



# THE CANVASS

STATES AND ELECTION REFORM®



**can•vass** (n.)

Compilation of election returns and validation of the outcome that forms the basis of the official results by a political subdivision.

—*U.S. Election Assistance Commission: Glossary of Key Election Terminology*

## Getting on the Ballot: What It Takes

Ballot access—getting candidates onto the ballot—is a sleepy issue, generally. But not this year, thanks to two news items. First, only Mitt Romney and Ron Paul were able to get their names onto the Republican primary ballot in Virginia, a shock to the Rick Perry and Newt Gingrich campaigns.

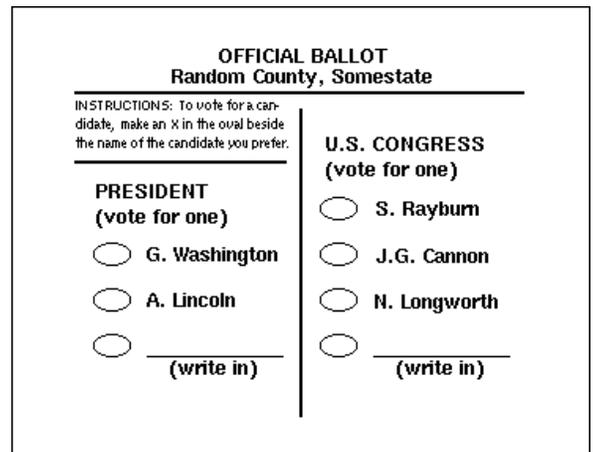
Second, [Americans Elect](#), a nonpartisan organization that plans to put a presidential candidate on all 50 state ballots, is generating ballot access buzz. Its candidate will be selected by an Internet-based nominating event in June, an event in which any registered voter can participate. (The [Reform Party](#) is also pursuing ballot access across the nation.)

In terms of ballot access, “the most interesting thing we’ve dealt with is the lack of uniformity” from state to state, says Kellen Arno, national field director for Americans Elect. “It’s not that any single state is difficult; it’s that if you believe there should be competition on the ballot, the variety of arbitrary oddities in state law is a challenge.” As of mid-January, Americans Elect had qualified in 14 states and collected the required petitions for another 16; its campaign to get on ballots in the remaining 20 states and the District of Columbia is on schedule.

For Democratic and Republican candidates it is generally fairly straightforward to get on a ballot. In most states any party that receives a specified percentage of the vote in an election is automatically granted a spot on the next ballot.

But if you are an independent candidate or from a minor party, “ballot access” is a whole different—and more difficult—kettle of fish.

From a historical perspective, it’s worth noting



that the U.S. Constitution says not one word about ballot

access, in part because it puts states in charge of elections. “When states had to start taking responsibility for printing ballots in the last part of 19th century and early in the 20th century, they were confronted with the question of who got onto the ballot. Some states chose to make it very difficult, and others created a more lenient process,” says political scientist Peveerill Squire, from the University of Missouri. “Over time, generally there’s been an effort to make it a little easier to get on the ballot, but there are still big differences across the states.”

Some say that democracy is about providing choice, and that everyone’s voice should be heard, even those we think of as coming from “the fringe.” “We believe in free competition in this country,” says Richard Winger, the editor of [Ballot Access News](#). “That should extend to candidate access to the ballot, especially for minor parties and independent candidates,” For regularly scheduled statewide general elections, there has never been a more crowded ballot than New Jersey’s 1993 gubernatorial election ballot, with 19 candidates on it, reports Winger.

To subscribe to The Canvass, please email a request to [thecanvass@ncsl.org](mailto:thecanvass@ncsl.org)

### Inside this issue:

Getting on the Ballot: What It Takes	1
Ballot Readability	3
Bookmark This	3
Being Online Is Still Not Enough	4
One Big Number	4
From the Chair	5
From the Election Administrator	5
Worth Noting	5
From NCSL	6



## Getting on the Ballot: What It Takes cont'd from p. 1

Others say that the state's responsibility is running orderly elections, and ballots with long lists of candidates only confuse voters and make it difficult for elections officials. "You can make an argument that without some controls in place, you run the risk of chaos," says Squire.

Of course, there's a political calculation, too; "it's clearly to the major parties' advantage to reduce the possibility for competitors to get on the ballot," says Squire.

No matter where you are on the "access for all/run an orderly election" continuum, legislators must consider these perennial ballot access questions:

**Filing fees:** Are they prohibitive?

**Filing dates:** Are they appropriate? Do they allow independent candidates and minor parties enough time to petition to get on the general ballot?

**Petition signature requirements:** Are they set at a reasonable number for minor party and independent candidates to gather? Should the requirement be a percentage of the population or a specific number? These tend to be in the range of 0.5 percent to 5.0 percent, or 5,000 to 25,000. Should the signatures represent all geographic areas within the state?

**Signature gatherers:** Is it acceptable to bring circulators in from other states to gather signatures? Is it okay to pay on a per-signature basis? California's Governor Brown [vetoed](#) a bill in 2011 that would have prohibited paying per signature.

**Political parties:** What percentage of the vote must a party receive to gain an automatic spot on future ballots? How does access for independent candidates differ from access for minor parties?

**Fusion:** Can two parties nominate the same candidate? This is called "fusion" voting, and has been permitted in at least Connecticut, Delaware, New York and South Carolina. [Delaware](#) prohibited fusion voting in 2011, however.

As for state action on ballot access, Tennessee is worth watching. A judge struck down the state's March deadline for new

party petitions in 2010. [Legislation](#) was enacted the next year to meet the court's objections by moving the deadline to April and removing the requirement that petition signers be members of the new political party. But minor parties claim that the new date is still too early, and their [case](#) is pending before a U.S. District Court.

From the state's perspective, "it comes down to a time situation for us," says Mark Goins, the coordinator of elections for Tennessee and a defendant in the case. He says that the state needs enough time "to comply with other laws, specifically the federal MOVE Act." He goes on to say that, based on information supplied by Americans Elect, new parties can get on the Tennessee ballot under the law as it is currently written.

Winger, the advocate for easier ballot access, points out that the MOVE Act, with its requirement that ballots be transmitted to overseas voters 45 days before an election, wouldn't be an issue for minor parties in Tennessee if they weren't required to hold a primary. The state is one of eight that requires all parties, including "recognized minor parties," to hold a primary, says Winger. Minor party plaintiffs in the 2010 and 2011 cases said they don't need a state primary and would prefer to select candidates by convention rather than by primaries.

### Other states enacted ballot access laws in 2011:

- [California](#) made it easier for members of the military to become candidates.
- [Maine](#) changed its requirement that political parties hold caucuses every two years in every county to holding them in at least 14 of the 16 counties. "Maine has some of the toughest ballot access requirements in the country. Having really restrictive laws on the books doesn't seem to be in the best interest of the public," says bill sponsor Representative Ben Chipman. "Down the road, we'll see how this new law works, and we can consider it again in the next legislature if we need to."



Representative Ben Chipman, Maine

Are you a legislative staffer who regularly works with elections policy? Would you like to be included on NCSL's roster of legislative election staffers? Over time, we hope to offer networking and professional development opportunities; in the short term, we'll put you in touch with each other, and provide educational materials. To join, send us an [email](#).





## Getting on the Ballot: What It Takes cont'd from p. 2

- Alabama, [Arkansas](#), [Nevada](#) and [Oklahoma](#) moved their petition deadlines for new parties to earlier dates.
- Ohio's [2011](#) omnibus elections bill moved the petition deadline for new parties from 120 days prior to the primary to 90 days, making it easier to get on the ballot. A successful campaign was led by the opponents of the bill to include a referendum against it on the Nov. 2012 ballot. In the meantime, a [U.S. District Court Judge](#) ordered the secretary

of State to put the Libertarian Party on the ballot in 2011 and 2012, indicating that even 90 days before the primary is too early for minor parties. The legislature appealed the case to the [6th Circuit Court](#).

Although these changes are insignificant to most people, they can be major to minor party supporters. As for the rest of the nation, the spotlight will be on ballot access laws in 2012, given Americans Elect's promise to get on the ballot, state by state by state.

## Ballot Readability by Shannon McNamara

Which of the following sentences is easier to read?

*"High-quality learning environments are a necessary precondition for facilitation and enhancement of the ongoing learning process."*

OR

*"Children need good schools to learn properly."*

If you're like most people, you probably preferred the latter because it's clearer, more concise, and written in plain language. (Plain Language is defined as: communication your audience can understand the first time they read or hear it" by the [Plain Language Action and Information Network](#).) The second statement is simply more readable.

A recent study highlights the importance of making ballot questions readable. [Ballot Readability and Roll-Off: the Impact of Language Complexity](#) by professors Shauna Reilly of Northern Kentucky University and Sean Richey of Georgia State University, explores whether the readability of ballot questions has an effect on voter participation. The authors analyzed 1,112 ballot measures from 1997 through 2007. They measured readability by applying the Flesch-Kincaid scale, a system that scores a passage of text according to the grade level of education required for comprehension. The study found a direct correlation between the grade level of the ballot question and voter participation: regardless of the topic, measures written in complex language were voted on

less frequently than those written more clearly. Most popular reading is written at an eighth-grade level, which studies demonstrate is the best level for the average American. The authors found, however, that *all* ballots included in their survey contained language that exceeded that level of reading proficiency. Well over half of the propositions analyzed fell into the graduate-school level or higher on the Flesch-Kincaid scale.

Unlike candidate selection, where partisan affiliation serves as a guidepost for many voters, ballot measures demand that voters tackle complex, nuanced issues. The biggest concern for state legislatures is that "complex ballot language can confuse voters," says co-author Reilly. And confused voters may end up casting a vote for the policy they *don't* want—or opting out of voting at all, she warns.

Many state legislators are concerned with the potential problems

Instead of:	Try:
Accompany	Go with
Accordingly	So
Adjacent to	Next to
Advantageous	Helpful



## Bookmark This

NCSL's blog, [The Thicket](#), offers news and insight on all things related to state legislatures. Items are short, easy-to-read and always accurate. It's the go-to place for analysis of party composition in legislatures, federalism, democracy, news from state capitols, and of course, elections.



## Ballot Readability cont'd from p. 3

caused by unclear ballot language. Missouri House Speaker Pro Tem Shane Schoeller recently introduced the [Missouri Fair Elections Act](#), which would create a bipartisan legislative commission to address how ballot proposition titles and summaries are written. “We want the average voter to be able to plainly understand the issues on the ballot,” he says.

The Usability Professionals’ Association created the [Voting and Usability Project](#) to offer guidance on ‘plain language,’ not only for ballots but for all elections-related materials. The [U.S. Election Assistance Commission](#) provides polling place and ballot design guidelines and templates that can be used at the state and local level. These options—plus a healthy dose of common sense—can help assure that elections accurately reflect the will of citizens.

*Editor’s Note: This article’s grade level was rated a 12.1 on the [Flesch-Kincaid](#) scale.*



Voter ID, voter registration, voting technology, early voting, overseas voters ... learn about these voting and elections topics in NCSL’s webinar, "[Putting Election Laws To The Test](#)," February 13, 2 pm ET. This is part of NCSL’s "Top 12 for 2012" webinar series.

## Being Online Is Still Not Enough

When voters google “Virginia polling places,” the first result is the Virginia State Board of Elections, which is exactly what voters and the state elections board want. But not all states are so successful at “search-engine optimization”—getting their websites to show up first in a search.

The Pew Center on the States studied this and many other elements of state elections websites for all 50 states plus the District of Columbia. Their analysis, [Being](#)



[Online Is Still Not Enough: Reviews and Recommendations for State Election Web Sites 2010](#), scored states on how well their websites performed from a voter’s perspective.

“Voters expect government services to keep pace” with the rest of the world, says Pew Senior Associate Matthew Morse. Good websites mean “states can both perform better and save money.”

The report identifies what features make a website go from good to great. These include clear language written at the eighth grade level; logical and easily navigable menus; great look-up tools for address-specific information such as polling places; and sections for overseas and military voters.

The study found that the nation is doing well at addressing the needs of military and overseas voters. Out of 51 jurisdictions—the states plus D.C.—50 have dedicated webpages for them. Not so good is website navigability, where only nine received full marks.

Overall, though, “election websites are generally improving, and that’s good news,” says Morse.

*For more on technology and elections, read the [full interview with Matthew Morse](#).*

## One Big Number:



“Of the more than 90 million people who turned out to vote in 2010, nearly 63 percent voted at the polls, 16 percent voted a domestic absentee ballot, and 8 percent voted early (prior to Election Day).” This quote is one of the highlights offered in the U.S. Election Assistance Commission’s [2010 Election Administration and Voting Survey Report](#). The report focuses on how Americans cast their ballots in the 2010 general election, including data on early, absentee, and polling place voting, provisional ballots, poll workers and voting technology.



## From the Chair

Representative Sam Hunt is the chair of the Washington State Government and Tribal Affairs Committee. On Jan. 13, 2012, NCSL asked him about the work that he and the state are doing on elections. This is an excerpt from the [full interview](#).



“Last year we became the second all vote-by-mail state, after our neighbor, Oregon. Vote-by-mail has been a huge success. We mail out ballots a long time before the election, and voters can fill theirs out the day they receive it or they can wait until Election Day to do it. In 2010, when all counties used mail ballots, voter turnout was 53 percent . . . For those who worry about ID at the polls, we have extremely good checks and balances. This year we have a couple of bills. One would allow 16- and 17-year-olds to register; these records would be kept in a separate file from the voter registration rolls until these young people turn 18. The other bill would permit same-day registration. Our neighbor, Idaho, offers this.”

## From the Election Administrator’s Perspective

Brian D. Newby has served as the election commissioner for Johnson County, Kan., since 2005 and has administered 40 elections during that time. On Jan. 19, 2012, NCSL asked him what the key issues are for his office. This is an excerpt from the [full interview](#).

“For me, photo ID isn’t even in the top 10 issues for 2012. Photo ID is more about creating procedures and making sure that there are no exceptions. We also are working to make sure that voters know what is required. Our approach to voter education is to target influential people who have a lot of contacts. These are candidates, political parties, and people who work on campaigns, or people who, if you get the right information to them, can get it to 10,000 people. We’ll be requiring voter ID in small elections in February where we hope to find out things that we didn’t know we needed to think about for implementation.”



## Worth Noting

- The General Accounting Office has released [Views on Implementing Federal Elections on a Weekend](#). Two key points: interviewees expect the cost of security to increase if elections are held on a weekend but that turnout, while hard to predict, will not increase.
- End-of-year roundups: Electionline Weekly published its [annual list](#) of what’s in and what’s out in election administration. NCSL’s [December 19, 2011 LAB](#) provided a legislative perspective on elections news from 2011.
- A report, [From Citizenship to Voting](#), has been released by Demos. It shows that naturalized citizens vote significantly less often than do native-born citizens, and registration seems to be the hitch. Some naturalization ceremonies offer voter registration on the spot.
- [Oklahoma](#) is giving its new voting equipment its inaugural run on February 14. The new optical scan equipment replaces 20-year-old machines. Unlike most states, Oklahoma counties all use the same technology.
- Taxes on beer go up the year after an election; executions increase in the years of gubernatorial elections; and pay for experienced teachers is higher in districts that use off-



## Worth Noting cont'd from p. 5

year elections for school boards. So say Stephen Dubner and Steven Levitt of [Freakonomics Radio](#). No causality is claimed.

- iPads aren't just for playing Angry Birds; [Oregon](#) election officials brought iPads to health care facilities to assist disabled voters. We can expect to see more consumer technology making its way into the elections world in 2012.
- This "[Data Dispatch](#)" from the Pew Center on the States says that, according to the U.S. Government Accountability Office, moving to all-mail elections nationwide would not have a significant impact on the financial well-being of the U.S. Postal Service. Election geek Doug Chapin [commented](#) on the report, saying "someone needs to examine whether the nation's election administrators can survive without the USPS, not the other way around."
- The Wisconsin Government Accountability Board is trying to get the word out about its new voter ID

requirements in several ways. One of those is to run a [speakers bureau](#) to take requests from all interested groups.

- Speaking of Wisconsin's GAB, it has set up a [webcam](#) for people to watch the process of counting 309,000 pages of signatures on recall petitions.
- Have you ever wondered how North Dakota manages elections without any registration system? The Secretary of State's [voter information](#) proudly describes how things work in the only state without registration.
- The [Overseas Vote Foundation](#), which has long sought to make it easier for overseas voters to get and cast their ballots, has launched the brand new [U.S. Vote Foundation](#). Here's what OVF had to say: "We believe it's time to provide U.S.-based voters with the same breadth and quality of online voter services that we have been providing to overseas and military voters for more than five years."

---

## From NCSL's Elections Team

We want to invite you all to NCSL's webinar, "*Putting Election Laws and Technology to the Test*," February 13, 2 p.m. eastern time. It is part of a "Top 12 in 2012" series; register and see the full program [here](#). This one will look at voter ID, voter registration and related topics that are sure to be hot in 2012.

As always, please stay in touch. If you've got an opinion about the newsletter, an example of newsworthy elections policy or a suggestion for future stories, please give us a call at 303-364-7700 or send us [an email](#). Thank you.

Jennie Bowser and Wendy Underhill



**The Canvass** An Elections Newsletter for Legislatures © 2011  
Published by the National Conference of State Legislatures  
William T. Pound, Executive Director  
To subscribe, contact [TheCanvass@ncsl.org](mailto:TheCanvass@ncsl.org)

In conjunction with NCSL, funding support for The Canvass is provided by the Pew Center on the States' Election Initiatives project.

The Canvass seeks to inform legislators and staff by sharing research, analysis and legislative best practices. Any opinions, findings or conclusions in this publication are those of NCSL and do not necessarily reflect the views of the Pew Center on the States. Links provided do not indicate NCSL endorsement of these sites.