HEATHER K. GERKEN

THE TOBIN PROJECT

DISCUSSION PAPER

A Race to the Top: Using a National Ranking System to Shame Localities into Improving Their Election Practices

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The Problem:

In the wake of the 2000 and 2004 presidential elections, we are all painfully aware of the problems that plague our election system: long lines at the polls, large numbers of discarded ballots, poorly trained election workers, and too many voters discouraged from registering or casting a vote. Federal legislation capable of redressing these problems has not yet been passed. Nor has the Election Assistance Commission, the federal agency created by the Help America Vote Act, been able to resolve these issues given its modest mandate and lack of clout. If national mandates cannot be passed, is there a way to encourage electoral reform at the local level?

The Solution:

Congress should instruct the EAC to devise a national ranking system of election law practices in order to shame localities into improving their election systems. This strategy is taken directly from the play book of human-rights organizations and environmental groups, which have used rankings to prod nations and states into improving their policies and practices. The strategy works for a simple reason: no one wants to be at the bottom of the list. A national ranking system has the potential to unleash something unusual in a federal system: a race to the top.

Why We Need a Ranking System: No Voter Left Behind. Most Americans are generally aware of the problems in our voting system. But it is difficult for voters to do anything because they lack the kind of concrete, comparative information that would tell them precisely what the problems are and where they exist. Information-forcing devices like this have become quite familiar in the wake of the No Child

Heather Gerken is a Professor of Law at Yale Law School and Chair of the Tobin Project Institutions of Democracy Working Group.

THE TOBIN PROJECT

One Mifflin Place, Suite 240
Cambridge, MA 02138

t (617) 547-2600
f (617) 547-2601

www.tobinproject.org

Left Behind Act, which generates school-by-school report cards ranking each school's relative performance on a variety of measures.

Voters need the same type of comparative information if they are to hold election administrators accountable for their failures. And it should be easier to devise objective, comparative measures for evaluating local election practices than for ranking educational quality. After all, voters know what they want—or, rather, what they don't want (long lines, discarded ballots, burdensome registration requirements). For instance, an EAC ranking system could tell us which states and localities discard the most ballots, where we find the greatest political or racial disparities in registration and turnout levels, and which polling places have the worst voter-to-machine ratios. The EAC has already conducted a major study of election law practices nationwide, but it has not provided an accessible set of comparative rankings on every issue that matters to voters.

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Would Voters Pay Attention? Harnessing the Power of Political Competition. One might worry that voters would ignore a ranking system of election practices. After all, few of us worry as much about the performance of our polling place as we do about the success of our children's schools. But voters have a ready-made ally that cares deeply about this information: political parties, which can use it for partisan advantage if they get the word out.

By creating a national ranking system, the EAC could get the political parties to do its work for it. Consider, for instance, the fate of Ohio's Secretary of State, Kenneth Blackwell, who presided over an Election Day that was error-filled, chaotic, and tainted by claims of partisan bias. Blackwell is now angling to be the governor of Ohio. Imagine if Ohio Democrats had a national ranking system showing that Ohio was one of the worst-run election systems in the country based upon a variety of objective, EAC-endorsed measures. Secretaries of State across the country would surely take notice of that campaign. Even the rare election administrator without higher political ambitions would feel pressure to do better; shaming is a remarkably effective device.

Other Benefits. A ranking system not only has the potential for spurring reform, but offers other benefits as well. First, it gives states the independence and flexibility necessary to experiment while providing objective measures for holding them accountable. Second, it provides useful information for those contemplating national legislation in the future; a ranking system should help Congress identify best practices, choose sensible standards for regulatory floors, and pinpoint local outliers. Third, it is a relatively cheap and painless strategy for spurring reform, an interim step between the weak regulatory scheme created by the Help America Vote Act and a strong system of nationally mandated standards.