



# 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*

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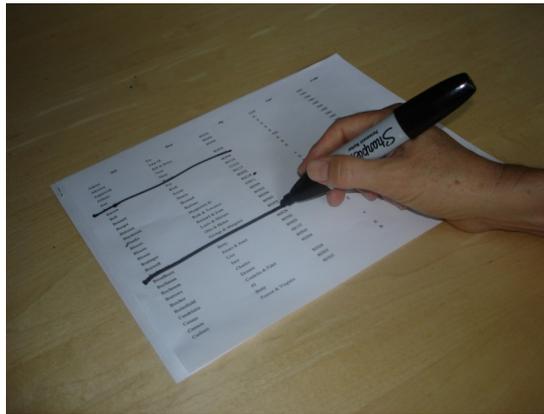
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## Voter List Maintenance: Why, How and When

In the world of elections, one person's purge is another person's list maintenance. The linguistic spat over removing names from voter registration lists represents a classic debate in the elections world: which is more important, ballot access for all or the integrity of the vote?

"Basically, the GOP seems willing to inconvenience valid voters in an effort to strike invalid voters from the voter rolls. Democrats on the other hand are so worried about the impact on valid voters of list maintenance that they appear to be willing to halt all efforts, even those that would strike clearly invalid voters," says Doug Chapin, director of the Program for Excellence in Election Administration at the University of Minnesota, and the author of the blog, [The Election Academy](#).

The hyperbole around removing names from voter rolls surfaces on a predictable four-year cycle connected to presidential elections. This cycle, [Florida](#) began reviewing its voter rolls with the intent to remove any non-citizens. This created a national stir both because it [inconvenienced a few citizens](#), some of whom had been voting for years, and because voting rights advocacy groups labeled the plan an effort to disenfranchise voters. And yet, the goal was "to make sure the process of removing ineligible voters from the voter rolls is as thorough and reliable as possible," says [Chris Cate](#), a spokesman for Florida's Division of Elections.



After many twists and turns in the courts and in the press, the federal Department of Homeland Security agreed in July to allow Florida and other states to use its law enforcement database, Systematic Alienation Verification for Entitlements ([SAVE](#)), to check the citizenship status.

Putting aside the politics of the issue, NCSL will examine why list maintenance matters, and what legislatures can (and in many cases, must) do to

keep their states' rolls free of deadwood in a way that is fair for all citizens.

### WHY List Maintenance Matters

"Voter records are messy, people move around, and there's a lot of noise in the system," says Chapin. Since voter rolls don't clean themselves, someone has to do it. If left untended, the lists grow longer and longer, leading to occasional examples of [jurisdictions](#) with more

names on the rolls than the voting age population.

The Pew Center on the States' 2012 report, [Inaccurate, Costly and Inefficient: Evidence that America's Voter Registration System Needs an Update](#), says that one out of eight voter registrations are invalid or significantly inaccurate. These include 1.8 million registrations for deceased voters.

Accuracy is the prime motivation for list maintenance. Saving money is another. Longer lists equate to more mailed notices, more ballots printed, and more money spent to run elections. Legislators and others ask, why spend money on voters who are no longer in the jurisdiction?

And there's this: "List maintenance is not optional; it is part of federal law," says (*cont. on page 2*)



## List Maintenance *(cont. from page 1)*

Michael Thielen, executive director of the [Republican National Lawyers Association](#). He is referring to the [National Voter Registration Act](#) of 1993.

NVRA is best known for requiring most states to provide an opportunity to register to vote at motor vehicle bureaus and public assistance offices. It also requires states to keep voter registration lists accurate and current, prohibits states from doing list maintenance within 90 days prior to a federal election, and sets standards for when names can be removed from the rolls.

Voting rights activists don't argue. "We're not opposed to list maintenance in principle; list maintenance is a good thing," says Jonathan Brater at the [Brennan Center for Justice](#). "What we worry about is that when states don't use good matching criteria, don't use transparent and accurate processes, or do the matching too close to an election for voters to be able to respond in the case of errors, problems could end up sweeping in lots and lots of citizens."

Much of the turmoil has centered around cancelled registrations due to concerns about citizenship, but registrations can be cancelled for a number of reasons. [Iowa's Election Law 48A.30](#), for instance, says a registration can be cancelled for any of six reasons: death, moving to another jurisdiction, a request from the voter to cancel the registration, a felony conviction, a declaration of incompetency under state law, or a registered voter's failure to vote in two successive general elections. Most states have similar rules.

### HOW list maintenance takes place

There's no doubt that list maintenance is a good idea and required by federal law, but states can do it their own way.

Some states spell out the rules in statute or state-level administrative directives, while others give local election officials wide latitude on exactly when and how to clean up records.

In all states, "list maintenance" is a process and removing voters from the rolls is simply the last of many steps.

- Careful data entry at the time of registration is essential. [Online voter registration](#) has been adopted in 13 states to reduce data input errors.
- List maintenance continues through the election season. Advocates and state election officials encourage voters to check their voter registration status, and update it if needed.

Sometimes this can be done online. [North Carolina](#), [Minnesota](#), and [Utah](#) provide good examples of state "look-up" tools. These look-up tools shift (or at least share) the responsibility for registration accuracy to the voter.

- Some states, such as Pennsylvania, use statutes to encourage voters to clean up after themselves; [Title 25, Sec.1501](#) provides voters with "removal forms" so they can notify authorities of a move.
- In [South Dakota](#), newly registered voters must say where they were previously registered, and acknowledge that they are authorizing cancellation of that previous registration when registering in the new location. (South Dakota has created a [timeline for list maintenance](#) that may prove useful for other states.)
- [Electronic pollbooks](#) help with list maintenance by allowing officials to make changes at the polling place.
- During the pre-election season, many states mail non-forwardable information cards to all voters; [Oregon](#) is an example. These serve two purposes: they give the voter accurate information about where and when to vote, and any that are returned as "undeliverable" alert officials about people who may no longer be eligible to vote in the jurisdiction.

Data matching is another tool. The [Help America Vote Act](#) of 2002, which was passed with bipartisan support, set baseline requirements for list maintenance aimed at removing duplicate or ineligible names. Within a state, HAVA requires matching to take place with death records and felony records. Outside the state, it suggests data matching with the U.S. Postal Service's National Change of Address list and with the Social Security Death Index database. The U.S. Election Assistance Commission's [Voluntary Guidance on Implementation of Statewide Voter Registration Lists](#) assists states in complying with HAVA's requirements.

States can also do data matching with each other. A consortium of states have done one big match in the spring of presidential years since the 1980s. If the same name shows up in two state registries, both administrators can contact the voter to determine the legal residence. [Brad Bryant](#), Kansas' director of elections, is at the center of this process. This year a new multi-state effort, managed in conjunction with the [Pew Center on the States](#), has begun doing routinized data matches for participating states as well.

*(cont. on p. 3)*



**One Big Number: 79** That's the number of Manhattan precincts that originally were recorded as having zero votes cast in the June 26 primary. The misstep was due to [hand-copying of voting results](#). Two New York Assemblymembers, Martin Golden, a Republican, and Brian Kavanagh, a Democrat, quickly wrote and passed a bill requiring electronic transfer of election results. If the New York Senate passes it by mid-August, the new procedures will go into effect this November. This is an example of a specific incident leading to a quick legislative fix.



## List Maintenance

*cont. from page 2*

And now, [Colorado](#), Florida, [Ohio](#) and potentially other states can check their data against the federal SAVE data.

Most of this checking does not remove people from voter rolls. It simply provides names to election officials of potentially inaccurate or outdated records for follow-up. Here, the U.S. Postal Service is the election administrator's best friend. Under [federal law](#), a voter can be removed for an apparent address change only if he or she does not respond to a mailing that can be forwarded, and also does not vote in an election between the date of the mailing and the date of the second federal general election following the original mailing.

The U.S. Election Assistance Commission surveyed states after the 2010 election to learn exactly how they proceed once they've found a potentially erroneous record. [The survey](#) indicates that in 24 states, voters are moved from an "active" or "eligible" list to an "inactive" or "ineligible" list rather than being removed from the rolls altogether. In Wisconsin, for example, within 90 days after an election those who have not voted within four years are sent a notice saying their registration will be changed to "ineligible" if the voter does not request a continuation of his or her registration. If these voters do come to the polls, they can be immediately returned to "eligible" status and can vote, but in the meantime, mailings are not sent, saving money along the way.

And when do voters get removed altogether? In Wisconsin, they stay on the ineligible list indefinitely. In other states, a request from the voter, death, mental incompetency, certain felony convictions, a new registration elsewhere or a failure to meet qualifications, such as citizenship, can lead to removal.

### WHEN List Maintenance Happens

Most list maintenance can be done anytime, but the NVRA dictates that efforts geared toward removing ineligible voters must be completed 90 days before Election Day. Typically, states with elections in even years are likely to perform a major "list maintenance" effort in the spring of odd years, requiring local officials to identify voters who need to be contacted to confirm their continued eligibility.



A question that surfaced this year is: Does the 90-day rule apply when the names in question are those of non-citizens? Removing the names of people who never belonged on the list in the first place may be very different from a legal standpoint than removing citizens who have moved away or simply have chosen not to vote in recent elections. That issue is the core of the [court case](#) filed by the U.S. Department of Justice against Florida.

### WHAT Legislators Can Do

Administrators often prefer that statutes be a statement of intent, rather than a list of details. This gives the executive branch or local election officials room to adjust procedures as times and technology warrant.

Yet by NOT spelling out the details in statute, list maintenance procedures can whipsaw back and forth, depending on who holds the reins in the state election official's office. Below are some recent steps states have taken to improve their list maintenance procedures.

- [Delaware](#) gave "sole responsibility for voter list maintenance to the Departments of Elections in counties."
- [Michigan](#) spells out the exact conditions under which a voter record is made inactive or cancelled.
- [Oklahoma](#) encourages, or at least permits, anyone to submit a death certificate to an election board, thus cancelling the registration of deceased voters.
- [Tennessee](#) now exempts the purging of a person's voter registration after a change of name due to a divorce.
- [Texas](#) requires the state to get data from the Social Security Administration on a quarterly basis to help with voter roll accuracy.
- [Virginia](#) explicitly permits the Department of Motor Vehicles to send change-of-address information to the State Board of Elections.

### FINAL THOUGHTS

The good news is that list maintenance systems have improved mightily over the years. The bad news is that legislating perfection isn't possible. Doug Chapin frames the question like this: "If one or two people are inaccurately registered, is that an isolated problem that can and should be dealt with at the community level, or does it represent a systemic problem, deserving a statutory fix?" Legislators must decide. ♦



# Spikes in Registration Seen Every Fourth October

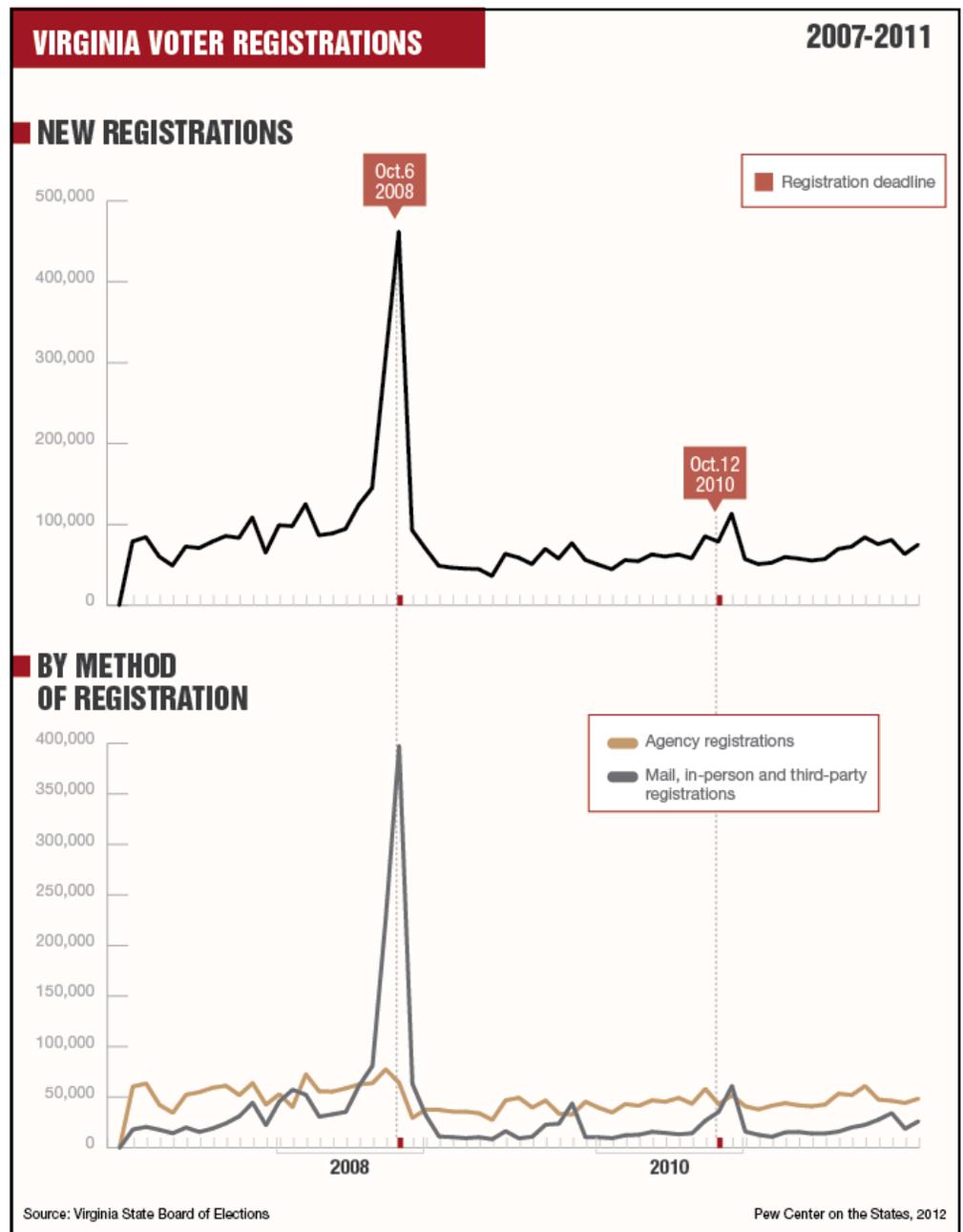
Most people would guess that voter registrations increase right before major elections. But no one besides a local election official could guess just how large that increase is: four to five times the usual numbers. The spike is so dramatic that, in this case, a graph is worth a thousand words.

The Election Initiatives team at the Pew Center on the States has provided four such graphs in its July report, [Voter Registration in Four States](#). The graphs show the number of voter registration applications received by election officials in Colorado, Florida, Maryland and Virginia.

The flow of registration applications is on a predictable 48-month cycle tied to presidential elections. The other general elections—2002, 2006, 2010—show a much smaller uptick. “We know statistically that we have folks who vote only in presidential elections. Although we’d love for people to register in advance, it’s really a just-in-time process for these folks, and they rush to meet the deadline,” says Jack Arrowsmith, Clerk and Recorder for [Douglas County, Colo.](#)

Within the overall trend, two kinds of registration streams behave very differently. Those that are generated primarily from transactions at the motor vehicle bureaus follow a reasonably even pattern over time. All others—those initiated by voters, whether done in person, online or via a mailed-in application, OR those collected by third-party voter registration drives—are where the super-spike comes in.

As the Pew report says, “Officials plan for staffing and resources that are sufficient for 47 months out of the 48 month cycle and then face tremendous challenges during that one month before a presidential election registration deadline. Finding the time and labor to process these forms while also conducting the many other activities necessary to prepare for an election is a daunting task—and one that election officials will no doubt face again this fall.” ♦





## From the Chair



*Representative Pete Illoway (R) is Wyoming's outgoing chair of the House Corporations, Elections and Political Subdivisions Committee. He says "I termed myself out" after seven sessions, or 14 years. He'd planned on leaving after six terms, but decided to stay through a seventh so his redistricting expertise from a decade earlier could be put to use.*

*As for his future, he says "I don't want to make any decisions yet. I don't want to work too hard, but you never know what might come up." On July 11, 2012, he spoke with NCSL about his experiences dealing with election policy and other matters in the Cowboy State.*

### Excerpts:

- Wyoming has day-of-election registration. A citizen swears that he or she is a bona fide resident of the state, is 18 years of age and is mentally competent, and then fills out a form right there that says, "I am who I am," and casts a vote.
- In Wyoming we typically don't have civility problems, but it may be starting. About a month ago we had a pie social in Pine Bluffs in the eastern part of Laramie County. Everyone running had a chance to speak. One of the folks pretty well ripped his opponent. We need to stick to civility, even if on the national level that isn't the case.

*Read the full interview [here](#) for Representative Illoway's thoughts on redistricting, federal involvement in elections and working with Wyoming's (excellent) county clerks.*

## The Election Administrator's Perspective

*George Gilbert has been running elections in Guilford County, North Carolina, for 24 years. He is also co-chair of The Election Center's Legislation Committee, and is among the few election officials who says "nothing keeps me awake at night regarding elections," giving all the credit to the quality of his staff. On April 27, 2012, NCSL asked for his perspective on elections, and the key issues facing his office.*



### An Excerpt:

- What we've done and needed to do all along is to address the concerns of those who were afraid of electronic voting, both the security of the technology and the security of the procedures. By the way, the security of an election comes from the people, not the equipment. And yet, almost all the fraud that's been done over the years has been on paper systems. Electronic ballots are much less accessible to manipulators."

*Read the full interview [here](#) to learn how George Gilbert entered the elections field, and his thoughts on voting equipment, funding, and how state legislators can help improve elections.*

### Bookmark This

The Issues and Publications webpage for the [California Voter Foundation](#), which is useful to more than Californians. CVF has done many state-by-state studies on voter engagement, voting technology, voter privacy and campaign disclosure. Expect to find facts, rankings and best practices, especially in regard to internet access to information. CVF founder and president Kim Alexander says that by creating these reports and rankings, "states that are doing well get kudos, and the other states can see where they need to catch up."



## Worth Noting

- [Washington](#) is pioneering the use of Facebook as a portal to its online voter registration system. "Once you start the process, you're no longer entering data on Facebook. Facebook is not collecting any of the data," Shane Hamlin, co-director of elections for the state, reports.
- Worry Alert? Some of our nation's elections systems are likely to fail, come November. At least, that's the news from a July report, [Counting Votes 2012: A State by State Look at Election Preparedness](#), produced by the Verified Voting Foundation, Common Cause, and Rutgers' School of Law. The report ranks states based on five criteria: paper records of each vote, contingency plans, post-election audits, a prohibition of online voting, and robust reconciliation and tabulation procedures. Whether those are the right measures of election preparedness is up to readers to decide.
- Last month, the [U.S. Vote Foundation](#) launched an online [absentee ballot tool](#) that allows U.S. voters anywhere in the world to download and complete a state-specific absentee ballot request.
- Also last month, Colorado's election results in the June 28 primary were delayed in [El Paso County](#). The county's main ballot counting center was near the Waldo Canyon fire outside Colorado Springs, and it was off limits during the crisis. Other states may not face fires, but all states can have a Plan B for emergencies.
- The University of Michigan is producing a five-week online class starting in September, "[Securing Digital Democracy](#)." The professor is J. Alex Halderman, an expert on electronic voting security (or insecurity, depending on one's perspective) who, in 2010, reprogrammed a touch-screen voting machine to play [Pac-Man](#). The description says that "most of the course will be accessible to non-technical students."
- Everyone wants to know: how much of an effect do voter ID laws have on election results? Nate Silver addressed this question in his 538 blog, [Political Calculus](#), and came up with an expected 1.2 percent net swing to the Republicans in Pennsylvania, with similar or smaller swings in other states that have changed their voter ID laws lately. Election law expert [Justin Levitt](#) offered a critique of Silver's analysis the next day.
- It's not often that the words "cute" and "effective" fit in the same elections-related sentence. But they go perfectly together when describing the new [Field Guides to Ensuring Voter Intent](#). This set of four pocket-sized booklets address designing usable ballots, writing instructions voters understand, testing ballots for usability and producing effective poll worker materials. They belong in the hands of all election officials well before November 6, and they are free for the asking.

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## From NCSL's Elections Team

We're getting closer to November's election, and that means our attention will be shifting a bit. In September, *The Canvass* will look at post-election audits and how the Electoral College works. Then in October we'll review what research tells us about voter ID laws and their effect on voter turnout and voter fraud (with a sidebar on other kinds of election fraud to watch out for).

Please [stay in touch](#). Thank you.

*Jennie Bowser, Susan Frederick and Wendy Underhill*



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