



**National Council on Election Integrity Speaker Series:
"How State Voting Proposals Could Impact How Millions of Americans Vote"**

April 6, 2021

(Transcript may contain errors. Please check the corresponding audio before quoting in print.)

Nick Penniman (00:00:04):

Hello everyone. Good to see you. My name is Nick Penniman. I'm the Founder and CEO of Issue One. We are really proud and happy to be sponsoring this as our first panel in conjunction with the National Council on Election Integrity. I want to first hand it over to Elise Wirkus on my team to say a little bit more about the council and this session.

Elise Wirkus (00:00:25):

Hi all. Thank you all for joining us for this first event in our speaker series, our 2021 speaker series hosted by the National Council on Election Integrity. I'm a staff member at Issue One and the Legislative Affairs Manager. I've been working a lot on these election integrity issues and I'm happy and eager to hear your questions later on in the panel. For those of you that don't know, the National Council on Election Integrity was founded by Issue One in August of 2020 in the lead up to the general election. And the goal for the council was to be a strong bipartisan group of honest brokers, especially in the post-election period when there was a lot of partisanship and also misinformation flying about the election. And we are going to continue that work and the council is going to continue that work in the new year and in the new Congress, and this speaker series is that first step.

Elise Wirkus (00:01:20):

So we are eager to offer an honest and productive bipartisan lens to some of the most contentious election issues that we are facing right now in this country. Just to operationally set the tone for a second, we'll have 40 minutes of discussion between Nick and our esteemed panelists here. And then the last 20 minutes we will open it up to Q and A from all of you. I'll be managing the chat box. So we look forward to some interesting questions from all of you there. And without further ado, I'm going to hand it back over to Nick Penniman, Issue One's founder and CEO, but thank you all for being with us today.

Nick Penniman (00:02:00):

And just to put a little more flesh on the bones for the national council, it's 44 members strong, half Republican, half Democrats. You all can go to [CountEveryVote.org](https://www.CountEveryVote.org) and you'll see up top a list of all of them. I think it's seven former cabinet secretaries, three former generals, a lot of names that you would know and recognize. A great group of people that came together and are sticking together because they recognize there's plenty of work to be done as we move forward. So, let me give you a couple of opening remarks and then I'll introduce and hand it over to our panelists. Voter turnout surged significantly in 2020, nearly 160 million Americans cast a ballot, roughly two thirds of all eligible voters. It was the highest, as many of you know, turnout in more than a century.

Nick Penniman (00:02:47):

This should be a cause for celebration, regardless of your political affiliation, despite a once in a lifetime pandemic that could have reeked absolute havoc on our election. Instead, the Department of Homeland Security called it perhaps the most secure election in American history. Yet, nonetheless, we had January 6th and yet, more than 300 bills have been introduced in 43 states that contain provisions that would make it harder for people to vote. This wave of legislation follows months of disinformation about the validity and security of the 2020 general election. Whether you call it the big lie, or a big lie, or an extraordinary lie, there is a significant narrative out there in the land that the election was stolen. And a lot of these bills claim to be in reaction to that. This election fraud narrative and these allegations have

been debunked time and time again, including in the courts more than 70 lawsuits just between the Trump and Biden campaigns.

Nick Penniman (00:03:54):

And I don't know how many of those, Eliza might know, but I think a significant portion of those were Trump appointed judges. Many of them were Republican appointed judges who actually, in many cases just declined to even pick up the lawsuits for lack of evidence. So how do we begin to combat this fake fraud narrative facing our democracy when both sides can't even agree on the fundamental facts? One thing we can say with complete certainty is this, this issue is not going away. So we are here today to talk about the impact of the proposals at the state level, how they could affect millions of Americans and their ability to vote, what comes next, and to what extent should there be a federal response to what we see? So I am pleased and honored to be joined by Secretary Trey Grayson. He's a former Republican secretary of state from Kentucky and is a member of our National Council on Election Integrity. Eliza Sweren-Becker, chief counsel for the Democracy Program at the Brennan Center for Justice in New York. And Steve Greenhut, senior fellow and western region director at the right-leaning R Street Institute. So we'll start out with opening comments from each. First, let's go to Trey.

Sec. Trey Grayson (00:05:04):

Thanks Nick. Thanks everybody who's joining us today. I'm really excited about this conversation. We were having our prep call yesterday and couldn't be more timely. So, I want to just identify a couple of longer-term trends and then a couple of the things that Nick mentioned. So first, you know, for the last 20 years, really ever since Florida, the Florida 2000 election debacle, as a country, we've been engaged in a conversation, whether that's with policymakers, members of the media, voters, campaigns, about how to make elections work better. So elections today are much better than they were 20 years ago, so there's a natural evolution of this, and it wouldn't be surprising that states after a presidential election would be looking at how to change election laws. The second thing we've seen over the last couple of decades is a growing sense by campaigns and partisans to try to use voting rules as a base motivator.

Sec. Trey Grayson (00:06:00):

"The other side is trying to keep you from voting. The other side is trying to steal an election. Don't show them, you know, go out and show them, vote for our side and show them that don't let them get away with it." And this is something that both camp parties, lots of campaigns, are doing this with, with regularity. So those are some long-term trends. And I was secretary of state — after every election, we sat down and figured out what worked, what didn't work, what did we learn? How do we do this better? But there are a couple of things that made this cycle really unique. One is, it was a pandemic. So a lot of states adopted practices to adapt their voting, to make it easier to vote in a pandemic. And those changes in some cases were pretty radical compared to what they had been.

Sec. Trey Grayson (00:06:39):

And so you didn't have that natural evolution taking place in states. So that was one challenge. And so sometimes that worked well and sometimes it didn't, but it created some, a little bit of noise, and changed some expectations. The second thing is President Trump, the big lie, January 6th, his inability to accept the fact that he lost an election, and how that has shaped the Republican reaction. There's still a large percentage of Republicans who don't trust the outcome. It's natural for losers to not trust the outcome, but that's much higher this year than in the past. And so that, those two things, I think it really shaped a lot of what's going on at the state level. And I'm looking forward to diving in over the course of this conversation, more about this.

Nick Penniman (00:07:23):

Excellent. Over to Eliza.

Eliza Sweren-Becker (00:07:25):

Thanks, Nick. And to sort of carry on with what Secretary Grayson said, last year was unique in the sort of features

that he described. And the result is that this year we are seeing a really unprecedented surge in the number of bills to address voting and elections. And as it was noted, that is typical that we have an uptick after a presidential election year when states are trying to figure out what worked and what didn't work. But the sheer volume of bills, there were over 360 bills that would restrict voting access in some way over 800 bills that would expand voting access in some way. The difference in numbers, really a difference in kind. The attention that is being paid to voting in elections is very acute. And in particular state lawmakers are seizing on the big lie and using the distrust created by the big lie, as a justification for restricting voting access.

Eliza Sweren-Becker (00:08:25):

But as it was said, the elections last year were the most secure in American history. And so this lie is really just a pretext to make it harder for Americans to vote. And what we're seeing in particular is that these restrictive provisions especially take aim at mail voting, a method of voting that Americans used, of course, in much higher numbers during a pandemic. And that younger voters and voters of color used more frequently last year than they had historically. And then we're also seeing provisions that just make it harder to vote in person at polling places, make it harder to register, and make it harder to stay on the rolls. There are some states that are sort of leading the nation in advancing those restrictive bills. First among them is Georgia, of course, but also Arizona and Texas are close behind in advancing bills that would make it harder to vote. And I'm sure we'll do a deep dive into, you know, what's going on in Georgia and across the rest of the country.

Nick Penniman (00:09:24):

Great, Steve.

Steve Greenhut (00:09:26):

Yeah, I've done, we've done a good bit of work at this at the R Street Institute. I'm the Western director based in Sacramento and R Street is a free market think tank based in DC. And I write for a variety of newspapers and publications. And what's really tough about this, I think, is trying to make meaningful distinctions and we're just in this environment of it's just so partisan and angry. So I hear as, you know, as a newspaper reporter, and I write for a pretty conservative crowd, and just that the email responses I get that just seem unmoored from reality. And whenever I try to make distinctions in a column or in our white papers, it's really hard to do. I think some of the reaction to the Georgia law, that Jim Crow 2.0 sort of thing doesn't help either, even though I'm opposed to, you know, most of these rules, and I think they're mostly founded in deceitful beliefs.

Steven Greenhut (00:10:33):

But it is hard to work through this. And I think that's something I'm hoping we do today is kind of work through some of the distinctions. So my basic point of view is, you know, it's wrong to make it tougher to vote regardless of outcome. But the GOP's belief is founded in the idea that it hurts them when more people vote and the evidence from the election, except for maybe one particular politician who lost his election, is that the Republicans did pretty well. And I've seen that here, even here in California. And so it's based not only on the big lie, but it's based on just what seems so obviously not to be true, all these rules. So anyway, I'm happy to be here and look forward to our chat.

Nick Penniman (00:11:22):

Great. So, let's talk about Georgia for a sec, because it is in the news, especially given the fact that the MLB has now moved the all-star game, and that's getting a lot of attention. You know, the corporate activism that we're seeing around this voting stuff is pretty extraordinary. And, but I'm sure too, that corporations are afraid that they're gonna make the wrong decision. So, Eliza, when it comes to the Georgia law, you've got folks like Gabe Sterling who became kind of a hero for many people, during the election, when he was standing up against Trump, standing up against the attacks on the integrity of the Georgia election, which I think what went into three recounts, one of them hand, saying that in fact, he backs the new Georgia law. He doesn't think that it's that restrictive and that in fact it won't really prohibit anyone from being able to vote in a significant way. Do you disagree with that assessment?

Eliza Sweren-Becker (00:12:22):

Yeah, I do. And I think the first thing we have to investigate is why was the bill passed and why was it passed so quickly? And as everybody has been saying, the motivation for these restrictions on voting is premised, this false premise, that there was something wrong with the election last year, but as you noted, Georgia had multiple recounts. There were no problems with Georgia's elections last year. So, we don't really see the need to sort of clamp down on certain methods of voting. The real motivation here, I think is to make it harder for Americans to cast their ballot and certain methods. And so I'll walk through sort of what the Georgia bill does to explain why we think it's restrictive. The first thing to note is that the bill was a two page bill that was amended in the last week of the legislative session to become a 98 page omnibus bill that was heard in a matter of days, and finally passed through the last chamber and signed by the governor in the same day.

Eliza Sweren-Becker (00:13:20):

So there was a real rush to move this through without a lot of public scrutiny. And the bill, to start with, places a number of restrictions on absentee voting — again, a method of voting that many more voters took advantage of last year and that more voters of color and younger voters took advantage of more last year than had historically been true. So SB 2020, Senate Bill 202, reduces the amount of time that voters have to request an absentee ballot by 62%. And that could lead to long jams in processing absentee requests, delays to voters in receiving absentee ballots, less time to cure errors. And frankly, that's not good for election administration for local election officials who are doing the hard work of, you know, carrying off elections and particularly hard work last year in carrying off elections during the pandemic.

Eliza Sweren-Becker (00:14:11):

The bill further makes it illegal for election officials or any government agency to affirmatively send ballot applications, not ballots, the applications to voters, unless they affirmatively request one. And this is something that Secretary Raffensperger actually did last year. He sent ballot applications to all Georgia voters ahead of the June elections and several local election authorities did so ahead of the November general elections. So this was something that was actually relatively successful in enabling people to vote by mail during the pandemic. In addition, the bill requires that voters include a voter ID number, either a state ID number, or the last four digits of a social security number. And if they don't have access to those, they have to fix a copy of some other form of identification to their absentee application, which means that they're going to have to have a scanner and a printer in order to be able to vote absentee.

Eliza Sweren-Becker (00:15:06):

And we know that voters of color tend to have that ID in fewer numbers than white voters, for example. In addition, there are limited access to dropboxes which were so successful in allowing voters to get their ballots in on time last year when we had USPS delays. This is a provision that I think is being misconstrued. The limits are actually in place because the dropboxes can only be inside government buildings and they can only be open when early voting is happening. So the whole point of a dropbox, which is to allow somebody to put their ballot in a secure box that's maybe nearer to their house, more convenient outside of regular work hours because they may work long hours, they might not have availability, you know, that completely defeats the purpose of the dropbox by requiring it to be in an election office only opened during sort of business hours.

Eliza Sweren-Becker (00:16:03):

There are limits on provisional ballots making it much harder for provisional ballots to get counted. There is an affirmative statement that there is no limit to the number of challenges that any voter can make, which really opens the door to discriminatory or arbitrary challenges to voters. Of course, there's the now sort of famous criminalization of giving snacks and drinks to voters who are waiting in line. The Brennan Center has done research showing that Black voters and Latino voters tend to wait in longer lines. And of course Georgia has a long history of long lines at their polling places. So, that not only will make it less comfortable for voters to be waiting in line, but also opens the door to potential sort of harassment of people just doing get out the vote and trying to assist voters by law enforcement who are trying to enforce that law.

Eliza Sweren-Becker (00:17:06):

In addition, there are also limits on extending polling place hours. There are limits on mobile voting sites, which enabled Georgia to set up additional voting sites when there were such a high demand and obviously a need to disperse crowds of people in the pandemic. There's a limit to the early voting hours. Local officials used to have discretion to expand early voting hours based on the needs of their constituents and that no longer exists. And then there is this sort of extraordinary politicization of election authority. and, you know, looking back on what happened last year and all of the pressure on Georgia officials in particular to effectively, you know, find votes, change the outcome of the election, the law takes the secretary of state out of the state board of elections, removes him as chair. And of course, the secretary of state in Georgia withstood a tremendous pressure last year.

Eliza Sweren-Becker (00:18:05):

And it allows that board of elections now having moved the secretary of state to suspend local county superintendents that are in charge of elections, and it also limits when certain emergency rules for elections can be adopted. So, you know, in general the distribution of election power among various bodies in the state is not necessarily an attempt to make it harder to vote. But knowing what we know about what happened in Georgia last year, the taking away of power from the secretary of state and local election officials, is a clear backlash against those officials from both parties holding the line, holding up their rule of law, and standing up for voters of every party.

Nick Penniman (00:18:53):

Trey, let me go to you because you were a former secretary of state, and recently some meaningful reforms were passed in a bipartisan fashion in your state of Kentucky. So, I guess I would ask, it's almost a two part question. The first is, do you disagree with any of the things that Eliza just said in terms of the way she characterized them? And then the second question is, you know, if you could tell us a little bit more about Kentucky and how that should have been, or could have been instructive for Georgia.

Sec. Trey Grayson (00:19:27):

Sure. Yeah. I mean, you know, first I'll just begin with, you know, Steve mentioned this in his introductory remarks, I kinda come from the vision there are things in this bill and, Eliza did a good job of explaining some of the things that I don't like, but I do feel like the Jim Crow 2.0 characterization is unfair. Especially if you look at, even after this bill is passed. Look at Georgia in context to other states across the country. Georgia still offers more voting options than a lot of states. Still has a long voting period for early voting. Still offers no excuse vote by mail. Many states use an identification process, not signature verification to do their authentication of absentee ballot applications, absentee ballots. Georgia had problems with signature verification this year. They didn't have the capacity, the training.

Sec. Trey Grayson (00:20:14):

And so looking at that and pivoting to an identification process isn't necessarily a bad idea or restrictive idea, especially because social security numbers last four is included. And I would also take a little bit of objection with the speed. I mean, this is a part-time legislature that has to adjourn by a certain day and almost everything in this bill, while put together at the end, was subject to was in other bills and through lots of legislative process. This is just how the legislative process works in states with part-time legislators. You get omnibus bills at the end, but almost everything in this bill was discussed earlier on. Albeit in different vehicles. So it wasn't like these ideas came out of nowhere, but there's some bad ideas. And she identified, you know, the mobile voting and the food thing.

Sec. Trey Grayson (00:20:57):

I mean, some of these, you know, might not impact that many voters, but it's just bad policy. And I do have some concerns about some of the changes in the building for partisans to maybe to take over the administration. Although, even that was in recognition that there were some incompetent issues. You know, Fulton County always seems to have struggles with its election administration. And we saw in the recount several counties had lost ballots that they suddenly found. And we were fortunate that it was a 50,000 vote margin as opposed to a 5,000 vote margin, otherwise

it would have made a real difference in that. So now for Kentucky, you know, it's not a battleground state, so we didn't have the drama. And Georgia has been dealing with this, you know, the Stacey Abrams 2018 election was controversial she's yet to concede despite losing by 50,000 votes.

Sec. Trey Grayson (00:21:40):

And I think that's an important piece when looking at Georgia. It wasn't like, it was just all of a sudden, you know, came out of the 2020 election. So there's this, the last couple of years, Georgia has been in a lot of debate on elections. But Kentucky, Republican state, Republican super majorities in the legislature, but we were a state, traditionally, that was an excused based election day voting system. Pandemic hits. Legislature gives the power to the governor and the secretary of state, two different parties, to come up with a plan for the primary and for the general to make it easier to vote in a pandemic. So we allow vote by mail without an excuse. And we allowed some in the fall in the general election, early voting. And it turned out that Republicans had a really good election day, like Steve mentioned. You know, in Kentucky Republicans won everything. All the competitive races. Everything. Increased their numbers. And made it easier to vote.

Sec. Trey Grayson (00:22:28):

And so that created an environment where Republican voters liked a lot of these changes. You know, more Republicans actually voted in Kentucky. Kentucky is still majority Democratic registration, maybe not in performance, certainly, but in actual registration. There were more Kentucky Republicans have voted than Kentucky Democrats that voted in 2020. And that created an environment where many of these changes that were tried out in 2020, that we couldn't get through legislatively, were popular. And so I worked with the county clerks in Kentucky and the county clerks and the state board of elections, which is bipartisan — secretary of state is Republican, clerks are bipartisan — worked with a couple of legislators and navigated this process. And while the governor has yet to sign the bill, we anticipate that he will any day now sign the bill. And so we're going to have a few days of early voting.

Sec. Trey Grayson (00:23:15):

We're not gonna have as many early voting days as Georgia, but we're going to have more than zero. And the hope is that we can add more going forward. We created a portal and vote centers and things like that. So we're still not, we're still on the, called the conservative small C side of election access, but it's a sea change and the bill was done in a bipartisan manner. And I'm pretty proud of my state because these are things that going back, you know, 10 years, 10 plus years ago when I was secretary, I advocated for early voting, but couldn't get any traction. And this was a good example, a good enough example of taking the lessons from 2020, it changed people's views. But it was, in some respects, it was easier because you had Republicans doing well in Kentucky, and we didn't have the tension that comes from being a battleground state. But it was Republican led, you know, Republican House members took this issue on and put together a pretty complicated bill, over a hundred pages, and got it done.

Sec. Trey Grayson (00:24:12):

And to the Democrats credit, the bill didn't go as far as they would have liked, but they didn't object and vote no, symbolically, knowing it would still pass. They voted yes, which was important because it's, you know, Minnesota is a good example. Minnesota has this custom where they never do anything in elections, unless it's bipartisan. And that frustrates some folks on the left, because there's some things that Minnesota might adopt that it won't adopt historically, without it being in a bipartisan way. And because the Democrats said, "we liked this bill because it's better than the status quo, we're going to vote for it." And that was an important signal to send. And I think that's why the governor will ultimately sign this bill today if he hasn't done it already this morning.

Nick Penniman (00:24:48):

Great. So Steve, let's talk about the politics for a second. I mean, you know, as you and Trey have both pointed out, Republicans did really well in this election. They picked up seats in the House. They, you know, did well at the state legislative level. The modalities of voting seemed to work for them as they were in November of last year. And yet we

are seeing, as Eliza said, an unprecedented number of bills out there to try to roll back different forms of voting and restrict different forms of voting in addition to the fraud narrative. What else do you think is feeling this? Because you know, you're a reporter, I'm a former reporter, as we've seen, a number of Republicans at the state level have said the silent part out loud in the last couple of months. They've slipped up and said, you know, we're doing this because we think it will be better for the Republican party if we do this. So let's talk about the politics of this. You've been tough. You're a libertarian, you've been tough on the Republican party on this front.

Steven Greenhut (00:25:52):

Yeah. I mean, even here in California where, you know, we don't have these kinds of bills because we're, Democrats dominate everything, but my readership is mostly Republican or conservative. And, and I think most of these folks really believe the election was stolen. And, it's kinda hard to, at least the grassroots readers do I think the elected officials are somewhat more cynical, but I try to point out, you know, in the November election Republicans grabbed back some seats the congressional seats here and down in Orange County and on our voter initiatives, although that's not partisan, the conservative point of view prevailed on most things. So, it's kind of weird. I hear from folks who point to one election, one congressional election, which must've been stolen, because the Democrat won, even though the Republican candidate in that case was such a total bonehead.

Steven Greenhut (00:26:48):

I'm surprised that he got 45% of the vote, but then it's, so where the results are the way they liked it, it's all good. And when they're not where they liked it, it's not. But as far as, you know, legislators themselves, I think they're all competing to see who could be the Trumpiest. I think the whole impact of what Donald Trump did, and I find it, I found it totally appalling. It's hard to underestimate the impact that's had on people's voting. So, yesterday I got a press release from some guy who calls himself the 45th president of the United States, a Save America statement, and it said, "except for massive voter fraud, this was a campaign that was easily won by your favorite Republican president, me." So, maybe we're not paying as much attention to him anymore.

Steven Greenhut (00:27:41):

But that kind of narrative is still out there. And it doesn't seem to matter how much evidence you point out and it's just infected people. And I think that the legislators are afraid of the grassroots. So the new Reuters poll, we all probably saw, showed 60% of Republicans believe the election was stolen. 50% believe that the January 6th siege was probably the work of left wing activists. So, anyway, I read in the LA Times quoted Karen Fann, who's the president of the Arizona State Senate, "When you have this many constituents that are emailing us and calling us and demanding that their questions be answered, it always should be a top priority. If that's what's important to our voters, we take care of it." So she was saying, they're just really responding, Arizona, which has been promoting a variety of, of some okay, but mostly noxious, anti-voting proposals, they're just responding to voters.

Steven Greenhut (00:28:35):

So it's kind of bizarre. So, the Republicans have convinced their voters of something that's demonstrably not true. And now they're only responding to those voters concerns. So that's pretty upsetting. I read an Arizona Republic column where they were quoting the US Supreme Court hearing regarding a couple of past Arizona voting rules. So, Justice Coney Barrett asked the Arizona GOP's lawyer about what the RNC's interest was in disqualifying out of precinct votes. This was his answer, I'll quote, "because it puts us at a competitive disadvantage relative to Democrats. Politics is a zero sum game." And I do think there is that sense that more voting equals fewer chances for Republicans to succeed, which doesn't seem to be true. And as I pointed out, when we, you know, in the opening remarks that I think it's still important to make distinctions.

Steven Greenhut (00:29:34):

So it's hard to make distinctions in a pile of bills where we kind of believe it's ill intent, right? So, these are not coming out of good government impulses. These are coming out of a false narrative, so it's hard to take any of it too seriously,

but, you know, the whole thing is like William Saletan of Slate. I don't know if you've all seen his, he did a really informative Twitter feed, and he's no right winger, and he pointed to some of the bad things in the Georgia bill, the shorter window to request absentee ballots, later mailing, fewer dropboxes, shorter runoffs, but he pointed to some good things like the requirement for one dropbox per county, expanded days and hours of early in person voting, requires polls with long waits to add staff or another precinct, online option for ballot applications.

Steven Greenhut (00:30:23):

And he thought the whole water giving water to people was probably over-hyped and then a number of other provisions that he thought were uncertain. So I just think if, you know, as critics of this whole movement, I still think we need to, we need to act truthfully and look at distinctions, even against the backdrop of, I think, not so good intent or false narratives. I still think we have to distinguish between some things that are really nefarious and some things that aren't, and some things that might even be okay. Like Arizona had a, they passed, I'm not sure where it is in the process right now, but I think the Senate passed the risk limiting audit, which there's nothing wrong with that. Looking at a sample that seems like a legitimate type of audit, as opposed to this other audit that they're talking about in Maricopa County, which seems a lot less serious. So, anyway, I'm just focusing on this making distinctions angle. I think it's important for, you know, the validity of our case.

Nick Penniman (00:31:34):

Let me go back to Eliza real quick, and then, Elise, I think we're seeing audience questions crop up. So maybe you could throw a couple of those in. Eliza, feel free to respond to anything that Trey and Steve said recently, but also what is the next or the next two or three big states that give you the most amount of, you know, anxiety? Arizona has been mentioned, what are the other ones that should be on people's radar screens in terms of really bad regressive laws, including in critical states, you know, battleground states where 10,000 votes, 5,000, 4,000 votes matters a lot.

Eliza Sweren-Becker (00:32:12):

Yeah. So I think Arizona is, you know, close to the top of that list. As you mentioned, a couple of the bills in Arizona would make it harder for people to stay on what Arizonans called PEVL, the permanent early voting list. It's an extremely popular policy. I think almost two thirds of Arizona voters are on the permanent early voting list. And that means they automatically get the early ballot, which is effectively the absentee ballot in Arizona. And it's been in place for quite a long time. There are a number of other provisions that require in Arizona a certain ID, or would otherwise sort of restrict access or make it harder to vote by mail. I think maybe at the very top of the list is Texas. Texas has two omnibus provisions, Senate Bill 7 and House Bill 6, that make it harder to vote in a number of ways, and also impose really a slew of criminal penalties on voters for making honest mistakes. But also on election officials and poll workers for making honest mistakes, which, you know, really puts enormous pressure on election officials.

Eliza Sweren-Becker (00:33:16):

Again, of both parties, who are working really hard to carry off elections under enormous stress. I'm sure Secretary Grayson can speak to how hard it is to run an election. And the pressure of facing, you know, a felony charge for making a mistake or thousands of dollars in fines is really going to, I think, force bad election administration, not good election administration. We're also seeing a number, a couple of bills in Florida move along. one bill would ban ballot dropboxes altogether and limit who can return, who can assist in returning absentee ballots to only an immediate family member. That is particularly harsh in Florida where so many people live in residential facilities that they don't have access to a family member who could help them return their absentee ballot. There's another provision in Florida that does similar things.

Eliza Sweren-Becker (00:34:14):

It would also prohibit the local election officials from taking money from any independent outside source and last year with a shortage in funding and very expensive elections to carry off, several jurisdictions received grants from nonpartisan organizations to enable them to, you know, have the absentee ballot resources, have the PPE that they

needed to carry off safe elections. And then the same Florida provision would likewise ban the provision of snacks and drinks to voters in line. And I think that sort of the reason why those kinds of provisions have gotten a lot of attention, even if they're not directly stopping somebody from voting, is sort of the why. Like voters wait in long, hot lines. Why would you stop nonpartisan, including nonpartisan get out the vote folks, from making that process a little bit easier for voters? So, I think that goes to what Steven is saying, the sort of the why, the why does matter. Other places with harsh provisions that are advancing Missouri, New Hampshire, a number of bills in Michigan were dropped just a couple of weeks ago that would make voting harder. So those are the places that are sort of top of mind in terms of concern for voting access.

Nick Penniman (00:35:35):

But in the states like Michigan, you've got democratic governors who probably won't sign those bills. But Arizona, Florida, Texas, you've got aligned legislatures and governors mansions that could easily see those things sail through. So, Elise, why don't we kick it over to the audience for a sec and see what other questions we've got?

Elise Wirkus (00:35:53):

Definitely. We have a few questions here on the topic of nonpartisan election administration. And one of them is actually from our ReFormers Caucus member, former Congressman Glenn Nye in the crowd. So, hello Congressman. So I'm going to combine a few of them here. So what are your thoughts? We'll go to Secretary Grayson first, and then also we want to hear from all the panelists here, what are your thoughts on nonpartisan election administration ideas and the Georgia legislation (i.e., that the state election board should be chaired by a nonpartisan person)? And the follow-up to that is, is there any real value in having partisan secretaries of states?

Sec. Trey Grayson (00:36:32):

So as a former partisan secretary of state, I understand why you asked me that question. So the partisanship issue just in general is a tough one because on the one hand, our elections in most cases are between partisans and in some states that have tried to deemphasize the partisanship or deny it, or hide it, or resolve reform around, it just, it doesn't get rid of it because it's just there. And then you kind of have this other option, which is just to acknowledge it, make sure it's bipartisan. So then we shove aside independents and third parties, but, and most states do some example of the number two. Where we acknowledge that there's partisanship, where we have bipartisan boards, bipartisan poll workers, and kind of put it there up front and hope that there's, you know, almost like a mutually assured destruction, you know, to use a Cold War analogy, to kind of keep things in place. The reform in Georgia, which does, as has been mentioned, removes the secretary of state as the chair of the state board of elections.

Sec. Trey Grayson (00:37:35):

And it also increases the role of the legislature in having the ability to remove local election administrators. Again, as I mentioned a little bit earlier, there is some rationale behind a reform, not necessarily this reform, but a reform because we do have the trouble and we've seen this in Florida. Florida had had over the years, some trouble in election supervisors. That's the position that runs the county in Florida. And I'm not remembering exactly which South Florida county it was, but there was one administrator who had gotten, had several tough elections from an administration standpoint. And as I recall, she was in the process of being removed and then she retired before she could be removed. And so we do see that states struggle with this issue, but we also then had this experience of 2020, where people in positions, you know, we saw how dependent upon we were on like the guy in Michigan, resisting the temptation from the Republican [inaudible]...

Nick Penniman (00:38:29):

Aaron Van Langevelde. We all remember his name.

Sec. Trey Grayson (00:38:32):

Yeah. Yeah. And so, we remember him and also in Georgia, Secretary Raffensperger and Gabe Sterling standing up, and

frankly, you know, the governor, Lieutenant governor in Georgia as well, sort of standing up to Trump and defending the elections process because Governor Kemp was Raffensperger's predecessor and put in a lot of the rules that Georgia had in place in, you know, and presided over the ones that had predated him. So there is this challenge. And, you know, I was formally elected and I had some roles and I was a Republican, but, you know, one of the things I did notice is when you had a partisan secretary or a directly elected secretary in my era implementation of the Help America Vote Act was the big challenge in the 2000s. And the states that generally succeeded, relative to the states that struggled with HAVA implementation, tended to be the states where they directly elected partisan secretary of state, because that person's political career reelection or election of the future higher office was on the line.

Sec. Trey Grayson (00:39:28):

And the state that really had the biggest trouble with HAVA implementation was New York state, which has this kind of sclerosis because it's so bipartisan that almost nothing gets done, because, and is known for having among the worst run elections and the strictest rules in America on how to vote. I mean, it's probably gonna change with this legislature, but they had basically, they were excuse based and tons of troubles on election day and lines. And, so, I realize I'm being a little squirrely with my answer, but I don't know, I do worry that this Georgia provision, again, I go back to Steve as his comment about the challenge of all these things, even the best ideas, was the sort of the fundamental reason why a lot of these reforms are taking place is to try to address the unfounded concerns of the Republican activist base that were spread by lies from the president of the United States, and that continue to be spread.

Sec. Trey Grayson (00:40:22):

And it taints some of the good ideas and it makes the bad ideas even worse. And so this Georgia language I worry a little bit about it. On the positive side, it sets forth a very transparent procedure that has to be followed to remove election officials, to put them into place. So none of this is going to happen in a smoke-filled room. It'll happen very publicly, and I think there's democratic membership on all these committees, so they can object on public meetings, even if they can't stop it. So that's a positive, but it does create this risk of, you know, is the problem you're trying to solve incompetent local election administration? Is that problem worse than giving the ability for a party to take over and remove people who are maybe following the law when that law leads to the outcome you don't like? Which one is worse? And we saw in 2020 that maybe if the second one is worse, and that's my concern about that particular Georgia reform.

Nick Penniman (00:41:16):

Great. Let me just push a little bit on this, because I feel to some extent, like, you know, the 2020 election was a very narrow escape. It was like Luke Skywalker flying out of the death star before it explodes. There are so many things. The fact that we know Aaron Van Langevelde's name, the fact that we know Gabe Sterling's name and Raffensperger's name, and the fact that all of those people stood up and did the right thing. In a way we got lucky. You having been a former secretary and I'm sure you're a part of the Association of Secretaries of States. I can't think of like a wing nut secretary of state on either side. None comes to mind. And that's good. Well, that's what I was going to ask you about, because we know that some QAnon people, for instance, who truly believe the election was stolen are now saying that they want to tee up primary campaigns for secretary of state positions and for election administration positions. So maybe we've gotten lucky over the course of the last hundred years that we haven't had any hyper partisans who aren't willing to do a lot of really bad stuff in those positions, but it's possible that in the future, we might have people who are mal-intentioned or ill-intentioned. How do you solve for that? How do you deal with that? Especially when the Georgia law is opening up the possibility of election administration becoming more partisan.

Sec. Trey Grayson (00:42:39):

Yeah. So it is a challenge. And I think it'll be interesting to see what happens because most of the secretaries are elected in the federal midterms. So we're going to see a bunch of elections and primaries in 2022. I mean, it becomes a challenge. So other states select their secretaries by the state legislature. Well, then they're beholden to the state legislature and I've watched secretaries be kind of reigned in because then they have a very small electorate. Maybe

they have a harder time sort of stepping above, up above the fray. And they, you know, they got a hundred voters and that's all they really have to worry about. Another alternative is for a governor to appoint. Okay, well then we have an indirect, we don't have as much accountability, and we still have the partisan actor, you know, making that selection.

Sec. Trey Grayson (00:43:24):

The one thing that didn't, that also helped in 2020 is the courts. The courts, whenever they got the chance to rule, most of them on procedural grounds, but a few were on some of the grounds, all upheld, you know, the election administrators and the rules that were being followed. And so that is a safeguard that we have no matter what poison you pick, so to speak, we do have the courts. Of course, that gets into the whole who appoints the judges and all that. But, you know, one of the hopes that we have in America is that the federalist system of bifurcated power at the local, state, federal level, three branches of government at each, you know, really only have three branches, you know, at the federal level, the state level, that all of that sort of creates enough checks and balances that it, ultimately we get there at the end, despite how messy and maybe terrible that process is. So maybe that's how I might answer that question is that ultimately that somewhere in there, this all just kind of gets worked out and maybe, to use another Star Wars analogy, that's hope, and we don't necessarily want to, you know, rely too much on hope. But, you know, sometimes hope, hope has gotten us through a couple of hundred years so far. It'll keep us there as well.

Nick Penniman (00:44:35):

Alright, Elise, what else do you have?

Elise Wirkus (00:44:38):

I think a lot of us in this space are aware that HR1 has been introduced in the House and there's a very important S1 hearing coming up in the Senate. So this question is from Mary. She said, "What can we do if neither HR1, nor HR4 pass in the Senate? I'm super concerned about future elections."

Eliza Sweren-Becker (00:44:59):

So I guess I'll jump in here. The first thing I'll say is, I don't think it's a foregone conclusion that those bills are not going to pass in the Senate. And it's really, really important that advocates across the country continue to call for S1 to pass. And eventually when it is introduced the John Lewis Voting Rights Advancement Act to pass in the Senate as well. I think there is a really big constituency for democracy reform and the common sense election administration provisions in the For the People Act and the John Lewis Voting Rights Advancement Act, and senators just need to hear from Americans about how much it matters to them to be able to have free, fair, and secure access to the polls. So I want to first urge us not to give up on those really important bills. I am cautiously optimistic that we can get democracy reform passed through Congress and protect American voters of all political stripes.

Eliza Sweren-Becker (00:46:02):

Again, the provisions that are in HR1, S1, the For The People Act are provisions that help voters in both political parties and have been shown to be successful and secure in the states in which they were already enacted. You know, automatic voter registration, early voting, no excuse absentee voting. These are policies that majority Republican states employ with great success. And shouldn't be controversial. Having said that, I think that the challenges in getting those bills past the Senate are real. And that means the efforts to protect voting rights also have to persist in the states. And we're seeing, I think, meaningful pushback and advocacy against the bills in Arizona and Texas, for example. I think what happened in Georgia really woke up a lot of Americans across the country, including business leadership, that these proposals, which are again, as we've said over and over, premised on the big lie. They're not just press releases issued by Republican state lawmakers.

Eliza Sweren-Becker (00:47:08):

You know, they are proposals to change election law, and they can become law in states as they have in Georgia. And so there's a real risk in Texas, a real risk in Arizona. And these policies don't just make it harder for Democrats to vote.

They make it harder for everyone to vote, including Republicans. And again, Republicans have a long history of taking advantage of mail voting and early voting. So I think we have to continue to press forward in Congress, in DC, pushing for the For the People Act and the John Lewis Voting Rights Advancement Act. But I do think that there is a galvanized momentum to push back against these restrictions in the states. Now that folks realize that what happened in Georgia could be coming to a state near you, and those policies are not good for democracy, regardless of what political party you belong to.

Nick Penniman (00:48:00):

Steven, you're a libertarian who works at a right-leaning think tank. I mean, often times what Republicans will say is, "we shouldn't federalize the elections." Right? Which is why they stand against election reforms passing through Congress. And they often point to Article One, Section Four of the Constitution in making that case. But when I read Article One, Section Four what it says is, the first part of the sentence says the states shall make the rules. Then it's a semicolon, not a period. It's actually a semicolon. And then it says, unless Congress does, which is why the Voting Rights Act of '64 and others were perfectly constitutional law. So to what extent do you think if we see more bills passed that restrict voting at the state level, to what extent do you think there should be a federal response to it?

Steven Greenhut (00:48:57):

Yeah. I mean that would be a good one for a constitutional lawyer, but yeah, obviously there are times when Congress has the authority to do this. I mean, especially when people's fundamental civil rights are affected. However, you know our position on the state proposals, which, focusing again on the whole distinction issue, I think it's fundamentally flawed the whole concept from which these ideas flow, but they're not all terrible ideas. Although many of them are terrible ideas, but that doesn't mean Congress can't do some terrible things too. So here, I'm just looking at our recent statement on HR1 and concerns about its limits on speech, on political speech, and concerns about federalism weakening organizations that are trying to impact public policy.

Steven Greenhut (00:49:53):

Even if it also attempts to do some good things too, as far as mail-in voting. So yeah, Congress can do a lot of things, that doesn't mean that a lot of the things that Congress does are good. And, so, we're concerned about what the states are doing, but we're also concerned about what the federal government might be doing. But as you pointed out, I'm a libertarian. So we're always concerned about everything. Nobody we support ever wins elections and we're used to being disappointed. I wanted to, if it's ok, go back to a previous answer about Trey and the partisan secretary of state's issue. And I tend to agree having watched politics closely, I think partisanship, you can't get politics out of politics and we have a political system and the idea is to have sufficient checks and balances, but it does seem like politicians with efforts to gain higher office is often better than having bureaucrats who aren't quite as accountable.

Steven Greenhut (00:51:00):

And I've seen it in, well a separate issue, but our former attorney general, now the HHS secretary, a partisan Democrat, he was a tool of the unions. The new attorney general is a partisan Democrat and had been an opponent of the police union. So partisanship doesn't, especially on issues like attorney general, secretary of state, it doesn't always add up to what you think it might add up to. And one final point I think it is a cultural issue. Trey had pointed to Minnesota and how they don't pass voting reforms unless it's on a bipartisan basis. I think there's some cultural issues here. Some way of getting us out of this viewing elections as a partisan grudge match. I mean that sounds contradictory, but the election process, because I've known elected officials who are very much about good government and I've known those who are less so, so I don't know how we rebuild some of those cultural guardrails. And Nick, finally, you had pointed out that we were lucky that the whole system didn't collapse and I agree that we were fortunate that it didn't. But I think the system did hold, although we didn't want to test the guardrails quite so much. So I think that would be my goal is: how do we create a system where we're not testing the guardrails so much and we're just staying within our lanes. So there might be some cultural aspects of that.

Nick Penniman (00:52:36):

Yeah, that's a fascinating point and worthy of future conversation. Elise, I know we've got 25 more questions in the chat, so maybe you can summarize them all?

Elise Wirkus (00:52:48):

Yeah, I think this one will feed into our next event. Quick plug, April 20th, our next event, National Council on Election Integrity Speaker Series will be on disinformation. I think it's no secret that trust in our elections, especially on the Republican side, is dwindling. And if this trend continues, I think it's scary for a lot of us about what that means for a small D democratic system here in the United States. So this question is "how do we debunk these lies without amplifying them?" You guys could weigh in on that, or what would you wave your magic wand to do?

Nick Penniman (00:53:30):

Who wants to take that? Trey, you're a formal elected official.

Sec. Trey Grayson (00:53:33):

Yeah, I mean, okay. So, and you're going to have an hour conversation on it, and we're going to talk about it in a couple of, you know, there's a couple of things. One is, you know, through the legislative process, we can work through some of these things. Now it doesn't necessarily reach a good outcome. But even like in Georgia, like Eliza she recounted a lot of the problems she has with that bill. The bill passed was nowhere near as bad as some of the earlier proposals and drafts. And some of that, the business community actually did engage in Georgia early on. I think what they didn't understand was when the final product when it was passed, I think the business community felt like some of the concerns from the opposition were addressed sufficiently, maybe not fully, but sufficiently, you know, you got to a little bit of an equilibrium and, again, this is something we sort of, I think we're not in agreement about like sort of how to interpret the law.

Sec. Trey Grayson (00:54:27):

How bad is it really, you know, what number do we want to put after Jim Crow, that sort of thing. But the business community worked with legislative leaders in Georgia to get to a point where it was "a better law." But there was a decision early on by Georgia legislative leaders to let the crazies introduce their bills. I think that's shaped, unfortunately the perception and the process a little bit, and maybe that wasn't the right outcome, but maybe that was where you had to do it. But again, I think back to 2016, where there were plenty of Democrats who felt like Trump colluded with the Russians. Now it's clear that the evidence is clear that the Russians meddled in our elections and would have liked to have done more, but the Mueller report showed that it wasn't clear, convincing evidence that Trump's campaign actually colluded with the Russians in that effort.

Sec. Trey Grayson (00:55:13):

So after the 2016 election, you had a fair amount of Democrats who believed that Trump had stolen the election, which wasn't true. So you know, this, this happens, but I think that the legislative process can help the courts. You know, that was something we could point to. We talked a little bit about that. When the courts reached decision, especially when Trump appointed judges ruled against the president's campaign, that was helpful. And I think it built in some trust. Also think that's where all of us who were around, you know, I'll call it the stakeholders. You know, the Brennan Center's, and the Issue One's, and R Street, and I'm involved with a couple groups, nonprofits, in my individual capacity. We need to step up and continue to, as a Republican, I feel an obligation to say that Trump lied because hopefully some Republicans will hear me say that.

Sec. Trey Grayson (00:56:00):

And I'm still a Republican. And I wrote an op-ed defending Raffensperger in the New York Times. It was funny — a lot of my progressive friends really liked it. But then when they got to the bottom where I said I wanted Mitch McConnell to be the majority leader of the United States Senate. And I'm worried that Georgia might blow these races for me. They're like, "Whoa, wait a minute. Maybe I didn't mean to retweet that." But I think it's important for some of the voices

inside the parties to be able to call out their own parties. And that's where there's a big debate upon, you know, do you stay in the party or do you exit the party? And I made the decision to stay in the party. Even though I find myself getting pulled a lot in some different directions because I'm not a Trump guy, but I believe in the party and its principles and a whole lot of its elected officials.

Sec. Trey Grayson (00:56:40):

And so I'm going to stay in, and hopefully that credibility that I have, that I can bring to the table will help persuade things. But I think there's a, we all have to kind of step up and call it out, on both sides. Again, Trump's much worse on this situation, but there is some both sides elements to this, HR1, S1, which we don't have a lot of time to get into. But the HR1 version of the bill had a lot of technical flaws. Did not engage election administrators. And it had some real challenges, even if you did agree with a lot of the provisions in it. I think the Senate will fix some of that, and then you're just left with a larger question about federal versus state roles in elections, which is another hour long conversation.

Nick Penniman (00:57:20):

Elise, any final questions that someone can answer in one minute?

Elise Wirkus (00:57:25):

I would love to hear Steven or Eliza's answer to the disinformation and trust in elections issue. But I also want to clarify for folks that we are recording this and we will circulate this afterwards. There's been a lot of questions about receiving the recording.

Eliza Sweren-Becker (00:57:40):

I mean, I would just echo what Secretary Grayson said that, honest brokers speaking to their party, the audiences that can hear them, are critical. So for conservatives, for Republicans, for libertarians, like Steven and Trey, to be able to speak to their audiences and call out the misinformation, I think that that is critically important. But I think we're all still working to figure out how do we pierce that bubble of misinformation, because, as eloquent and, sort of, accessible as Steven and Trey are, they're not reaching everybody who needs to get reached and who needs to be persuaded. I will say, Steven mentioned this sort of horrific feedback loop that was created where a lawmaker seized on the big lie about last year's election and perpetuated it. That sowed the seeds of distrust in the public.

Eliza Sweren-Becker (00:58:44):

And now the same lawmakers are saying, "look, the public has a lot of distrust. Now we have to enact legislation." And I think like the most important thing, and I don't know how realistic this is, is for those lawmakers to actually acknowledge the truth of last year's elections and to not perpetuate the big lie and the myth. Obviously, that may be wishful thinking. But the most important thing, you know, I'm hearing a lot of lawmakers say we have to do something to strengthen election integrity and trust in the elections. And the number one thing that those lawmakers can do is to say the results of last year's elections were accurate and correct. There was no widespread issues of voter fraud. There was no widespread election irregularity that tainted the results of any [inaudible], and you can trust the American small D democratic system. That would go a long way. I don't know that that's actually gonna happen, but that's my pitch.

Steven Greenhut (00:59:47):

Well, I'll keep my response real short. The response to a lie should be just truthfulness and not cranking it up on the other direction. So let's you just, people often don't believe the truth and you just keep at it. So I just think we need to stay focused on what really happened, what reforms are good, what reforms are bad, and not get in this whole, you know, decibels levels cranked up to unrealistic levels.

Nick Penniman (01:00:17):

Well, thank you all. And you guys have done a fantastic job of that in this conversation. For me, it's very heartening to hear a libertarian, Republican, Democrat having a meaningful conversation about these issues. That's what we gotta

get back to depolarize this stuff, as we've all been saying. Thank you all for joining us. As Elise said, there will be a recording of this and, Elise, plug the next event one more time,

Elise Wirkus (01:00:40):

April 20th, it will be on disinformation. We'll have a new set of wonderful panelists. Thank you to Steven, Eliza, and Secretary Grayson for joining us today. But this is just the start of the series. So thank you all.

Nick Penniman (01:00:55):

Thanks folks.