

Issue Brief



Wyoming Voter Restrictions

Wyoming has enacted additional restrictions limiting who can vote and how those voters can access the ballot. Wyoming was one of eleven states in 2023 to further restrict voting access.¹ Wyoming now ranks among the most restrictive states in the nation for voter access because fewer Wyomingites have access to the ballot than ever before – this in spite of the Heritage Foundation finding zero instances of fraud in Wyoming in the last decade.² The Equality State Policy Center notes, “We must strike a balance between safeguarding the integrity of our elections and guaranteeing that all eligible citizens have unimpeded access to the ballot box.”³

National Context

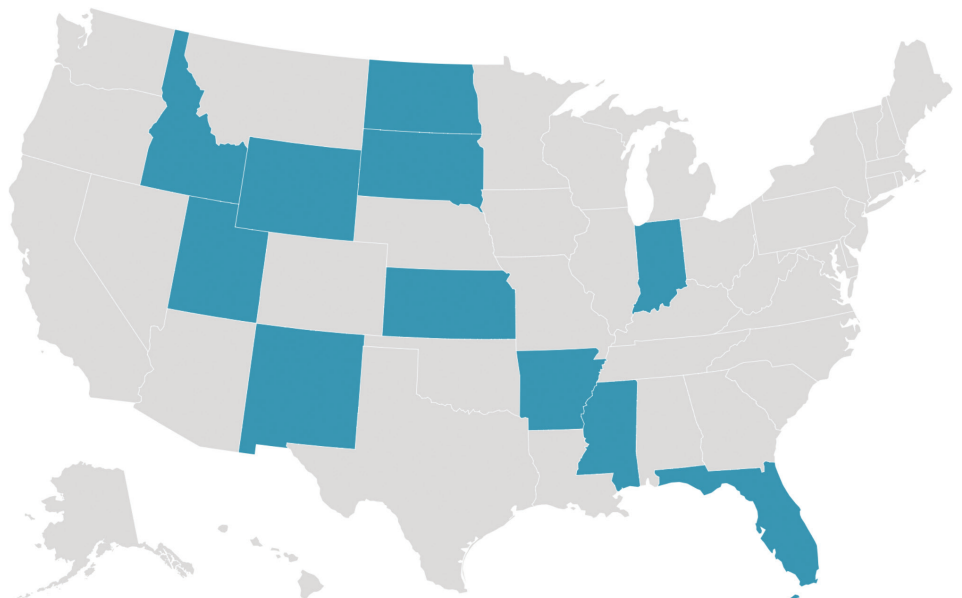
In 2023, lawmakers introduced at least 322 voter-restrictive bills in 45 states.⁴ The map below shows the states that enacted restrictions in 2023, including Wyoming.

Legislative restrictions on voting are part of a national trend designed to limit voter access and enable parties to determine their voter pool.⁵ As happened in prior legislative sessions, eleven states enacted restrictive laws.⁶ The total of 13 restrictive laws enacted in 2023 surpasses the total number of restrictive laws enacted in any year in the last decade except 2021 when 14 were passed. Wyoming was one of the states passing laws to curb voter access.⁷

- Of the laws passed and enacted, 7 curbed access to mail voting.⁸
- 6 implemented stricter photo ID requirements for voter registration or in-person voting.⁹
- Wisconsin joined New Hampshire and Wyoming as the only states to, effectively, ban voter registration drives.

Wyoming was one of 11 states to pass laws curbing voter access in 2023

Wyoming was also one of eleven states that passed new voter restrictions in 2021. These restrictions limited voter access and dropped Wyoming to 44th in the Cost of Voting Index (COVI). COVI looks at a comprehensive list of factors that impact voters



Source: Brennan Center analysis of publicly available data as of May 29, 2023.



including registration deadline, voter registration restrictions, registration drive restrictions, pre-registration laws, automatic voter registration, voting inconvenience, voter identification laws, poll hours, early voting days, absentee voting.

Wyoming Statutes Shut Out Wyoming Voters

Several provisions in Wyoming law complicate the path to the polls for “bona fide” Wyoming voters, as they are referred to in statute, and make it difficult for voters to cast their ballots.

As recently as 2023 Wyoming voters saw laws passed further limiting access to the polls. The 67th Wyoming Legislature passed SF153 - Election security and H103 – Political party affiliation declaration and changes.

In SF153, Wyoming lawmakers reduced the number of early voting days for Wyoming voters from 45 to 28.¹⁰

Until the Legislature passed HB103 in 2023, Wyoming had a semi-open primary. Wyoming voters had the right to change their party affiliation at any time including on Election Day. With the new law, residents can no longer change party affiliation or cancel their voter registration anytime after the nomination period opens for candidates, which falls 96 days ahead of the primary election, per state statute.¹¹ The change in Wyoming law now effectively shuts out approximately 17,000 non-major party voters and forces voters to choose a party before candidates file for office.



New Voting Restrictions for 2024 Election

In the upcoming 2024 election Wyoming voters will have new obstacles since the last time they cast their ballots.

- Early voting days were reduced from 45 to 28 days
- Voters must now be registered to vote before knowing which candidates are on the ballot
- Voters must now declare a major party 96 days before the Primary Election
- Proposed rules from the Secretary of State may require additional forms of identification in addition to a WY driver's license*

* If proposed December 2023 rules from the Secretary of State are adopted as proposed

Wyoming Clerks can host voter registration events or voters can register in the Clerk's Office; no citizen-led voter registration drives are allowed. Voters may register remotely only if their form is notarized. Wyoming statute governing citizen-led initiatives – the kind of efforts that often galvanize voter registration – allow for “qualified registered voters” to “subscribe to the petition.”¹²

Absentee voting requirements limit the ways in which voters can access and return absentee ballots. In Wyoming, “all absentee ballots must be received in the county clerk's office no later than 7:00 p.m. on Election Day.”¹³ Wyoming has only one remaining mail processing facility located within the state and that facility is being relocated to Denver.¹⁴ This further delays the time it takes for election mail to reach County Clerks. Wyoming doesn't offer postage-paid envelopes for absentee ballots.

Only seven (7) counties have drop boxes, while the number of in-person polling places has shrunk in recent years.



- › In some counties, polling places used to be located at schools, but increased safety concerns for staff and students have forced sites to move to a centralized location.
- › Statewide, a lack of volunteers has reduced locations and hours of polling stations.
- › For some rural voters that have seen consolidation of their precinct locations, their county ballot boxes are the only option left to exercise autonomy from larger communities.

Wyoming voters don't have access to an automatic or online voter registration option; this poses a particular impediment to rural voters.

Voter Purges

Voter purges are a way of “cleaning up” voter rolls by deleting names from registration lists. Updating registration lists when voters die, move, or otherwise become ineligible is necessary and important and maintains election integrity. In Wyoming, purges remove every voter who did not participate in the General Election. The chart below illustrates the impacts of voter purges with significant decreases in the voter rolls in February after election years.

Data from Wyoming elections show that the outcomes for the vast majority of all races are determined in the Republican primary election in August.¹⁵ The lack of competition leads many voters to skip the General Election without realizing that missing the

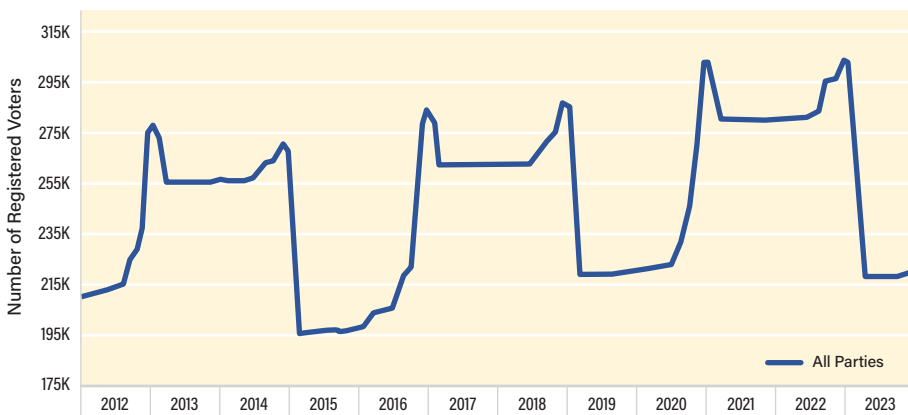
general means they will be purged from the voter rolls. According to the County Clerks Association of Wyoming in their January 8, 2024 letter to the Wyoming Legislature’s Management Council, “As a result of record-low turnout in the 2022 general election, nearly 29% of Wyoming voters (more than 86,000) were purged from the voter registration rolls.”¹⁶

Many voters discover they are no longer listed only when they arrive at the polling place in the next election. Fortunately, at least for now, it is still possible for Wyoming voters to re-register at their polling place and cast a vote in the primary election.^{17 18}

Further Restrictions on Voters in Administrative Rules

On December 7, 2023, Wyoming’s Secretary of State proposed new rules requiring proof of durational residency in order to register to vote.¹⁹ Though the Interim Joint Corporations Committee worked on this topic alongside the County Clerks Association of Wyoming (CCAW) during the 2023 Interim Session and advanced a bill on the same topic requiring a legal attestation,²⁰ the SOS promulgated separate rules that would be more restrictive for voters. Should the proposed rules go into effect for the 2024 election, Wyoming residents could no longer prove their Wyoming residency with a Wyoming driver’s license, for example; they would now need documentation proving their physical address and their length of residency in Wyoming.²¹

Wyoming Voter Registration by County



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County Clerks Association of Wyoming (CCAW) responded to the proposed rules on January 8, 2024; they highlighted policy questions, challenges in administration, and the possibility that the proposed rules will disenfranchise “bona fide” voters. Those who do not receive home delivery of mail, persons returning from mission trips, victims of intimate partner violence, those who are unhoused, anyone without a fixed permanent address, seasonal residents and workers, and Tribal Members are among the many voters likely to be disenfranchised by the proposed rules.

CCAW urged the Secretary of State, “to work with the legislature during the interim session to develop a solution ... that will enable eligible Wyoming voters to register and exercise their right to vote without substantial burden.”²²

Conclusion

Wyoming voters participating in the 2024 election can expect significant obstacles when accessing the polls, especially for the primary on August 20, 2024. Fewer polling places, greater restrictions on early and absentee voting, more identification requirements,

The emphasis on election integrity does not require blocking voter access to the polls

and changes in laws regarding affiliation changes will impact voters across Wyoming who are long accustomed to making decisions at their polling place on election day. The Wyoming Secretary of State has not committed resources to voter education regarding these changes to Wyoming election statutes.²³

The emphasis on election integrity does not require blocking voter access to the polls. Several states have managed to accomplish the task of ensuring secure elections and instantiating election security in statute without restricting voting access.

As Senate Corporations Chairman Cale Case recently asked in a committee hearing, “If someone is entitled to vote and they are discouraged from voting because we make it difficult, isn’t that a harm?”²⁴

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SENATE CORPORATIONS CHAIRMAN CALE CASE





Endnotes

- ¹ Schraufnagel, Scot, Michael J. Pomante II, and Quan Li. "Cost of Voting in the American States: 2022." *The Election Law Journal*, Volume 21, Number 3, 2022. "Table 1 provides a comprehensive listing of all the considerations that go into creating the latest version of the COVI."
- ² Heritage Foundation Voter Fraud Map, Wyoming: <https://www.heritage.org/voterfraud/search?state=WY>
- ³ Public comment of ESPC, available here: <https://equalitystate.org/wp-content/uploads/2023/12/FINAL-SoS-Request-for-Public-Hearing.pdf>
- ⁴ Brennan Center for Justice, "Voting Laws Roundup: June 2023," published June 14, 2023. Retrieved on 11/19/23: https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-june-2023#footnote1_3cfryd1, endnote 11.
- ⁵ Singh, Jasleen and Sara Carter, "States Have Added Nearly 100 Restrictive Laws Since SCOTUS Gutted the Voting Rights Act 10 Years Ago," Brennan Center for Justice, published June 23, 2023. Retrieved on 11/20/23: <https://www.brennancenter.org/our-work/analysis-opinion/states-have-added-nearly-100-restrictive-laws-scotus-gutted-voting-rights>.
- ⁶ Brennan Center for Justice, "Voting Laws Roundup: June 2023," published June 14, 2023. Retrieved on 11/19/23: https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-june-2023#footnote1_3cfryd1, endnote 1.
- ⁷ 67th Wyoming Legislature passed three bills: HB279 Voter identification requirements, SF153 Election security, HB103 Political party affiliation declaration and changes.
- ⁸ *Ibid*, endnote 8.
- ⁹ *Ibid*, endnote 9.
- ¹⁰ Bill text available: <https://www.wyoleg.gov/Legislation/2023/SF0153>
- ¹¹ New York, which has a February 14 deadline for changing party registration (approximately 133 days before their June 27 primary) and Kentucky, which has a December 31 deadline for party affiliation (approximately 142 days prior to their May 21 primary) have stricter deadlines. The Campaign Legal Center examined statutes in all 50 states and, while 19 states have some form of open primary system, only 9 other states had any restrictions on changing party affiliation.
- ¹² W.S. § 22-24-313
- ¹³ W.S. § 22-9-119. All absentee ballot rules are also available on the Wyoming Secretary of State's website: <https://sos.wyo.gov/elections/state/absenteevoting.aspx>
- ¹⁴ Hall, Jasmine, "Last of Wyoming's mail processing centers could be moved out-of-state." *JHNews&Guide*, December 29, 2023. Retrieved on January 9, 2024: https://www.jhnewsandguide.com/news/town_county/local/last-of-wyoming-mail-processing-centers-could-be-moved-out-of-state/article_afbb2da0-a5b3-11ee-8a7f-e30e61c77e18.html
- ¹⁵ Wyoming Secretary of State Election Results: <https://sos.wyo.gov/Elections/Docs/2022/2022GeneralResults.aspx>.
- ¹⁶ As noted in the CCAW memo available here: <https://wyofile.com/wp-content/uploads/2024/01/CCAW-Registration-Rule-Comments.pdf>
- ¹⁷ Wyoming is one of six states (along with Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin) that the National Voter Registration Act of 1993, H.R. 2, 103rd Cong. (1993) 52 U.S.C. § 20504(b) (sometimes called "Motor Voter Act") exempts from its purge protocols because those states had Election-Day registration or lacked voter-registration requirements. According to the Brennan Center's Myrna Perez, "This reflects Congress's assessment that purge consequences are much less grave in a state that permits anyone eligible who is not on the registration rolls to register and vote on Election Day."
- ¹⁸ Original House Bill 0075 Voter identification from the 2021 General Session of the Wyoming Legislature requires specified identification that voters must present to register and to vote. The ability to re-register and cast a vote on election day, if purged, is predicated on the voter having that voter identification in hand.
- ¹⁹ A copy of the proposed rules can be found online under Secretary of State > Election Rules > Chapter 2 Rules: Identification for Voter Registration via the following search link: <https://rules.wyo.gov/Search.aspx?mode=2>
- ²⁰ Interim Joint Corporations, Elections and Political Subdivisions Committee advanced HB0038 Voter qualifications - durational residency requirements for consideration in the 2024 Budget Session. Bill draft is here: <https://www.wyoleg.gov/Legislation/2024/HB0038>
- ²¹ The complete list of acceptable proof of durational residency is contained in the proposed rules, available online under Secretary of State > Election Rules > Chapter 2 Rules: Identification for Voter Registration via the following search link: <https://rules.wyo.gov/Search.aspx?mode=2>
- ²² As noted in the CCAW memo available here: <https://wyofile.com/wp-content/uploads/2024/01/CCAW-Registration-Rule-Comments.pdf>
- ²³ The SOS maintains a comprehensive list of election-related dates; while the August Primary is listed in bold red type, the final day for voters to change party affiliation (Wednesday, May 15, 2023) is listed alongside all other procedural, internal, and Clerk dates without emphasis. https://sos.wyo.gov/Elections/Docs/2024/2024_Election_Calendar.pdf
- ²⁴ Interim Joint Corporations, Elections & Political Subdivisions Committee, October 26, 2023 - AM, <https://www.youtube.com/watch?v=GTxbZU4CwDE>, timestamp 1:05:05.