



THE CANVASS

States and Election Reform®



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Pre-Election Day Voting: Just the FAQs, Ma'am

In 2010, the buzz about early voting was all about how it changed campaigning. With a third or more of voters casting their ballots well before Election Day, how would campaigns adjust their strategies? What happens when there's an "October surprise" that sways public opinion? Would early voting help (or hurt) candidates?

The Canvass won't answer these questions. Instead, we'll provide perspective, in a FAQ fashion, about whether early voting is good for democracy and good for the pocketbook.

What is pre-Election Day voting, anyway?

This is a catch-all phrase that includes three main categories of voting before Election Day:

- **Early Voting**—Any voter can cast his or her ballot a few days or weeks before Election Day at a limited set of polling sites set up in places such as libraries, courthouses and even grocery stores.
- **Absentee Voting**—A voter must request an absentee ballot; after it is voted, it is returned by mail or at a designated drop-off point. All states offer absentee voting; some states allow no-excuse absentee voting, whereby any voter may choose to vote by absentee ballot, while other states require absentee voters to comply with a list of eligibility criteria. Military and overseas voters in all states vote by absentee ballot.
- **All-Mail Elections**—All registered voters automatically receive their ballots by mail and return them either by mail or at a designated drop-off site.

What's the history of pre-Election Day voting?

Civil War soldiers were the first absentee voters. For decades every state has allowed residents who are in the military, living outside the state or unable to get to a polling

place to "vote absentee." The modern "early voting" wave began in the 1970s to make it easier and more convenient for citizens to vote. In 1972, only Tennessee and Idaho offered no-excuse absentee voting. Now, well over half the states do.

Which states offer pre-Election Day voting?

Thirty-two states, plus the District of Columbia, provide early voting. Thirty states (plus DC) offer no excuse absentee voting. Eight states (plus DC) permit voters to opt for permanent, no-excuse absentee voting so that they receive an absentee ballot sent automatically for all future elections. (See NCSL's webpage, Absentee and Early Voting, for details on all these procedures.) Oregon isn't counted on these lists because it conducts all elections by mail; if we were counting states that had "non-traditional voting options," Oregon might be at the top of the list. Western states are more likely to offer early voting options, and Northeastern states are the least likely, although Vermont is an exception. States that offer early voting tend to offer no excuse absentee voting as well.

What are the pros of pre-Election Day voting?

In a word, convenience. Paul Gronke, director of the Early Voting Information Center at Reed College in Portland, Ore., says that "if you think of elections as a service, early voting makes it more convenient and easier for citizens because it doesn't artificially limit their time to cast a ballot to a 12-hour period on a Tuesday." Many election officials find early voting convenient, too, because it can reduce the pressures of Election Day, especially if the officials can begin processing (if not counting) those votes before Election Day is over. Currently, cost is considered a second "pro," at

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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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least for all mail elections; more on this below.

What are the cons?

Because absentee ballots are out of the control of election officials, some worry about an increased risk of fraud. To protect against fraud, ballots are generally signed by the voter on the exterior of the envelope, and that signature is verified against the signature on record. About half the states that offer absentee voting require that the ballot is signed by a witness or a notary public.

Others note that early voting may increase election expenses, and that early voters miss late-breaking news that might have influenced their choice. Perhaps the biggest deterrent is that “nobody wants to shoot the horse they rode in on,” as Rosemary Rodriguez, former U.S. Election Assistance Commissioner, put it. Legislators don't overturn tradition lightly.

What are the costs of pre-Election Day voting?

It depends on what method is measured. Generally, the thinking is that pre-Election Day voting won't increase, and may decrease, the cost of an election. All-mail elections, in particular, may offer savings. A recent report commissioned by Colorado's secretary of State, *Changing the Way Colorado Votes: A Study of Selected Reforms*, indicates that moving to an all-mail election could save almost 19 percent.

The savings may be even greater, since the U.S. Postal Service announced a deeply discounted rate for election-related mailings. Cost savings need to be calculated on a state-by-state, or even jurisdiction-by-jurisdiction, basis, because conditions and assumptions can be very different. If early voting and no excuse absentee voting are offered in addition to traditional Election Day choices, costs could rise. An election “smorgasbord” of all the choices may work for voters, but not for taxpayers.

Which voters opt to vote early?

About two-thirds of the votes cast in the 2008 presidential election were by traditional, precinct-based voting. Older, better educated, civically engaged citizens are the most likely to vote early. Although making voting easier is a goal of early voting—and therefore could be expected to increase turnout—research thus far seems to neither prove nor disprove this.

How early is too early?

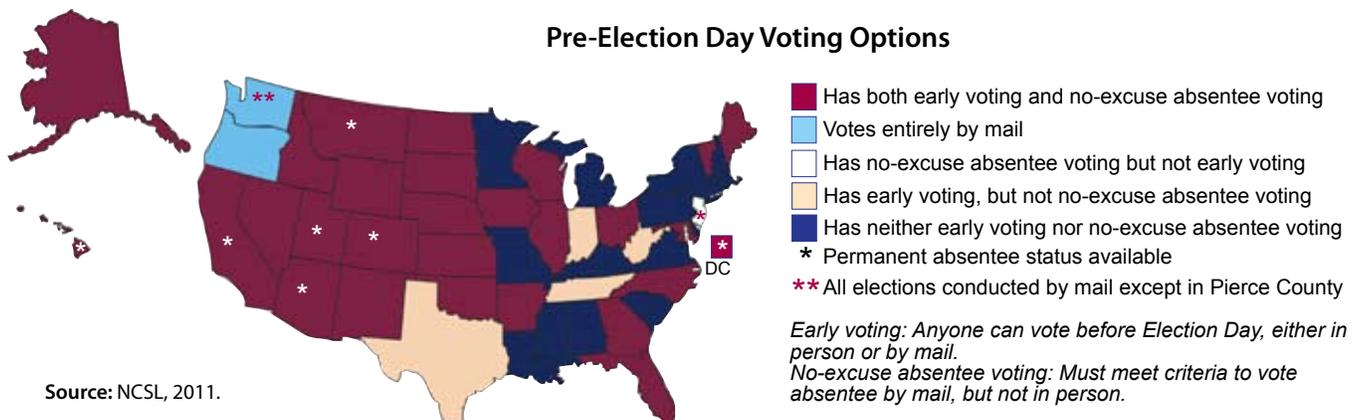
“Early voting” can begin three days to 45 days before Election Day. Gronke says that if he had a magic wand, he'd schedule a week to 10 days of early voting. He believes one day is too short—schedules, illnesses and weather can stop voters (as well as occasional long lines at the polls). Many weeks of voting, on the other hand, leave too much time for ballots to be misplaced, and for new information to surface that might sway voters' choices.

What are states considering this year?

At least 11 states have considered bills in 2011 that would permit early voting, and ten states have considered bills that would authorize no excuse absentee voting for the first time; none seem likely to reach enactment. Colorado, Hawaii, Montana, Vermont, and Washington have considered moving to all-mail elections. The bills were rejected in Colorado and Montana, and the Hawaii, Vermont, and Washington bills remain active. In Connecticut, a bill proposing a constitutional amendment to permit no excuse absentee voting is backed by a bipartisan coalition. States that already have early voting are considering tweaking the details. Georgia, for instance, may shorten early voting from 45 days to 21 days. Other states are clarifying by what date absentee ballots must be received; who can deliver completed ballots other than their own—and how many; and who pays the return postage.

Where can I learn more?

The Early Voting Information Center, a nonpartisan research center, maintains information on all “early” options, and the Pew Center on the States' Election Initiatives produced a series of reports on non-precinct voting, which includes early voting.



EAC Commissioners Speak to NCSL

In February, NCSL talked with U.S. Election Assistance Commissioner Donetta Davidson and former Commissioner Gracia Hillman about their perspectives on voting administration and state law. Excerpts from these conversations follow.

DONETTA DAVIDSON

NCSL: If you could have a conversation with state legislators, what would you want to say?

Donetta Davidson: “The main issue I see now is that elections have become very expensive. States are passing new laws, and with every new election law, they’ve got to remember that budgets are very tight. I’m concerned about cuts—where will they be made, and are they too deep? Cutting maintenance on machinery isn’t always the best place to cut, and yet that is where administrators often look first. Legislators need to be very considerate of what it will cost local election officials as well as the state when they change the law.”



NCSL: What federal issues might states need to be thinking about this year?

DD: “Nobody wants to deny a military service member, or any overseas voter, the ability to vote. Legislators need to be very conscious of the federal MOVE Act of 2009 [that requires states to send ballots to military and overseas voters at least 45 days before an election, among other provisions]. States must comply because it is a federal mandate. As it is, because of MOVE, some states will be required to change their calendars, their primary dates, and the computer software that handles elections, and that is expensive, even without adding any additional state laws.”

NCSL: What do states need to consider in terms of technology and voting equipment?

DD: “The equipment doesn’t last as long as we’d like it to. And as you know, technology changes daily. Also, a lot of voting equipment is nearing the end of its lifecycle. Because of new laws, it needs to have updated software, too. Maintenance can make it last longer, of course. In terms of the states, we can save them money by using a common data format, which would allow all kinds of equipment to communicate, saving time and money in the long run. And, testing equipment is expensive, so if it can be done once, and not by every state, we can save money. The EAC’s testing can incorporate the state’s goals too.”

The bipartisan U.S. Election Assistance Commission (EAC) is a national clearinghouse of information on election administration, especially regarding the requirements of the Help America Vote Act (HAVA), voluntary voting system guidelines and certifying voting systems.

GRACIA HILLMAN

NCSL: If you could talk to state legislators, what would you say?

Gracia Hillman: “It would be very interesting to see legislatures engage in very thoughtful discussions about what has worked to improve election administration, and what are the benchmarks for improvement. Clearly everyone agrees those benchmarks would include elections that are run without significant problems, that people who are eligible can register and then vote without major complications, that people with special challenges are accommodated, and that if there is a need for a recount, it’s done smoothly, efficiently and accurately. Once everyone agrees on what are the benchmarks, then the question is, how does a state reach those benchmarks? For the most part, states have done this, but every now and then an idea is surfaced that is billed to be good for election administration, but when you look into it, it’s going to end up disenfranchising some segment.”



NCSL: What, specifically, might states want to consider this year?

GH: “They can take a pragmatic look at how often elections are held, what triggers special elections, and see if there can’t be some rescheduling or realignment of the schedule to save money and reduce the costs. While there may not be too many elections statewide, local jurisdictions may have several elections each year because of how the laws are configured for various local races. Sometimes there can also be a cascade of unplanned special elections in one cycle and that is costly.”

NCSL: What about technology and elections?

GH: “If we look 10 years back, most election improvements have been achieved with the use of new technology, especially for voters with disabilities or in the military and overseas citizens. If you look 10 years forward, where are states going to be in their use of technology to facilitate either voter registration or voting? There is an element of people who say you cannot trust computers. If there is a “computer mistake” during an election, then you can’t go back and fix it because the secret ballots have already been cast. Thus the preference for marked paper ballots. And yet, it is very burdensome and costly to process thousands and thousands of pieces of paper. But it takes human beings to process paper. You can’t be reliant on a process that requires human beings to process paper and also think there will be no consequence in reducing the number of people available to do the work.”

Fiscal Notes

“Even the best ideas may cost money,” says Chris Ward, fiscal notes manager in Colorado’s Office of Legislative Council. What’s a fiscal note? According to Ward, it’s a “statement about a bill that identifies the cost or revenue impact to the government, both at the state and local levels.”

Costs for personnel, equipment and materials will all be included. But, “there’s a huge grey area,” says Ward. One election-based Colorado example: Would a bill to require all elections in the state to be conducted by mail require a public education campaign, something that would have to be counted in the fiscal note? The answer is “maybe, maybe not.”

NCSL’s fiscal affairs expert, Arturo Pérez, says, “When it comes to fiscal notes, there are a variety of roads that states take.” (For more information, NCSL’s fiscal affairs staff can provide “Guidelines for Writing a Fiscal Note.”) Some points of departure:

- Is it legislative staff, the executive branch staff, or even partisan caucus staff who write the fiscal notes?
- Are fiscal notes required when a bill is introduced, before a committee can vote on it, or at what point?
- Is there a dollar threshold under which bills don’t require a fiscal note?
- Will the fiscal note include local impacts, as in Colorado, or just impacts on the state budget?
- Is the “bottom line” fiscal impact easy to find at the top of the document, or buried at the bottom?

With election bills, fiscal notes typically address the costs of: printing; mailing of absentee ballots and voter information materials; hiring and training elections staff; increasing the number of provisional ballots; and public education efforts, if required. “We are measuring a quantifiable thing against an intangible good,” says Ward. It is up to legislators to weigh those intangibles against a bill’s expense.

From NCSL’s Election Team

In looking over the wide variety of pre-Election Day voting options, it’s clear that the United States has not one “election system,” but rather 50. (Some might say we have far more, considering that some states offer great latitude to local jurisdictions.) And yet they all try to produce the same thing: fair elections that are free from fraud, open to all qualified voters, and run in a cost-effective and timely manner. One goal, many pathways.

What do you think? Please send your comments, and mark your calendars for NCSL’s Spring Forum in Washington, D.C., on April 14 and 15.

*From Jennie Drage Bowser, Tim Storey
and Wendy Underhill*

Worth Noting

- If you need elections news more frequently than The Canvass provides, consider subscribing to the Pew Center on the States’ Electionline Weekly (sample), the U.S. Election Assistance Commission’s weekly Newline (sample) or to Election Law Blog (sample).
- It’s no surprise that legislators write bills that clean up the controversies they faced in their last elections. Examples: Alaska’s Senate has passed a bill clarifying write-in regulations after a contentious U.S. Senate race won by write-in candidate Lisa Murkowski. And Connecticut is clearing up exactly how many ballots need to be printed after the town of Bridgeport had to photocopy thousands of ballots because not enough had been ordered.
- New Research: the Congressional Research Service produced HAVA and Election Reform: Overview and Issues in January; the Brennan Center for Justice released The Cost of Voter ID Laws: What the Courts Say in February.
- In Maryland, one quarter of the names of people who tried to register to vote at Motor Vehicle Administration offices did not get added to voter rolls, according to the Baltimore Sun.
- Federal Update: The U.S. House of Representatives held a hearing in February on “Military and Overseas Voting: Effectiveness of the MOVE Act in the 2010 Election.” For details on this hearing and other federal election issues, see NCSL’s Federal Election News, March 2011.

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