



# THE CANVASS

## STATES AND ELECTION REFORM®



## Primaries, Caucuses and Conventions...Oh My!

### 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*

Somehow, come summer, delegates from all the states and territories will make their way to the presidential nominating conventions—Democrats to Charlotte, N.C., and Republicans to Tampa, Fla.—to crown each party’s presidential nominee.

Since the nominees are known long before the conventions begin (at the point when a candidate racks up the requisite number of committed delegates), conventions are more like celebrations than deliberations.

Readers of The Canvass already know that, though. What isn’t so well-known is how the delegate selection process works. (Make that the delegate selection processes, because there are 56 of them, counting the District of Columbia and five territories. Or even 112, because Democrats and Republicans may not follow the same process in each jurisdiction.) We’ll provide answers to some common questions about these processes, but first, a very brief history.

The U.S. Constitution carefully outlines systems for electing U.S. senators and representatives, but “it does nothing to address the presidential nominating procedure, which is why it’s a mess,” says Rich Berg-Andersson, founder of [The Green Papers](#), a website packed with the rules, statutes and dates for primaries, among much other political information. Berg-Andersson shares all the historical details on the nominating process in a paper, [How Did We Get Here, Anyway?](#)

Basically, without constitutional guidance, presidential nominees were first determined by party heavy-

weights. Over time, nominating procedures have developed informally. Since the early 20th century, states have used two systems to determine party nominations: caucuses and primaries (and sometimes a combination of the two).

In preparation for 2012, states have made many tweaks to laws regarding primaries and caucuses. State lawmakers in 17 states enacted 21 new laws in 2011 that relate to presidential primaries (see them at [NCSL’s elections database](#)).

That level of legislative action would imply that state legislatures are key to determining the nominating process. And they are, but so are national and state political parties.

### The Role of National Political Parties

“National parties set the basic rules,” says Berg-Andersson. For example, the parties will allow only four states—Iowa, Nevada, New Hampshire and South Carolina—to hold delegate selection events before March 6, 2012. Berg-Andersson adds that national parties are confederations of state parties, and their roles are primarily to bring order to the campaign calendar. They can’t tell sovereign states what to do, of course, but they can cajole state political parties with incentives—or coerce them with penalties. Those state parties then can try to influence state legislatures.

### The Role of State Political Parties

“At the end of the day, selecting delegates to nominate presidential candidates is still a state

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party function,” says Josh Putnam, publisher of [Frontloading Headquarters](#), a blog with detailed tables and maps devoted to the presidential nominating process.

State legislatures frequently establish a presidential primary by law; it may be a stand-alone primary just for the purpose of selecting delegates to the nominating conventions, or it may be combined with a state primary that selects party nominees for state offices as well. However, the state cannot require that state parties choose their delegates through that primary. Occasionally a party opts to make delegate selections through caucuses instead.

A few states establish caucuses and their dates in state law; Iowa is the most prominent example. At least two states, Hawaii and Alaska, have no laws governing the presidential nominee selection, leaving state political parties on their own. States and parties sometimes switch back and forth between primaries and caucuses from year to year.

To illustrate the dance between political parties and state legislatures, let's look at [Missouri](#). This fall, the General Assembly passed a law to hold a primary on February 7. The parties, however, have decided not to use it to select delegates. Instead, they will hold delegate-selection caucuses in March. Why? Because national party rules penalize state parties that choose delegates before certain dates.

[Idaho](#), on the other hand, is not holding a separate presidential primary, instead combining that function with the state primary. So [Idaho](#) Republicans have decided to hold a non-binding straw poll on Jan. 6, 2012, to bring attention to their state and its issues. Delegates will be selected in caucuses on March 6 in accordance with national party rules.

The bottom line is that state by state, political party plans vary in response to changes in state law.

### The Role of State Legislatures

“I get the sense that legislators are torn; they're trying to legislate for the good of the state, and at the same time

they're party people,” says Berg-Andersson. Whether and when to hold a primary is often decided, at least in part, by what is best for “our” side, he says.

But party loyalty is only one concern for legislators. They also hold the state's purse strings, and when the purse is nearly empty, the cost of running a primary becomes more significant. (More on money below.)

Legislators, no matter what their party affiliation, may see a non-partisan advantage in creating a high-profile primary. The attention that Iowa and New Hampshire receive for their “first in the nation” status translates into political power, and other states may want a slice of the delegate-selection pie, too.

And last, it is the legislature's role to watch the calendar for conflicts, duplications and legal issues. [Ohio](#) this year decided to hold two primaries, one on March 6, 2012 for state offices and the U.S. Senate, and one on June 12, 2012 for president and U.S. House seats. The second primary will cost an extra \$15 million, say state election officials, but Republicans claim it is necessary because redistricting plans may not all be finalized by March 6.

If the interaction between political parties and legislatures seems complicated, it is. “It's been eye opening to see the extent that state legislatures and state parties and even the national parties fail to communicate,” says Frontloading Headquarters' Putnam. “We'd have a much easier time if we had a higher level of communication between these actors.”

### Who Pays?

When states propose a primary, they usually pay for it, so the cost of running a primary can be a determining factor in whether to hold one. It was money, at least in large measure, that caused the [Washington](#) Legislature to pull the plug on a 2012 primary. By doing so, the state saved \$10 million. [California](#) and [New Jersey](#) decided this year to simply fold their presidential primaries into their state primaries, saving the cost of a separate election.





## Primaries, Caucuses and Conventions...Oh My! cont'd from p. 2

In [Alabama](#), Representative Steve Clouse successfully carried a bill to move the presidential primary and the state primary to a single date in March, saving \$3.9 million. “My only motivation was financial,” he says. “We had a presidential preference primary and a state primary. I originally wanted to move it all to the June state primary date, but both the state parties wanted to find a different date that might still give Alabama a ‘say-so’ in the presidential race.”

Of course, the political parties can pay for primaries themselves. South Carolina traditionally permits state parties to decide if they would like to hold a primary and if so, has charged the parties for the expenses involved in running these elections. In 2008, however, the state funded the presidential primaries. For 2012, the [Republican primary](#) is likely to be funded in part

by the state and the Republican party; a suit brought by four counties is before the South Carolina Supreme Court now and the outcome will determine the proportions to be paid by each. (Since President Obama is running unopposed, South Carolina Democrats are not holding a primary in 2012.)

Caucuses are cheap from a state’s perspective, since parties always pay for them.



Representative Steve Clouse, Alabama

### Pros and Cons

Well-funded or well-known candidates are said to do better with primaries, while caucuses are more likely to give lesser-known candidates a chance. From a party perspective, caucuses permit tighter control.

Primaries bring campaigning (and campaign dollars) to a state and highlight state issues with national candidates. Primaries can even have an energizing in-state effect, when Ds and Rs vie with each other to run the most exciting primary.

Common wisdom says that caucuses, which are attended by the party faithful, are more likely to produce winners who are at the left or right edges of their parties, rather than centrist candidates. Whether that is a pro or a con depends on where you stand.

What kind of primary to hold—open, closed, or something in between—also is open for debate. You can find more on this issue in NCSL’s [Primary Types](#) webpage.

### Other Approaches

Considering that the mix of primaries and caucuses has been characterized as “a crazy-quilt, eternal campaign—an electoral purgatory of our own creation,” according to Frontloading Headquarters, it’s not surprising that an alternative approach based on regional primaries was proposed as early as [1991](#). The National Association of Secretaries of State endorsed a [regional primary plan](#) in 1998 and continues to support the idea. This concept gets [occasional praise](#) in the opinion pages, but does not have enough traction to replace the “crazy quilt.”

One final thought: There is no “one-size-fits-all” answer to anything about primaries, caucuses, nominating events or whatever we may choose to call the systems that determine who runs for the office of president of the United States. Instead, it’s “one size fits one.”

## Bookmark This

[Stateline](#), a nonpartisan, nonprofit online source of news articles about state policy and politics. Part of the Pew Center on the States, Stateline aggregates news and commentary from many media sources and provides its own top drawer reporting as well. Within Stateline, customize your bookmark to highlight only [elections-related news](#) or [politics](#). If you’re only interested about what’s being said about your state, find [state blogs](#) here.



## Join us in Tampa, Nov. 30-Dec. 2

NCSL's Fall Forum will offer two panels on elections issues (and four on redistricting). [Come](#) and attend the following elections sessions:

### Voter ID: What's Next?

A stunning 34 states introduced voter ID legislation this year, and seven states enacted new laws, each with its own unique provisions. What will these new laws mean for voters in 2012? What challenges do states face as they implement new voter ID laws? What have the courts had to say? And, what will 2012 bring in terms of voter ID legislation?

### Bush vs. Gore, Revisited

More than a decade ago, Florida seized the nation's attention with the contentious 2000 presidential election—especially its aftermath of recounts and court battles. Since then, Florida's lawmakers and administrators have done much to address election policies and procedures. "Lessons learned" from the Sunshine State may serve all states well as elections move into the next decade.



## Electronic Poll-books

"I've been doing elections for 33 years, and I think electronic poll-books have been the best advance in elections I've seen since we began computerizing many years ago," says Wendy Noren, county clerk in [Boone County, Mo.](#)

What is an electronic poll-book? In Boone County, it is a system of networked computers in each polling place pre-loaded with data on registered voters. This system has shortened voter check-in time at polling places from 5 to 6 minutes to just 15 to 20 seconds, which everybody likes. That translates into huge savings; in 2012, Noren expects to hire 25 percent fewer poll workers, dramatically reducing one of her two largest expenses.

The other big expense? Training for poll workers. Here, too, electronic poll-books have provided savings. A well-designed, uncomplicated electronic poll-book reduces training needs and associated costs.

The key to making a successful transition from paper to electronic poll-books, says Noren, is usability testing. Her system was designed in-house, and at every stage the designers asked poll workers to try it out. As issues came up (scrolling, for instance, wasn't easy), changes were made. In the end, Noren reports, her workers "love it." She's thrilled, too, because the system collects data such as the time of day that people vote and what kinds of IDs they show, which she can use to help with allocation of resources for future elections. And that's not all. Elec-

tronic poll-books also have meant that "each voter is being treated equally as we verify their qualifications to vote," Noren says, something that had worried poll workers previously.

Electronic poll-books in Missouri were established by election administrators, but in 2011, Missouri Representative Tony Dugger sponsored a successful [bill](#) that will make voter check-in even easier. Under the new law, electronic signature pads, not unlike the pads on which consumers sign for credit card purchases, will be permitted. Using signature pads means that printers and stickers are no longer needed, which will streamline the process even further.

Boone County hasn't experienced any difficulties with electronic poll-books. But in Montgomery County, Va., electronic poll-books did not properly open in six precincts during the November 2010 election, causing precinct workers to improvise a paper-based system. This eventually earned a letter of censure from the Virginia State Board of Elections to the Montgomery County Electoral Board. Better training and having a "Plan B" policy might forestall similar situations in the future.

In the 13 states that permit the use of electronic poll-books, each system is just a bit different. Many connect the polling place to a centralized database, although Boone County does not. Instead, Noren has opted to provide each polling place with one secure Internet connection to make changes to voter records, rather than network the whole system.



## Minority Languages Requirements Decline

In October 2011, the U.S. Census Bureau released data that governs which political jurisdictions must provide minority language assistance to voters. The “must” comes from Section 3 of the Voting Rights Act of 1965 which prohibits discrimination in voting practices based on race or color. A 1975 amendment added membership in a minority language group to the list. [Electionline Weekly](#) provides more details.

Implementing minority language assistance is handled by election administrators and does not require legislative action. Legislators, however, may face questions and concerns about the changes.

The number of states and jurisdictions required to provide minority language assistance has declined in the last 10 years. In the [previous](#) (2002) list, 30 states and 296 jurisdictions were “covered” under this provision. In the [October 2011](#) list, 25 states and 248 jurisdictions are covered.

In South Dakota, 11 counties had been required to provide language assistance, and now none are. (Individual voters who need language assistance may use an interpreter.) In Alaska, the number of jurisdictions required to provide language support in American Indian or Native Alaskan languages dropped from 27 to 11.

As for additions, Alaska now has its first requirement for Spanish support this year. And, Bangladeshi made its national debut on the list in Hamtramck, Mich.

Section 3 applies only to language groups that fall into these categories: Hispanic (one language), Asian (16 languages) and American Indian/Alaska Native (51 languages). Election administrators can find help with these requirements from the U.S. Election Assistance Commission. It offers [Voter’s Guides](#) in 11 languages: Cherokee, Chinese, Dakota,

English, Japanese, Korean, Navajo, Spanish, Tagalog, Vietnamese and Yupik.

The [U.S. Census Bureau](#) describes the process for determining which jurisdictions or political subdivisions must provide minority language support very precisely; in short, the determination is based on two measures, and both must exceed the established level for a jurisdiction to be covered: Limited English proficiency. If more than 5 percent of voting age citizens in a single language minority group self-report that they speak English less than “very well,” OR if more than 10,000 voting age citizens from a single language minority group have limited English proficiency. Level of illiteracy. If the illiteracy rate of the limited-English proficiency voting age citizenry is higher than the national average, 1.16 percent.

The U.S. Census Bureau offers a [webinar](#) describing the process, several [useful documents](#) and data on the new list. The next data release and subsequent new list will be delivered in 2016, and every five years thereafter.



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### One Big Number: 8 out of 22

That’s how many [U.S. Constitutional amendments](#) establish ground rules for voting. Here they are: **12th** (sets up the Electoral College); **15th** (prevents voting discrimination based on race); **17th** (establishes popular vote for selecting senators); **19th** (gives women the right to vote); **22nd** (sets presidential term limits); **23rd** (gives D.C. residents the right to vote for president); **24th** (bans poll taxes); and the **26th** (gives 18-year-olds the right to vote).



## Worth Noting

**Ethics and voting:** Is it ethical to cast a strategic vote during a primary just to stir up the other party? The [armchair ethicist](#) at the New York Times considers this question.

**Donations to run elections:** Running elections is expensive. But is it okay for election offices to accept donations to run them? According to a story in the Election Administration News (Sept. 26, 2011), Marion County, Ind., was offered financial help from the United Auto Workers to open a couple of early voting satellite centers. The election board did not unanimously agree to say “yes,” as required by state law, so the donation was not accepted.

**Overseas voters:** In September, the Federal Voting Assistance Program released its [2010 Post-Election Report to Congress](#) on voting by military and overseas citizens. The bottom line (although it is actually the very first line of the Executive Summary) is that “The 2010 election saw significant improvements in military and overseas voting performance and opportunity.” Expect a more complete report on military voting in the next issue of *The Canvass*.

**Online voter registration:** The Utah Lieutenant Governor's office has been recognized by a national technology group for its online voter registration program, according to this [Salt Lake Tribune](#) story.

**Electoral college news:** The [National Popular Vote](#) movement added California and Vermont to its column this year. Anti-NPV partisans are taking note and responding; the Heritage Foundation's Hans von Spakovsky published this [brief](#) in October.

**Video fun:** This very short [video](#) from the Voting Information Project explains how voters benefit when publicly available technology puts voter information at their fingertips. Better yet, it explains to the less technically savvy among us just how this plug-and-play technology works. The video is fun to watch, too.

## From NCSL's Elections Team

Congratulations to Tim Storey, who has been promoted to direct NCSL's Leaders Center. He's been our go-to guy for redistricting as well as one of the brains behind StateVote, the premier news source for information on legislative elections and ballot measures. He reports that he hates to give up redistricting and elections, but that his new role will provide worthy challenges. He'll lead and coordinate NCSL's programs and services for legislative leaders and legislator training. The good news for election geeks everywhere is that Tim will still be available to us; contact him at the same phone number (303-364-7700) and [email address](#).

And, as always, 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.



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