

ANOTHER CHANGE-MAKING YEAR

**States Continue
Transforming the
Elections Legislation
Landscape in 2023**

**VOTING
RIGHTS
LAB**

May 2023

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A Letter from our Executive Director

Dear friends,

In the last few years, the resiliency of American elections has been tested – but it has not broken. From holding a major presidential election during a pandemic, to unlawful and failed attempts to overthrow the will of the voters, to historic numbers of bills being debated to change our election systems, we have witnessed some of the greatest challenges to our democratic institutions and freedom in history. But through it all, voters across the United States remained engaged, showed up to make their voices heard, and successfully defended our democracy.

Even so, this country has a long way to go to build a democracy that works for all of us, and ensuring every American has the freedom to vote how they choose is core to that mission. That's why I'm excited to share this new report from Voting Rights Lab with you. This report is unlike any other we've issued before, tracking and analyzing the trends in state-level legislation across the first quarters of 2021, 2022, and 2023 – so we can better understand where we are at this moment in time, right on the heels of the most dynamic period for elections law in recent memory and ahead of another major federal election. Even though many states are still early in their legislative sessions, our findings are instructive for our collective movement for free and fair elections.

Importantly, our research shows that despite what you may hear in the news, the movement for a more accessible and fair democracy is in fact winning, as most of the bills introduced in the last three years actually would improve voting access. In recent years, we've seen numerous states adopt state-level voting rights constitutional protections, expand mail and early voting opportunities, restore voting eligibility to individuals with past felony convictions, and break down other barriers to participation in our democracy. We've also seen extremely important, lesser noticed reform passed with bipartisan support that will have a lasting impact on all voters, such as creating a cure process for fixing minor errors on mail ballot envelopes in [nine states](#), including Texas; allowing in-person early voting for the first time in [four states](#) – Missouri, South Carolina, Connecticut, and Kentucky; and giving election officials more time to process mail ballots in [23 states](#), including Arizona, Florida, Georgia, Michigan, and Ohio. Our data shows 2023 is on track to bring concrete gains for voters as well.

The report also documents that the number of bills enacted at this point in session related to voting and elections is actually higher than what it was in the first quarter of 2022, meaning state lawmakers are still focused on voting and elections. Indeed, anyone working in the elections policy space will tell you we are as busy as we have ever been.

Simply put, the work to defend and expand our democracy remains as urgent as ever. This report will detail how those who want to undermine confidence in our elections are honing in on very specific, very troublesome areas and attacking our local election administrators – the public servants responsible for running our elections and upholding our democratic processes. All of us must stay vigilant and continue to protect voters and the very fabric of our democracy from conspiracy theories and other bad-faith efforts to restrict our freedom to vote.

In spite of all we're up against, I remain optimistic about our future, because time and time again, American voters continue to choose democracy. Together, we will continue to build a democracy that is more inclusive, more expansive, and more fair. Together, we can deliver on the promise of a democracy that works for all of us.

With hope,

A handwritten signature in black ink, appearing to read "Megan Lewis". The signature is fluid and cursive, with the first name "Megan" written in a larger, more prominent script than the last name "Lewis".

Megan Lewis
Executive Director and Co-founder, Voting Rights Lab

Methodology

This report is a first-of-its-kind presentation of year-over-year data derived from Voting Rights Lab’s [State Legislative Tracker](#). The Tracker is a database of state legislation across 19 issue areas relating to voter access and election administration. Using a software program (LexisNexis State Net) that scrapes state legislation in all 50 states and D.C. to identify potentially relevant bills, Voting Rights Lab legislative counsels review, analyze, and categorize each bill. Our staff summarize and label each piece of relevant legislation, so that the bills can easily be sorted according to state, policy (and sub-policy), and impact. Bill summaries and labels are updated as legislation is amended so that Tracker records reflect the most recent bill text.

The dataset used in this original analysis compares Tracker records of 3,985 pieces of legislation active in the first quarter (January 1 to March 31) of 2021, 2022, and 2023 in 46 state legislatures and Washington, D.C. Because this report is comparing year-over-year data, we excluded data from states where the legislatures meet only in odd-numbered years. As a result, four states – Montana, Nevada, Texas, and North Dakota – were excluded from the analysis because the legislatures did not meet in 2022.

Bills were considered active if they were introduced or otherwise acted upon by the legislature or governor within the aforementioned timeframes. Relevant actions include but are not limited to pre-filing, introduction, committee referral, passage from a committee or chamber floor, enactment, or veto. Bills carried over from a previous year were excluded from the dataset if they had no reported actions within the report’s timeframes.

Executive Summary

Election policy has recently become a focus of many state lawmakers. In the first quarters of 2021, 2022, and 2023, there was a combined total of 3,985 pieces of election legislation considered in the 46 states that met in all three years and D.C.¹ While the headlines mostly have focused on bills that restrict voting rights in the states, our research through the Voting Rights Lab's State Voting Rights Tracker found that more than half of all elections-related bills introduced in the first quarter of the 2021, 2022, and 2023 legislative sessions would expand voting access and support nonpartisan election administration.

Building on our State Voting Rights Tracker, our team of researchers and policy experts created this first-of-its-kind report that examines election-related legislation introduced in the first quarter in states over the post-2020 period, a transformative time for elections policy nationwide. Our findings provide insight into where voting rights policy at the state level is headed in the months and years to come.

Among the key findings of this report are:

- **Election legislation remains a steady focus of state lawmakers, with more bills enacted in the first quarter of 2023 than in 2022 or 2021.** While the number of election-related bills introduced has dipped slightly in the first quarter of this year (1,307) as compared to either 2022 (1,539) or 2021 (1,444), the number of newly enacted laws is actually higher this year (46) than it was at this point in either 2022 (41) or 2021 (35). There are more newly enacted laws that improve voter access or election administration than restrict it; however, restrictive laws represent a higher proportion of laws enacted in 2023 than in either 2022 or 2021.
- **State lawmakers are less focused on mail voting legislation this year.** In the first quarter of the 2021 session, 44% of all election bills contained provisions related to mail voting, compared to 39% in 2022 and 34% in 2023. Similarly, 16 bills relating to mail voting were enacted in the first quarter of 2023, compared to 20 at the same point last year.

1 This figure, and all such figures in the report, applies to the 46 states where the legislatures meet in both odd and even years and D.C. For the purposes of making year over year comparisons, we omitted the four states that only meet in odd years from the analysis. Please see the methodology section for more information.

- **Bipartisan efforts to restore voting rights to citizens with past felony convictions are back on the rise in 2023.** In the first quarter of 2023, we saw 45% more bills that would reduce or end disenfranchisement for criminal convictions or make it easier for disenfranchised individuals to have their rights restored than in 2022. The momentum on this issue is overwhelmingly towards expanding access – 93% of the active bills would improve voting access for citizens with past felony convictions.
- **Election interference legislation is increasingly targeting local election officials.** After emerging as a new and disturbing trend in 2021 and 2022, legislation that interferes with fair, nonpartisan election administration appears to be declining but still active in 2023 – and it is clear that state and local election officials are the main target of these bills. State and local election officials have been the target of two-thirds (66%) of all election interference legislation considered in the first quarter of 2023, up from 55% during the same time period in 2021.

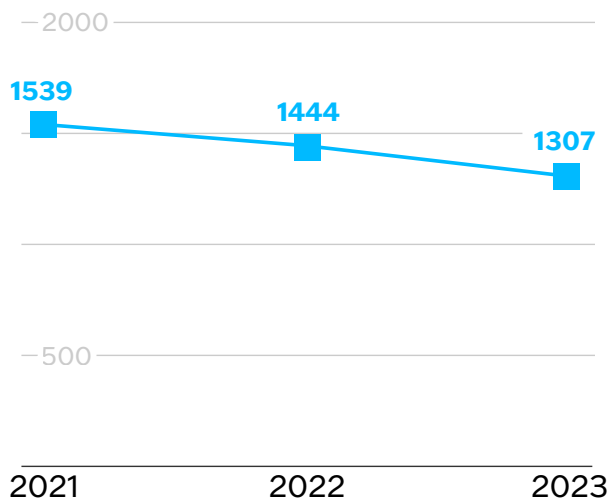
The following pages offer greater detail about where the first quarter of the 2023 legislative session falls in comparison to the same period in 2022 and 2021.

Election Legislation Remains a Significant Focus for State Legislators in the Post-2020 Period and Today

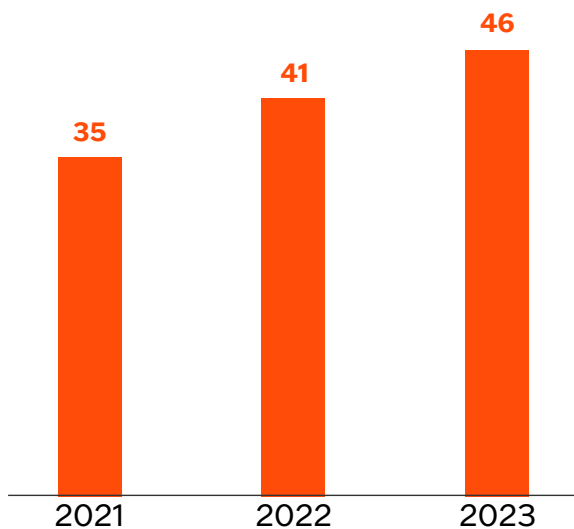
The legislative sessions following the 2020 election have been some of the most prolific for election law in recent history, with states across the country introducing and enacting a surge of new laws impacting how people vote and how our elections are run. This trend continued in the first quarter of 2023, with over 1,300 voting bills already introduced as of March 31, 2023 in the 46 states analyzed in this report.²

While the number of election bills introduced has dipped slightly this year, the number of newly-enacted laws is actually higher this year than it was at this point in either 2021 or 2022. The number of election-related bills active in the first quarter has been on a downward trend, dropping by 6% in 2022 (as compared to 2021), then a further 10% in 2023 (as compared to 2022). The number of bills enacted in the first quarter has been on the opposite trajectory – rising from 35 bills in 2021, to 41 bills in 2022, and 46 bills in 2023.

ACTIVE VOTING BILLS BEFORE 4/1



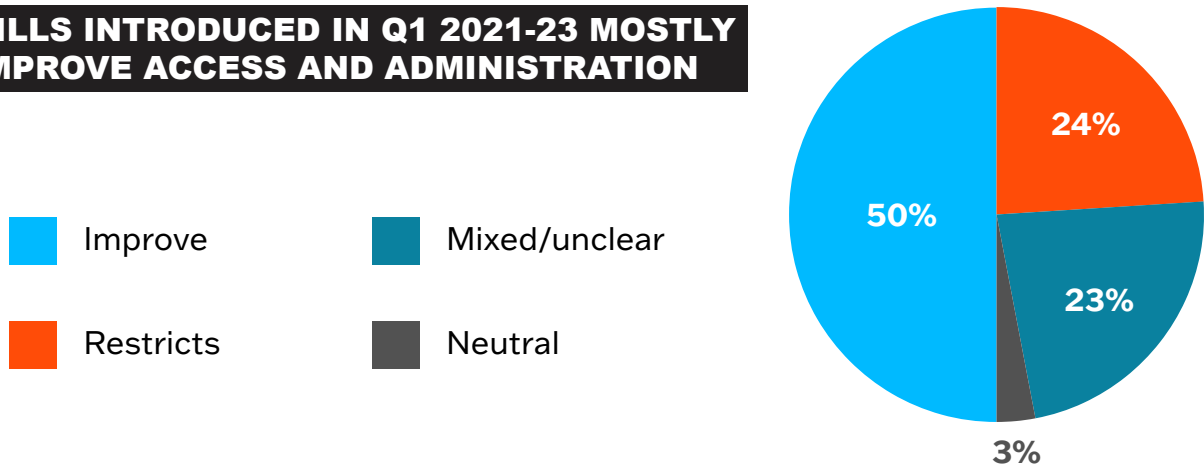
ENACTED VOTING LAWS BEFORE 4/1



² This figure, and all such figures in the report, applies to the 46 states (and D.C.) where the legislatures meet in both odd and even years. For the purposes of making year over year comparisons, we omitted the four states that only meet in odd years from the analysis. Please see the methodology section for more information.

Each year we've seen significantly more bills introduced that would improve voting access and election administration than would restrict it. Of the nearly 4,000 voting and election bills that were active as of March 31 in the 2021-2023 legislative sessions, 50% would have improved voting access and 24% would have restricted voting access, with the rest having a mixed, unclear, or neutral impact.

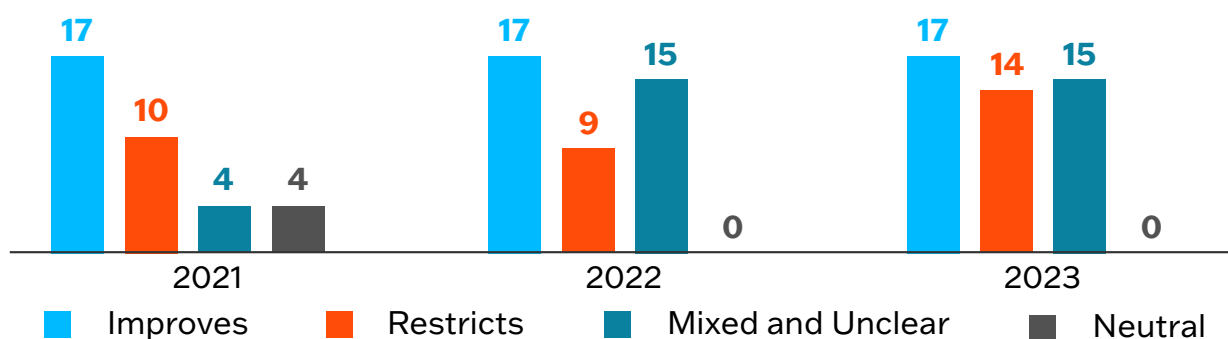
BILLS INTRODUCED IN Q1 2021-23 MOSTLY IMPROVE ACCESS AND ADMINISTRATION



Of concern, the number of enacted laws that restrict voting access in the first quarter of 2023 is proportionally higher than it was in 2021 or 2022. As of March 31, 2023, state legislatures have enacted 14 bills that restrict access and 17 bills that improve access. This diverges from the activity we saw in the first quarter of 2021 and 2022, when the number of bills enacted that expanded access (17 in each year) significantly outnumbered the number that restricted access (nine in 2022; 10 in 2021).

It is still early in many legislative sessions, however, so it is yet to be seen whether the share of enacted restrictive bills in the first quarter of this year signal a greater share of restrictive bills enacted by year's end. While some states (such as Georgia and New Mexico) have already closed for the 2023 session, many (such as California and North Carolina) have months left in their sessions, and others (such as Michigan, Ohio, and Pennsylvania) have year-round legislatures.

GREATER SHARE OF RESTRICTIVE ENACTED LAWS IN Q1 2023



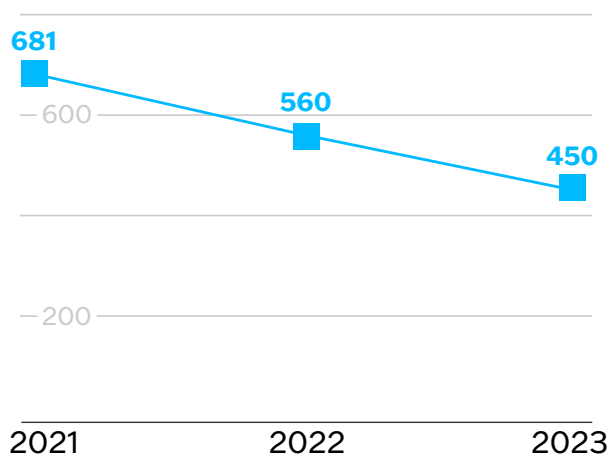
After a Post-2020 Surge, Fewer Changes to Mail Voting Pursued

Legislation relating to mail voting drove much of the increase in overall voting legislation following the 2020 election. In fact, as of March 31, 2021, states had introduced 681 bills with provisions related to mail voting – 44% of the total bills we were tracking in that time period.³

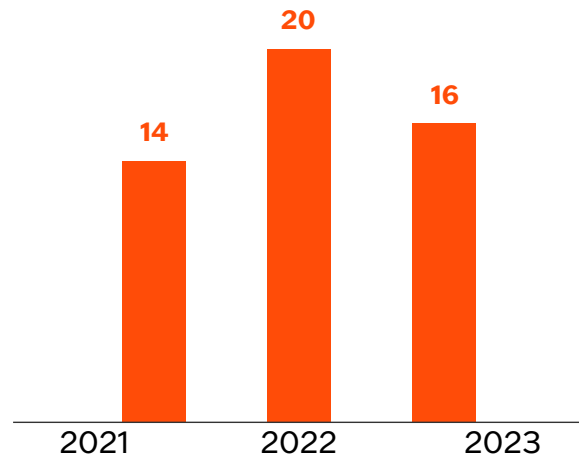
The deluge of mail voting legislation in the post-2020 period has reshaped what voter access looks like across the country. From 2021-2022, 39 states enacted legislation that changed mail voting access. A [sharp divide](#) developed in the country around this issue, with 25 states expanding access, 11 restricting it, and three doing both.⁴

This intense focus on mail voting appears to be waning in 2023, after spiking in 2022. As of March 31, 2023, state legislatures nationwide had 20% fewer active bills related to mail voting than they had at this point in 2022 – and 34% fewer than at this point in 2021. Similarly, 16 bills relating to mail voting were enacted in the first quarter of 2023, compared to 20 at the same point last year.

ACTIVE MAIL VOTING BILLS IN Q1



ENACTED MAIL VOTING BILLS IN Q1

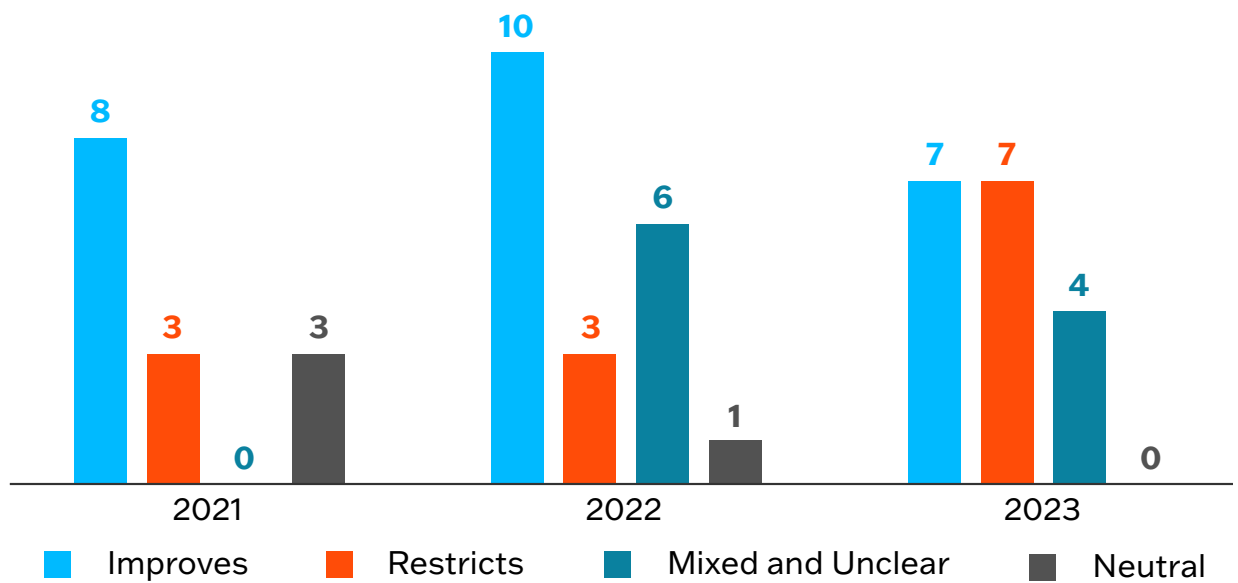


3 This figure, and all such figures in the report, applies to the 46 states (and D.C.) where the legislatures meet in both odd and even years. For the purposes of making year over year comparisons, we omitted the four states that only meet in odd years from the analysis. Please see the methodology section for more information.

4 See page 7 of [The State of State Election Law: A Review of 2021-2022 and a First Look at 2023](#) (December 2022).

States are enacting a higher volume and greater share of restrictive mail voting laws in the first quarter of 2023 than they did in 2022 or 2021. Across the first quarter of each year we studied, there have been more active bills that improve mail voting than bills that restrict it; however, 2023 is the first year that the balance has shifted when it comes to enacted laws. In the first quarter of 2023, states enacted equal numbers of bills that restrict and improve mail voting. Across five states, legislatures enacted seven laws that restrict mail voting, and seven laws across four states were enacted that improve access to mail voting. At the same point in 2022, state legislatures had enacted only three new laws to restrict mail voting, but they had enacted 10 new laws to improve it.

MORE RESTRICTIVE MAIL VOTING BILLS ENACTED IN Q1 2023

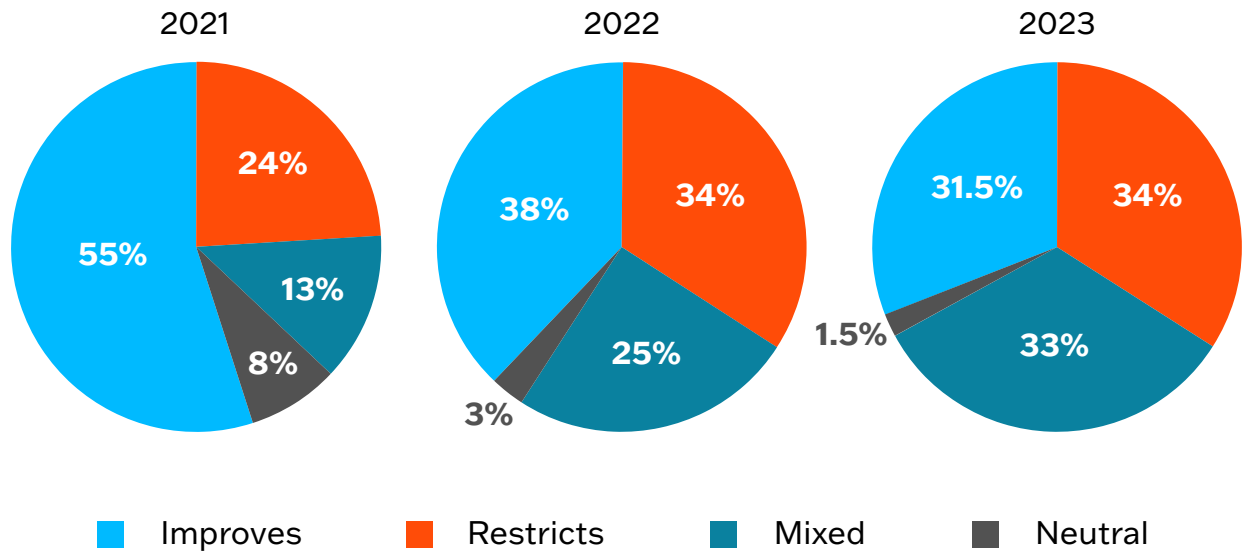


2023 is the first year that the number of enacted bills that restrict mail voting matches the number of enacted bills that improve mail voting in the first quarter.

This trend towards more restrictive mail voting bills is also bearing out when it comes to bills that have passed at least one chamber. In the first quarter of 2023, 24 bills that

would restrict mail voting passed at least one chamber, as compared to 22 bills that would improve it. Compare this to March 31, 2021, at which point 55 bills improving mail voting had passed at least one chamber, and 24 restricting it had done so.

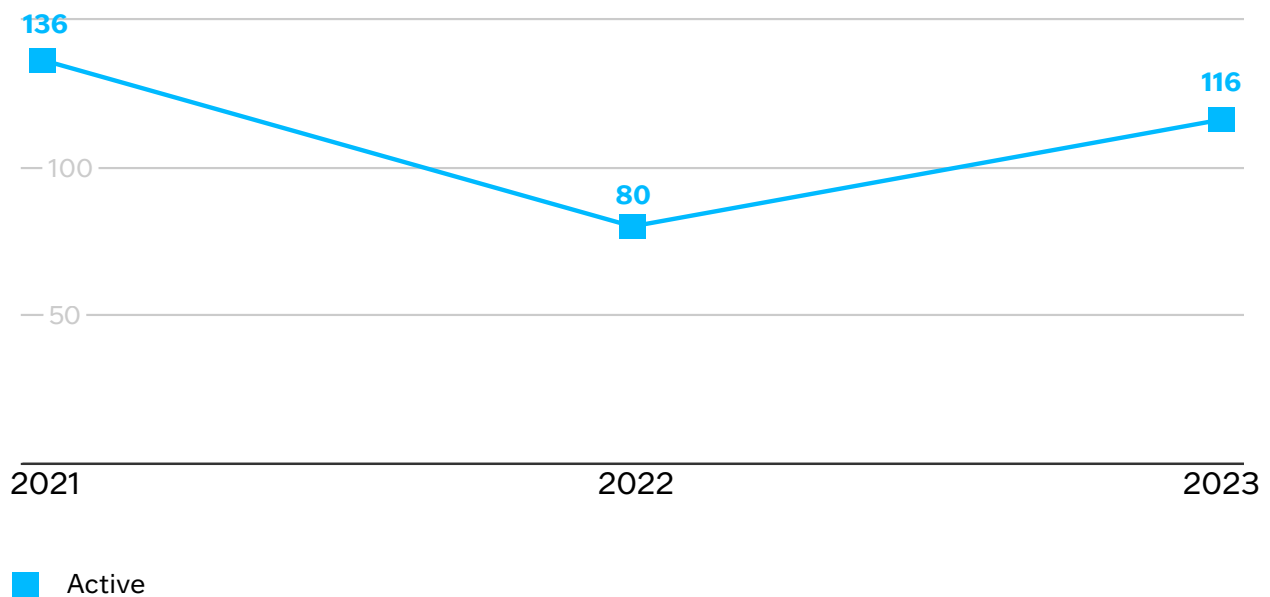
GREATER SHARE OF RESTRICTIVE MAIL VOTING BILLS PASS FIRST CHAMBER IN Q1 2023



Voting Rights Restoration Legislation Rises Again in 2023

Voting restoration is an area of election law that is seeing increased momentum in 2023, following a brief downtick in 2022. As of March 31, 2022, there were 40% fewer bills that improved voting access for citizens with felony convictions as compared to the same date in 2021.⁵ But that number swung back up the first quarter of this year by 45% with 116 bills introduced in 26 states, indicating a renewed interest in policies that reduce or end disenfranchisement for criminal convictions or make it easier for disenfranchised individuals to have their rights restored.

VOTING RIGHTS RESTORATION ON THE RISE IN Q1 2023



Unlike mail voting where we've seen a divide develop and deepen across the country over the past few years, the momentum on restoration is almost entirely towards expanding access. In the first quarter of 2023, 93% of legislation related to voting by citizens with convictions improves access – up from 85% in the first quarter of 2022.

⁵ This figure, and all such figures in the report, applies to the 46 states where the legislatures meet in both odd and even years and D.C. For the purposes of making year over year comparisons, we omitted the four states that only meet in odd years from the analysis. Please see the methodology section for more information.

Election Interference Legislation Remains a Threat, and Election Officials Are the Main Target

Following the 2020 election, state legislatures started introducing and enacting legislation that interfered with the fair, nonpartisan administration of elections. Among these proposals, we saw bills that shifted the power to oversee elections to partisan actors; threatened election officials with felony charges for simply doing their jobs; provided for partisan-motivated, standardless reviews of certified election results; escalated the investigation and prosecution of purported election crimes; and more.

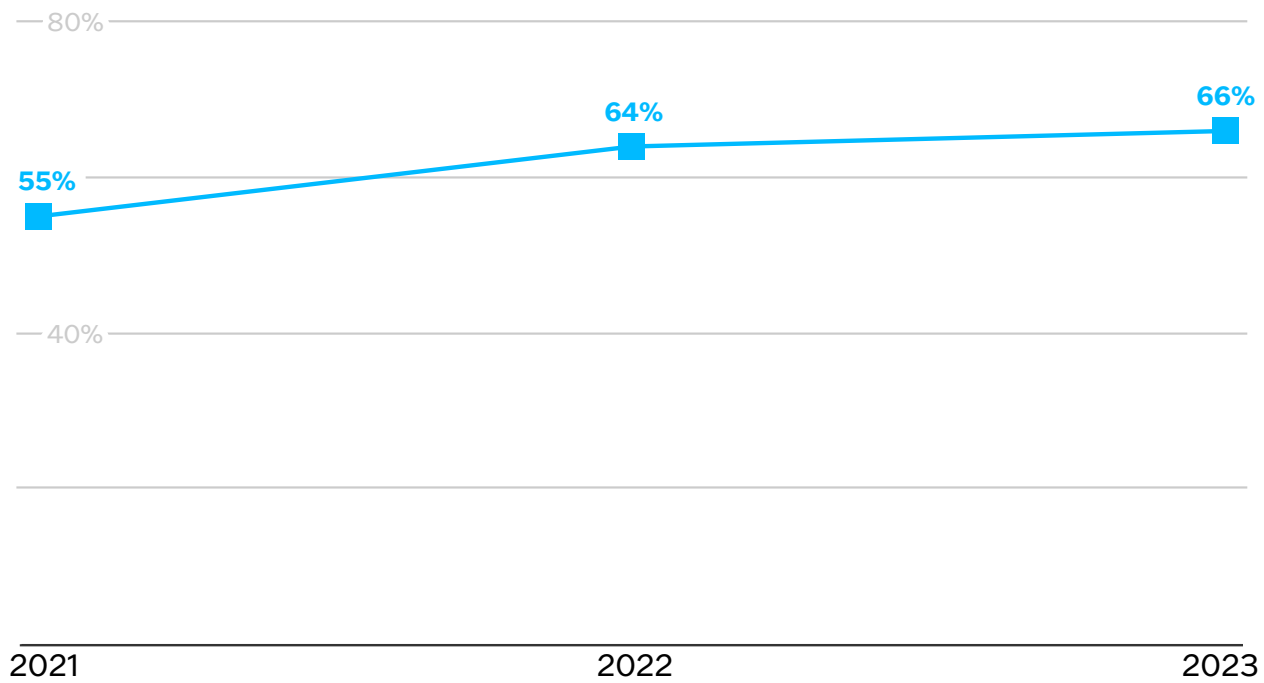
This trend emerged in 2021 and quickly gathered momentum in 2022. In fact, the number of bills on this topic introduced by March 31, 2022 increased by nearly 80% compared to the same point in 2021.⁶

In the first quarter of 2023, election interference legislation is declining but still active. The number of active election interference bills in the first quarter of this year (102) is less than half what it was during the same time period last year (223). The number of bills that have passed at least one chamber is significantly down as well – from 46 in 2022 to 21 in 2023. However, as of the end of March 2023, six election interference bills have been enacted – only two fewer than had been enacted at the same point last year.

Election officials remain the target of most of the legislation in this category. In 2021, of the 125 election interference bills introduced in the first quarter, 55% included one or more provisions that would interfere with, penalize, unjustifiably burden, or usurp the roles of election officials. The trend grew in the first quarter of 2022 to 64% (of the 223 bills), and in the first quarter of 2023, 66% of the 102 election interference bills included at least one provision that targets local election officials.

6 This figure, and all such figures in the report, applies to the 46 states where the legislatures meet in both odd and even years and D.C. For the purposes of making year over year comparisons, we omitted the four states that only meet in odd years from the analysis. Please see the methodology section for more information.

PERCENTAGE OF ELECTION INTERFERENCE BILLS TARGETING ELECTION OFFICIALS



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