick or out of town on Election Day, or simply because they prefer to do it that way. Perhaps that voter votes for members of Congress using Ranked Choice Voting, or by choosing one of the two candidates that have advanced from an open, nonpartisan primary election. However that voter casts their ballot, they are confident who they voted for will remain a secret.

A state legislature could wipe all of that away if the Supreme Court recognizes ISL. Right now, nearly every state requires voter approval in order to change or remove a provision in the state constitution.¹⁴ If the Court decides that state constitutions cannot bind state legislatures when it comes to federal elections, a legislature could simply pass a law changing how the state conducts federal elections – regardless of what its constitution requires. ISL would remove the traditional checks and balances

12 *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019).

13 *Initiative and Referendum Processes*, National Conference of State Legislators

14 Delaware is the sole exception.

restricting state legislators from completely ignoring their state’s constitutional safeguards applying to federal elections.

While most laws would not change overnight, it would throw the enforcement of many laws – including critical foundations of election administration – into question immediately, effectively kneecapping the legal legs upon which those rights stand. Meanwhile, ISL would also hand new unchecked power to state lawmakers.

Disempowering the state constitutions in this way could have disastrous effects on multiple levels of election administration, starting with foundational rights like the right to vote itself. While the U.S. Constitution simply implies the right to vote, 49 state constitutions explicitly grant it.¹⁵ As the Supreme Court continues to loosen its protection of voting rights,¹⁶ embracing ISL would land a new blow to voting rights at the state level. This case also implicates other voting protections found mainly in state constitutions, like the right to a secret ballot or absentee voting. Imagine the confusion that could take place if those rights were no longer enforceable, should lawmakers feel motivated to test the new limits.

Democracy advocates have even more cause for concern if the Supreme Court embraces ISL in *Moore v. Harper*, because any citizen initiatives passed that affect federal elections would also be at risk. With democracy reform at the federal level gridlocked, the ballot initiative process has been a critical tool for voters to create the change they wish to see in their home states.

At RepresentUs, this directly affects the work we and the national anti-corruption movement do. In recent years, we have supported voters in four states on five different reform campaigns¹⁷ that touch on federal elections. These reforms include best practices around voting access such as automatic voter registration, and landmark wins for democracy reform including open primaries and Ranked Choice Voting. It’s overwhelming to consider the prospect of these hard-fought campaigns being undone, with the Supreme Court instead giving state lawmakers new license to ignore the will of voters.

It’s important to remember this case only applies to *state* laws affecting *federal* elections. Laws and practices relating to state elections will be unaffected. For example, a ballot initiative creating a redistricting commission for state legislative districts would still be viable even if one for congressional districts is not. Congress would also still have the power to pass legislation over federal elections and could pass federal laws protecting the rights and policies threatened by ISL whenever it chooses.

METHODOLOGY

This report highlights more than 200 constitutional provisions and at least 20 voter-passed laws across all 50 states that could be at risk if the Supreme Court recognizes ISL. This list is not comprehensive. Numerous other laws, state court decisions and administrative rules and regulations could be affected as time goes on and the Court hears new cases seeking to expand ISL. This subset is meant to illustrate, state by state, how this case could affect key constitutional guarantees that voters take for granted and to show how embracing ISL could disrupt fundamental aspects of voting.¹⁸ We do not necessarily endorse all of the laws and policies listed below, but include them to demonstrate how widespread the eventual fallout of *Moore* could be.

¹⁵ Arizona is the sole exception.

¹⁶ [The Supreme Court Clearly Won’t Protect Voting Rights. But Congress Can.](#), Washington Post, July 7, 2021.

¹⁷ See RepresentUs wins in [Maine](#), [Alaska](#), [Colorado](#), and Michigan ([anti-gerrymandering; automatic voter registration](#))

¹⁸ This report only includes state constitutional provisions that create binding restrictions or obligations on state legislatures. It excludes provisions that merely authorize the legislature to pass legislation affecting federal elections since, under ISL, they would likely have have that authority anyway.

To accomplish this, we analyzed election-related provisions in every state's constitution. We checked against excellent existing resources, including the [Brennan Center](#), Ballotpedia and the National Convention of State Legislatures.

KEY TERMS

- **“Free and equal elections”** – Most state constitutions contain a provision guaranteeing some variation of “free and equal” elections. In recent years, some state supreme courts have used these provisions to strike down partisan gerrymanders. This is the issue directly before the Supreme Court in *Moore v. Harper*.
- **The right to vote** – While the U.S. Constitution does not contain an explicit right to vote, nearly every state constitution does. These provisions create opportunities for states to offer stronger voter protections than exist in federal law.
- **Elections by ballot** – The use of ballots to cast votes was not originally a feature of American elections and is not required by the U.S. Constitution. The use of ballots, which can ensure secrecy and creates a record that can be audited and recounted if necessary, is a common requirement in state constitutions. While federal law requires using ballots for congressional elections, there is no equivalent requirement for presidential elections outside of state law.
- **The right to a secret ballot** – The right to a secret ballot, while a fundamental feature of American elections since the beginning of the 20th century, is not guaranteed by the U.S. Constitution. That right exists in state laws and, in most cases, state constitutions.
- **Absentee voting** – Many state constitutions have provisions related to absentee voting, either requiring it be made available to military voters stationed out-of-state and voters with health issues or who will be out of town on Election Day, or extending the option to all voters. In some cases, states have expanded access to absentee voting by ballot measure.
- **Regulations on congressional districting** – Some state constitutions regulate the redistricting process. This can include restrictions on how the legislature can draw congressional districts or assigning the responsibility of redistricting to another entity, such as a redistricting commission. In some states, restrictions related to redistricting were passed by ballot initiative.
- **State supreme court review of district maps** – Some state constitutions explicitly grant state courts the authority to review district maps drawn by the legislature.
- **Voter ID requirements** – Some state constitutions contain explicit requirements for voters to present identification at the polls. Other state constitutions contain provisions that have been used by state courts to strike down voter ID laws. This report lists the states that contain explicit voter ID requirements, but ISL has the potential to disrupt the status of voter ID laws across the country.
- **Qualifications for voter registration** – Many state constitutions establish basic requirements for voter registration or even require that the state maintain a voter registration system at all.
- **Open and semi-closed primaries** – Open primaries are primary elections in which every voter can participate, regardless of party affiliation. These can take the form of party nominating primaries, where any voter can vote on a party's nominee, or Top-Two and Top-Four primaries, where all candidates are listed on the same ballot and the top two or four vote-getters advance to the general. Semi-closed primaries are party nominating primaries where only voters registered with that party or independent voters can participate.

STATE-BY-STATE FINDINGS

Alabama

- State constitutional provisions at risk:
 - » The right to vote (Ala. Const. art. VIII, § 177)
 - » Elections by ballot (Ala. Const. art VIII, § 179)
 - » Right to a secret ballot (Ala. Const. art. VIII, §177(d))
 - » Absentee voting (Ala. Const. art. VIII, § 177 (c))

Alaska

- State constitutional provisions at risk:
 - » The right to vote (AK. Const. art. V, § 1)
 - » Qualifications for voter registration (AK. Const. art. V, § 1)
 - » The right to a secret ballot (AK. Const. art. V, § 3)
 - » Absentee voting (AK. Const. art. V, § 3)
 - » Redistricting commission (AK. Const. art. VI, § 8)
 - » State supreme court review of district maps (AK. Const. art. VI, § 11)
- Voter-passed laws at risk:
 - » Automatic voter registration (AK Stat. § 15.07.070(i)-(m)), *passed* by An Initiative to Allow Qualified Individuals to Register to Vote When Applying for a Permanent Fund Dividend (2016)
 - » Top 4 open, nonpartisan primary elections, also known as Final Four Voting (AK Stat. 15.15.025, 15.25.010), *passed* by Alaska's Better Elections Initiative (2020)
 - » Ranked Choice Voting general elections (AK Stat. 15.15.350), *passed* by Alaska's Better Elections Initiative (2020)

Arizona

- State constitutional provisions at risk:
 - » "Free and equal" elections (Ariz. Const. art. II, § 21)
 - » Right to a secret ballot (Ariz. Const. art. VII, § 1)
 - » Requiring direct primary elections for party nominations and semi-closed primaries (Ariz. Const. art. 7, § 10)
 - » Qualifications for voter registration (Ariz. Const. art. VII, § 12)
- Voter-passed laws at risk:
 - » Independent redistricting commission (Ariz. Const. art. IV, pt. 2, § 1(3, 14)), *passed* by Proposition 106 (2000)

Arkansas

- State constitutional provisions at risk:
 - » The right to vote (Ark. Const. art. III, §§ 1-2)
 - » “Free and equal” elections (Ark. Const. art. III, § 2)
 - » Elections by ballot (Ark. Const. amend. 50, § 2)
 - » Qualifications for voter registration (Ark. Const. amend. 51, § 3)
 - » Voter ID (Ark. Const. amend. 51, § 13)

California

- State constitutional provisions at risk:
 - » Right to vote (Cal. Const. art. II, § 2)
 - » “Free and equal” elections (Cal. Const. art. II, § 3)
 - » Secret ballot (Cal. Const. art. II, § 7)
- Voter-passed laws at risk:
 - » Independent redistricting commission, supreme court review of district maps (Cal. Const. art. XXI, § 1, 2, 3b)
 - » Top 2 open primaries (Cal. Const. art II, § 5)
 - » Qualifications for voter registration [prohibiting the legislature from requiring periodic reregistration] (Cal. Elec. Code § 2123)

Colorado

- State constitutional provisions at risk:
 - » The right to vote (Colo. Const. art. VII, § 1)
 - » “Free and equal” elections (Colo. Const. art. II, § 5)
 - » Elections by ballot (Colo. Const. art. VII, § 8)
 - » Secret ballot (Colo. Const. art. VII, § 8)
- Voter-passed laws at risk:
 - » Independent Commission for Congressional Redistricting Amendment, *passed by* Amendment Y (2018)
 - ◇ Regulate congressional redistricting (Colo. Const. art. V, § 44.3)
 - ◇ Redistricting commission (Colo. Const. art. V, § 44(2))
 - ◇ Supreme court review of district maps (Col. Const. art. V, § 44.5)
 - » Semi-closed primaries (Colo. Rev. Stat. §§ 1-2-218.5, 1-4-801, 1-4-1201–1-4-1207), *passed by* The Unaffiliated Elector Initiative / Proposition 108 (2016)

Connecticut

- State constitutional provisions at risk:
 - » Right to vote (Conn. Const. art. VI, § 1)
 - » Secret ballot (Conn. Const. art. VI, § 5)
 - » Regulate congressional redistricting/redistricting commissions (Conn. Const. art. XVI, § 2)
 - » Supreme court review of district maps (Conn. Const. art. XVI, § 2(d))

Delaware

- State constitutional provisions at risk:
 - » Right to vote (Del. Const. art. V, § 2)
 - » "Free and equal" elections (Del. Const. art. V, § 1, 2)
 - » Elections by ballot (Del. Const. art. V, § 1)
 - » Absentee voting (Del. Const. art. V, § 4A)
 - » Qualifications for voter registration (Del. Const. art. V, § 4)

Florida

- State constitutional provisions at risk:
 - » Right to vote (Fla. Const. art. VI, § 2)
 - » Secret ballot (Fla. Const. art. VI, § 1)
 - » Equalizing ballot access for independent and minor party candidates (Fla. Const. art. VI, § 1)
 - » Holding open primaries when the general election will be uncontested (Fla. Const. art. VI, § 5)
- Voter-passed laws at risk:
 - » Standards for congressional redistricting (Fla. Const. art. III, § 20), passed by Amendment 6, Florida Congressional District Boundaries (2010)
 - » Restoration of voting rights to most felons upon completion of sentence (Fla. Const. Art. VI, Sec. 4(a)), passed by Amendment 4, Voting Rights Restoration for Felons (2018)

Georgia

- State constitutional provisions at risk:
 - » Right to vote (Ga. Const. art. II, § 2)
 - » Elections by ballot (Ga. Const. art. II, § 1, ¶ 1)
 - » Secret ballot (Ga. Const. art. II, § 1)

Hawaii

- State constitutional provisions at risk:
 - » Right to vote (Haw. Const. art. II, § 1)
 - » Secret ballot (Haw. Const. art. II, § 4)
 - » Absentee voting (Haw. Const. art. II, § 4)

- » Redistricting commission (Haw. Const. art. IV, §§ 2, 9)
- » Standards for redistricting (Haw. Const. art. IV, §§ 4, 5, 6)
- » Supreme court review of district maps (Haw. Const. art. IV, § 10)
- » Qualifications for voter registration (Haw. Const. art. II, § 4)

Idaho

- State constitutional provisions at risk:
 - » Right to vote (Ida. Const. art. VI, § 2)
 - » Elections by ballot (Ida. Const. art. VI, § 1)
 - » Secret ballot (Ida. Const. art. VI, § 1)
 - » Redistricting commission (Ida. Const. art. III, § 2(2))
 - » Supreme court review of district maps (Ida. Const. art. III, § 2(5))

Illinois

- State constitutional provisions at risk:
 - » Right to vote (Ill. Const. art. III, §§ 1, 3)
 - » “Free and equal” elections (Ill. Const. art. III, § 3)
 - » Secret ballot (Ill. Const. art. III, § 4)
 - » Qualifications for voter registration (Ill. Const. art. III, § 1, 2)

Indiana

- State constitutional provisions at risk:
 - » Right to vote (Ind. Const. art. II, §§ 1, 2)
 - » “Free and equal” elections (Ind. Const. art. II, § 1)
 - » Elections by ballot (Ind. Const. art. II, § 13)
 - » Qualifications for voter registration (Ind. Const. art. II, § 14(c))

Iowa

- State constitutional provisions at risk:
 - » Right to vote (Iowa Const. art. II, § 1)
 - » Elections by ballot (Iowa Const. art. II, § 6)
 - » Regulate congressional districting (Iowa Const. art. III, § 37)
 - » Supreme court review of district maps (Iowa Const. art. III, § 36)
 - » Qualifications for voter registration (Iowa Const. art. II, § 1)

Kansas

- State constitutional provisions at risk:
 - » Right to vote (Kan. Const. art. V, § 1)
 - » Elections by ballot (Kan. Const. art. IV, § 1)
 - » Absentee voting (Kan. Const. art. V, § 1)
 - » Qualifications for voter registration (Kan. Const. art. V, § 1)

Kentucky

- State constitutional provisions at risk:
 - » Right to vote (Ky. Const. §§ 6, 145)
 - » "Free and equal" elections (Ky. Const. § 6)
 - » Elections by ballot (Ky. Const. § 147)
 - » Secret ballot (Ky. Const. § 147)
 - » Qualifications for voter registration (Ky. Const. § 147)

Louisiana

- State constitutional provisions at risk:
 - » Right to vote (La. Const. art. I, § 10(A))
 - » Elections by ballot (La. Const. art. XI, § 2)
 - » Secret ballot (La. Const. Art. XI, § 2)

Maine

- State constitutional provisions at risk:
 - » Right to vote (Me. Const. art. II, § 1)
 - » Elections by ballot (Me. Const. art. II, § 1)
 - » Right to secret ballot (Me. Const. art. II, § 5)
 - » Absentee voting (Me. Const. art. II, § 4)
 - » Regulating congressional districting (Me. Const. art. IX, § 24(1))
 - » Creating a redistricting commission (Me. Const. art. IX, § 24(1))
 - » Supreme court review of district maps (Me. Const. art. IX, § 24(3))
- Voter-passed laws at risk:
 - » Retain same-day voter registration, passed by Same-Day Registration Veto Referendum, Question 1 (2011) amending 21-A MRSA §121, sub-§1-A, 21-A; 21-A MRSA §122, sub-§6; 21-A-MRSA §122; 21-A MRSA §125
 - » Ranked choice voting, *passed by* An Act To Establish Ranked-choice Voting / Question 5 (2016) amending 21-A MRSA §1, 21-A MRSA §601, 21-A MRSA §722, 21-A MRSA §723-A

Maryland

- State constitutional provisions at risk:
 - » Right to vote (Md. Const. Decl. of Rts. art. 7)
 - » “Free and equal” elections (Md. Const. Decl. of Rts. art. 7)
 - » Elections by ballot (Md. Const. art. I, § 1)
 - » Qualifications for voter registration (Md. Const. art. I, § 2)

Massachusetts

- State constitutional provisions at risk:
 - » Right to vote (Mass. Const. pt. I, art. IX)
 - » “Free and equal” elections (Mass. Const. pt. I, art. IX)
 - » Right to secret ballot (Mass. Const. amend. art. XXXVIII)

Michigan

- State constitutional provisions at risk:
 - » Right to vote (Mich. Const. art. II, § 1)
 - » Right to secret ballot (Mich. Const. art. II, § 4)
- Voter-passed laws at risk:
 - » Qualifications for voter registration, automatic voter registration, same-day voter registration, and straight-ticket voting (Mich. Const. art. II, § 4); *passed* by “Promote the Vote” Proposal 3 (2018)
 - » Creates a redistricting commission, sets standards for congressional districts, grants jurisdiction over district map review to the State Supreme Court (Mich. Const. art. IV, § 6), *passed* by “Voters not politicians” Prop 18-2

Minnesota

- State constitutional provisions at risk:
 - » Right to vote (Minn. Const. art. VII, § 1)
 - » Elections by ballot (Minn. Const. art. VII, § 5)

Mississippi

- State constitutional provisions at risk:
 - » Right to vote (Miss. Const. art. XII, § 241)
 - » Elections by ballot (Miss. Const. art. XII, § 240)
 - » Requiring voter ID (Miss. Const. art. XII, § 249A)
 - » Qualifications for voter registration (Miss. Const. art. XII, § 242)

Missouri

- State constitutional provisions at risk:
 - » Right to vote (Mo. Const. art. VIII, § 2)
 - » “Free and equal” elections (Mo. Const. art. I, § 25)
 - » Elections by ballot (Mo. Const. art. VIII, § 3)
 - » Right to secret ballot (Mo. Const. Art. VIII, Sec. 3)
 - » Regulate congressional districting (Mo. Const. art. III, § 45)

Montana

- State constitutional provisions at risk:
 - » Right to vote (Mont. Const. art. IV, § 2)
 - » “Free and equal” elections (Mont. Const. art. II, § 13)
 - » Right to secret ballot (Mont. Const. art. 4, § 1)
 - » Absentee voting (Mont. Const. art. IV, § 3)
 - » Regulates congressional redistricting (Mont. Const. art. V, § 14)
 - » Creates a redistricting commission (Mont. Const. art. V, § 14(2))

Nebraska

- State constitutional provisions at risk:
 - » Right to vote (Neb. Const. art. I, § 22)
 - » “Free and equal” elections (Neb. Const. art. I, § 22)
 - » Right to secret ballot (Neb. Const. art. VI, § 6)

Nevada

- State constitutional provisions at risk:
 - » Right to vote (Nev. Const. art. II, § 1)
 - » Elections by ballot (Nev. Const. art. II, § 5)
 - » Qualifications for voter registration (Nev. Const. art. II, § 6)

New Hampshire

- State constitutional provisions at risk:
 - » Right to vote (N.H. Const. pt. I, art. 11)
 - » “Free and equal” elections (N.H. Const. pt. 1, art. 11)
 - » Absentee voting (N.H. Const. pt. I, art. 11)

New Jersey

- State constitutional provisions at risk:
 - » Right to vote (N.J. Const. art. II, § 3)
 - » Absentee voting (N.J. Const. art. II, § I, ¶ 3(c))
 - » Creates a redistricting commission (N.J. Const. art. II, § 2, ¶ 1)
 - » Supreme court review of district maps (N.J. Const. art. II, § 2, ¶ 7)

New Mexico

- State constitutional provisions at risk:
 - » Right to vote (N.M. Const. art. VII, § 1)
 - » “Free and equal” elections (N.M. Const. art. II, § 8)
 - » Elections by ballot (N.M. Const. art. VII, § 5)
 - » Right to secret ballot (N.M. Const. art. VII, § 1(B))

New York

- State constitutional provisions at risk:
 - » Right to vote (N.Y. Const. art. II, § 1)
 - » Elections by ballot, Right to secret ballot (N.Y. Const. art. 2, § 7)
 - » Regulate Congressional districting (N.Y. Const. art. III, § 4)
 - » Creates a redistricting commission (N.Y. Const. art. III, § 5-b)
 - » Supreme court review of district maps (N.Y. Const. art. III, § 5)
 - » Qualifications for voter registration (N.Y. Const. art. II, § 5)

North Carolina

- State constitutional provisions at risk:
 - » Right to vote (N.C. Const. art. VI, § 1)
 - » “Free and equal” elections (N.C. Const. art. I, § 10)
 - » Elections by ballot (N.C. Const. art. VI, § 5)
 - » Qualifications for voter registration (N.C. Const. art. VI, § 3, cl. 1)
 - » Voter ID required (N.C. Const. art. VI, § 4(2))

North Dakota

- State constitutional provisions at risk:
 - » Right to vote (N.D. Const. art. II, § 1)
 - » Right to secret ballot (N.D. Const. art. II, § 1)
 - » Absentee voting (N.D. Const. art. II, § 1)

Ohio

- State constitutional provisions at risk:
 - » Right to vote (Oh. Const. art. V, § 1)
 - » Elections by ballot (Oh. Const. art. V, § 2)
 - » Regulate congressional districting (Oh. Const. art. XIX, § 3(B))
 - » Create a redistricting commission (Oh. Const. art. XI Sec. 1, Oh. Const. art. XIX §§ 1(b), 3(c))
 - » Supreme court review of district maps (Oh. Const. art. XIX, § 3(A))
 - » Ban on straight ticket voting (Oh. Const. art. V, § 2a)
- Voter-passed laws at risk:
 - » Voter registration; requiring re-registration after 4 years of not voting (Oh. Const. art. V, § 1), passed by the Ohio 30-Day Voter Eligibility Amendment, Amendment 1 (1977).

Oklahoma

- State constitutional provisions at risk:
 - » Right to vote (Okla. Const. art. III, § 1)
 - » “Free and equal” elections (Okla. Const. art. III, § 5)
 - » Regulating congressional districting (Okla. Const. art. V, §11A)
 - » Creates a bipartisan redistricting commission (Okla. Const. art. V, §11A)
 - » Supreme court review of district maps (Okla. Const. art. V, § 11D)

Oregon

- State constitutional provisions at risk:
 - » Right to vote (Or. Const. art. II, § 2)
 - » “Free and equal” elections (Or. Const. art. II, § 1)
 - » Regulating congressional districting (Or Const. art. IV, § 6)
 - » Supreme court review of district maps (Or. Const. art. IV, § 6(c))
- Voter-passed laws at risk:
 - » Deadline for voter registration at least 20 days before an election (Or. Const. art. II, § 2(c)), *passed* by Oregon Voter Registration Cutoff Before Election, Measure 13 (1986)
 - » Universal vote-by-mail elections (Or. Stat. § 254.465), *passed* by Oregon Vote by Mail for Biennial Elections Act, Measure 60 (1998)

Pennsylvania

- State constitutional provisions at risk:
 - » Right to vote (Pa. Const. art. VII, § 1)
 - » “Free and equal” elections (Pa. Const. art. I, § 5)
 - » Elections by ballot (Pa. Const. art. VII, § 4)

- » Right to secret ballot (Pa. Const. art. VII, § 4)
- » Absentee voting (Pa. Const. art. VII, § 14)
- » Regulating congressional districting (Pa. Const. art. II, § 17)
- » Redistricting commission (Pa. Const. art. II, § 17)
- » Supreme court review of district maps (Pa. Const. art. II, § 17(h))

Rhode Island

- State constitutional provisions at risk:
 - » Right to vote (R.I. Const. art. II, § 1)
 - » Absentee voting (R.I. Const. art. II, § 2)
 - » Re-enfranchisement for ex-felons (R.I. Const. art. II, § 1)
 - » Qualifications for voter registration (R.I. Const. art. II, § 1)

South Carolina

- State constitutional provisions at risk:
 - » Right to vote (S.C. Const. art. I, § 5)
 - » “Free and equal” elections (S.C. Const. art. I, § 5)
 - » Right to secret ballot (S.C. Const. art. II, § 1)
 - » Absentee voting (S.C. Const. art. II, § 10)
 - » Qualifications for voter registration (S.C. Const. art. II, § 8)

South Dakota

- State constitutional provisions at risk:
 - » Right to vote (S.D. Const. art. VI, § 19)
 - » “Free and equal” elections (S.D. Const. art. VII, § 1)
 - » Right to secret ballot (S.D. Const. art. VI, § 28)
 - » Absentee voting (S.D. Const. art. VII, § 3)
 - » Qualifications for voter registration (SD. Const. art. VII, § 3)

Tennessee

- State constitutional provisions at risk:
 - » Right to vote (Tenn. Const. art. IV, § 1)
 - » “Free and equal” elections (Tenn. Const. art. 1, § 5)
 - » Elections by ballot (Tenn. Const. art. IV, § 4)
 - » Qualifications for voter registration (Tenn. Const. art. IV § 1)

Texas

- State constitutional provisions at risk:
 - » Right to vote (Tex. Const. art. VI, § 2)
 - » Elections by ballot (Tex. Const. art. VI, § 4)
 - » Regulating congressional districting (Tex. Const. art. III, §§ 25, 26)
 - » Qualifications for voter registration (Tex. Const. art. VI, § 2(a))

Utah

- State constitutional provisions at risk:
 - » Right to vote (Utah Const. art. IV, § 1)
 - » Qualifications for voter registration (Utah Const. art. IV, § 2)
 - » “Free and equal” elections (Utah Const. art. I, § 17)
 - » Right to a secret ballot (Utah Const. art. IV § 8(1))

Vermont

- State constitutional provisions at risk:
 - » Right to vote (Vt. Const. ch. I, art. VIII)
 - » “Free and equal elections” (Vt. Const. ch. I, art. VIII)

Virginia

- State constitutional provisions at risk:
 - » Right to vote (Va. Const. art. I, § 6)
 - » “Free and equal” elections (Va. Const. art. I, § 6)
 - » Elections by ballot (Va. Const. art. II, § 3)
 - » Right to secret ballot (Va. Const. art. II, Sec. 3)
 - » Regulate congressional redistricting (Va. Const. art. II, § 6-A)

Washington

- State constitutional provisions at risk:
 - » Right to vote (Wash. Const. art. VI, § 1)
 - » “Free and equal” elections (Wash. Const. art. I, § 19)
 - » Elections by ballot (Wash. Const. art. VI, § 6)
 - » Right to secret ballot (Wash. Const. art. VI, § 6)
 - » Regulate congressional districting (Wash. Const. art. II, § 43(5))
 - » Redistricting commissions (Wash. Const. art. II, § 43)

- » Supreme court review of district maps (Wash. Const. art. II, § 43(10); Wash. Rev. Code § 44.05.130)
- » Qualifications for voter registration (Wash. Const. art. VI, § 7)
- Voter-passed laws at risk:
 - » Top two open primaries (Wash. Rev. Code § 29A.52.112), *passed* by the Top Two Primary Initiative, Initiative 872 (2004)

West Virginia

- State constitutional provisions at risk:
 - » Right to vote, qualification of voters (W. Va. Const. art. IV, § 1)
 - » Right to secret ballot (W. Va. Const. art. IV, § 2)
 - » Regulating congressional districting (W. Va. Const. art. I, § 4)
 - » Qualifications for voter registration (W. Va. Const. art. IV, § 12)

Wisconsin

- State constitutional provisions at risk:
 - » Right to vote (Wis. Const. art. III, § 1)
 - » Right to secret ballot (Wis. Const. art. III, § 3)

Wyoming

- State constitutional provisions at risk:
 - » Right to vote (Wyo. Const. art. VI, §§ 1, 2)
 - » "Free and equal" elections (Wyo. Const. art. I, § 27)
 - » Elections by ballot (Wyo. Const. art. VI, § 11)
 - » Right to secret ballot (Wyo. Const. art. VI, § 11)
 - » Regulate congressional districting (Wyo. Const. art. III, § 49)
 - » Requirement of voter registration (Wyo. Const. art. VI, § 12)

