



ELECTION TRANSPARENCY INITIATIVE

Fighting for transparent, secure, and accountable elections all voters can trust.

July 13, 2023

The Honorable Bryan Steil
Committee on House Administration
1309 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Steil,

I write to you in support of the committee's historic legislation to bolster confidence in free and fair elections. Now more than ever, it's imperative that lawmakers like yourself do everything in their power to improve the transparency, security, accessibility and accountability of elections in *every* state, so that *every* American—regardless of color, creed or party affiliation—has certainty in the outcome of *every* election.

The comprehensive *American Confidence in Elections (ACE) Act* equips states with a host of tools to strengthen the integrity of our elections while respecting the Constitution, federalism, and our sacred democratic principle of one person-one vote. The bill also protects political speech, at a time when the Left's corporate media and Big Tech allies are silencing conservatives while seeking to define "truth" for an entire nation, and repairs the District of Columbia's broken and mismanaged election system.

There are two foundational concepts that relate to understanding the role and responsibility of the states and federal government in elections: that states are primarily responsible for the execution of our elections and that the federal government needs to take steps making it easier for the states to carry them out.

Specifically, our constitution provides that Congress has exclusive jurisdiction over DC elections but limited jurisdiction over the states.

Congress can require reforms to DC elections because Article I, Section 8, Clause 17 of the Constitution gives Congress the power "[t]o exercise exclusive Legislation in all Cases whatsoever, over such District."

The ACE Act, which features election integrity reforms that can be enacted at states' discretion, preserves this constitutionally prescribed balance by requiring reforms in DC but allowing states to choose. Let me be clear, the ACE Act does not mandate changes to state election laws, and this is an important factor in ETI's support for the bill. We view Congress in a role similar to a state legislature, as it relates to the nation's capital.

With regard to the states, the ACE Act would establish within the existing bipartisan Election Assistance Commission (EAC) a federal forum for states to share best practices

and discuss successes and failures, including the process of administering ballots delivered by mail, voter identity verification procedures, voter list maintenance, access for election observers, timely reporting of ballot counting, recruiting poll workers, public education with respect to the certification and testing of voter machines prior to elections, post-election audits, and secure chain of custody procedures for ballots and election equipment.

The EAC would rightly be given exclusive authority to develop, issue, and oversee voluntary election technology standards for voting and nonvoting related technology and equipment, as well as to develop voluntary guidelines for nonvoting election technology like electronic poll books.

Additionally, the ACE Act contains a number of positive provisions concerning the Help America Vote Act of 2002 (HAVA):

- Modernizes the existing HAVA first-time mail voter ID requirement to include all first-time voter registrations made using any method other than in-person at an elections office or state voter registration agency, and requires certain voters who request a mail ballot or vote by mail to provide ID.
- Confirms that states must provide access for congressional election observers under Congress' constitutional role to serve as the "Judge of the Elections, Returns and Qualifications of its own Members."
- Asks states to work with Tribal Governments to identify and assign a mailing address to homes on Tribal land.
- Allows states to use HAVA dollars to conduct post-election independent audits.
- Requires public communications paid for under HAVA to contain a disclaimer.
- Clarifies that election materials which must be preserved for 22 months pursuant to HAVA include ballots, ballot images, and ballot envelopes of voted ballots (as well as any other records that would be useful in a post-election audit) and creates a limited avenue for public access of such records limited to candidates, political parties, and observers, all as defined by state law.

Further, the ACE Act addresses disappointing challenges faced by military and overseas voters by directing the Government Accountability Office (GAO) to conduct an analysis of the effectiveness of the federal government in carrying out its responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), as well as a study on improving voting access for absent uniformed services voters.

Critically, the ACE Act repeals Biden Executive Order 14019 and prohibits federal agencies from engaging in inappropriate electioneering activities, prohibits the use of federal funds by states to administer elections for federal office unless the state imposes certain restrictions on ballot harvesting, expressly restates that it is a felony for non-citizens to vote in federal elections, and eliminates the corrupt private financing of local election offices by ideological groups, corporations, Big Tech companies, and possible foreign interlopers—commonly referred to as 'Zuckerbucks'—by removing the federal tax exemption for such funding.

Make no mistake, DC should be the gold standard for fair and honest elections in which every legal vote is cast and counted openly, equally, and with the highest standard of integrity. It is the right of every legal, voting-age American citizen to vote and to trust that their vote is properly counted and not cancelled by an improper or illegal vote. But the reality is that DC elections have, and continue to be, an unmitigated disaster.

Current DC election laws are fraught with a host of anti-election integrity procedures and practices which unfortunately do more to sow doubt, confusion, and mistrust than they do to inspire confidence in elections that are fair, secure, and transparent. Same day voter registration and automatic voter registration, as well as allowing pre-registration of eligible 16-year-old residents who are then automatically registered to vote upon turning 18, inflate the voter rolls with potentially ineligible voters. Registering to vote should be an affirmative action taken by the elector, not an automated command between differing systems and databases.

Other problems from which DC currently suffers include no-excuse absentee voting with a permanent absentee voting list, no ID requirement (just ‘proof’ of residence, photo not required) to vote after the voter has voted once, unsecured and unguarded drop boxes, and DC’s infamous non-citizen voting law, which allows green-card holders and residents who entered or live in the country illegally to vote so long as they are 18 or older and have lived in DC for at least 30 days.

The ACE Act would right-size DC elections through proven, fundamental, and commonsense reforms rooted in ballot and voter integrity, beginning with voter ID for in-person and mail voting. Voter ID, and particularly photo ID, is overwhelmingly popular among virtually every voting demographic—regardless of one’s party, race, or where he or she lives—because it protects the right to vote in elections that are fair and secure.

I would add that during the four times I have testified before the committee regarding these matters, twice this year alone, I have yet to hear a single satisfactory attempt by the minority to justify why DC voters should not show an ID to vote.

Importantly, the ACE Act would make DC’s elections more transparent, secure, and accountable:

- Requires list maintenance in accordance with National Voter Registration Act.
- Prohibits same-day registration.
- Prohibits ballot harvesting (subject to very limited exceptions).
- Prohibits unsolicited, automatically mailed ballots.
- Requires signature verification process for dated mail-in ballots.
- Requires post-election audits within 30 days of the election.
- Requires public reporting of election results at 10am the day after the election.
- Requires all ballots to be received by the close of polls.
- Prohibits non-citizen voting.
- Requires meaningful election observe access.
- Prohibits unsecure drop boxes.
- Requires provisional ballots only be counted when cast in the correct precinct.

Congress has work to do to fix our elections. The problems faced by the states and DC are America's problems, and ETI stands ready to assist in addressing them so that the barriers to honest and accurate elections are replaced with those helping to guarantee certainty, trust, and confidence. I urge you and your committee to advance the ACE Act without delay, and for your colleague's full support.

Sincerely,

A handwritten signature in black ink that reads "Ken Cuccinelli II". The signature is written in a cursive style with a large, stylized "K" and "C".

Hon. Kenneth T. Cuccinelli, II
Chairman, Election Transparency Initiative