canvass (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

Looking Ahead: 2015 Elections Legislation

The legislative season is well and truly in full swing, with every single one of the 49 states in session having at least one elections-related bill at this point. In total, over 1,500 bills have been dropped in the hopper so far—and we can expect another 500 before the year is out.

By watching the bills come in, the National Conference of State Legislatures (NCSL) has identified a few emerging issues:

- Online voter registration
- More on registration modernization
- Online applications for absentee ballots
- Phones in polling places
- Increasing interest in using the Internet to assist with voting

We’ll start with those, then turn to the evergreen subjects of voter identification and early and absentee voting, and round out this round-up with a few other topics to watch.

Online Voter Registration

This is almost an evergreen issue. This year, 12 more states have legislation to join the 24 states that already have authorized online voter registration. And the year has just begun.

This year’s legislation, generally speaking, makes it clear that a new system would be for an online application for registration, not true registration. In all cases, the citizen-entered data is checked with existing data from the DMV, and this year, legislation ensures that local election officials will review the applications before they are accepted as entries in the state voter rolls.

**BILLS TO WATCH:**

- Florida HB 227, HB 315, SB 228 and SB 386
- Iowa HB 28 and HB 49
- Maine LR 472
- Michigan SB 61
- Mississippi SB 2601 (failed)
- Montana HB 48
- New Jersey AB 571 and SB 2328
- New York SB 859
- Oklahoma HB 1846, SB 313 and SB 778
- Pennsylvania SB 315
- Tennessee HB 831 and SB 1116
- Texas HB 444, HB 953, HB 954 and SB 385

(Cont. on page 2)
More on Registration Modernization

It used to be that election legislation focused on how people vote. Times have changed, and now how people register to vote is receiving equal attention. Besides online voter registration, 2015’s bills on registration include three newer issues:

Using data to maintain accurate voter lists. Maryland HB 253, New Hampshire HB 620, New Jersey AB 3879 and New Mexico HB 62 would ask their election officials to compare their voter lists with lists from other states in a search for duplicates. Virginia, which already does so, has a variety of bills that would nail down exactly what to do in a case where a potential duplicate is identified. Washington SB 5201 would require the DMV to send a monthly list to the secretary of state with names of people who have moved within the state.

“Portable” registration. Let’s face it, people rarely notify election officials when they move. If registration is portable, it means that a voter who moves within a state continues on the state’s voter rolls, and a few states are looking at how that might be done. Georgia HB 146 and New York SB 858 would permit voters to go to the polling place at their new address, update their registration records and vote a regular ballot. Nebraska LB 383 would allow the voter to update the voter record and vote a provisional ballot.

“Universal” registration. Right now, voters need to take some action to get registered, even if it is as simple as saying “yes” at the motor vehicle office. Some states are considering automatically registering everyone who is eligible, with the option for them to opt out. It’s on the table in Arizona (HB 2434), Georgia (SB 31), Hawaii (HB 401, HB 489 and SB 150), New York (SB 2538) and Oregon (HB 2059 and HB 2177). Oregon came close to enacting similar legislation a couple of years ago, so it may be the state to watch.

Online Application to Get an Absentee Ballot

Louisiana paved the way in permitting residents to request an absentee ballot electronically, through its GeauxVote portal. (The absentee ballot is sent to the voter by mail, not electronically.) A few other states have quietly added a similar online option over the last few years, but this is the first year we’ve seen legislation to do so.

BILLS TO WATCH:

- Iowa HB 113
- Nebraska LB 588
- New York AB 4105, AB 295 and SB 861

Phones in Polling Places

Cell phones are everywhere—including in the voting booth. Is it ok to take a picture of your ballot and post it online? Since most folks have a phone with a camera in their pocket, it’s a good question to consider in terms of a secret ballot and individual freedom. In 2014, New Hampshire (HB 366) said “no” to cameras in polling places. This year, New Hampshire has a bill to reverse the decision, and several other states are addressing the question as well.

“YES” BILLS TO WATCH:

- Arizona SB 1287
- Indiana HB 1504
- Illinois HB 431
- New Hampshire HB 228 and HB 404
- Tennessee HB 988 and SB 597
- Texas HB 675 and SB 535 would expressly permit voters to use their phones to access information for voting. The bill is silent on the camera feature.
- Virginia SB 1351 would allow political party poll watchers to use cell phones with cameras inside a polling place.
- Colorado HB 1011, which has been indefinitely postponed, would have removed the prohibition on a voter revealing his or her own voted ballot to someone else.

“NO” BILLS TO WATCH:

- Mississippi HB 926, SB 2518 and SB 2537 would prohibit use of cell phones in polling places (all failed.)
- Wyoming HB 68 would prohibit taking a photo of an official ballot.

Internet-assisted Voting

Using the Internet to vote and transmit a ballot has looked like a hot potato for the future … but it turns out it is a hot potato that has arrived. It’s hot because most computer scientists, including those at the National Institute of Standards and Technology, believe security can’t be guaranteed for voting. This year, legislation in several states would crack open the door to Internet-assisted voting for all or some voters—or would propose studying the option.

BILLS TO WATCH:

- Washington HB 1143 would allow any voter to vote by fax or email.
- Hawaii HB 1130 would establish “a process for online voting by any registered voter” and HB 1006 would permit voting by phone.
- Kansas SB 41 would allow out-of-state college students to submit voted ballots electronically, joining overseas voters with this privilege.

(continues on page 3)
Florida HB 95 would permit overseas absentee ballots to be submitted electronically, and New Mexico SB 195 would provide this option for both overseas voters and emergency first responders.

New Jersey AB 633, SB 2187 and SB 2255 would establish a pilot program for overseas and military voters to vote via the Internet, with requirements for auditability and verifiability. New Jersey AB 2111 would prohibit voting by electronic communications.

Mississippi SB 2598 (failed), New York SB 2739 and Texas HB 430 call for studies of Internet voting.

Utah HB 329 would authorize Internet voting during a potential western states presidential primary.

Voter ID

We have few surprises on voter ID this year. In West Virginia, one of two states where both chambers switched from Democrat control to Republican control, six strict voter ID bills are in the hopper. In Nevada, the other state, voter ID legislation is expected as well. Also six states that have tried many a time to make their voter ID requirements stricter are trying again: Arkansas HB 1007 and SJR 7; Iowa SB 183; Missouri, with a raft of bills (HB 30, SB 170 and HB 240); Nebraska LB 111 and LB 121; New Mexico HB 61 and HB 340; and Tennessee HB 926 and SB 1188.

For those states that already have voter ID policies, tweaks are in the works. Alaska HB 57 would waive an ID requirement if the voter is known to the poll worker. Many bills in other states would add new kinds of ID to the “accepted” list. Most often these are student IDs, but any ID with a photo from the U.S. government or state governments, or conceal carry permits, are possible additions in several states, too.

On other fronts, Rhode Island SB 343 would repeal the Ocean State’s voter ID requirement and New Mexico SM 11 proposes to study biometrics for voter ID purposes.

Early and No-Excuse Absentee Voting

Thirty-seven states already offer early in-person voting, no-excuse absentee voting or run their elections by mail. (We’re counting Massachusetts, where early voting begins in 2016.) Of the 13 states that do not already have pre-Election Day voting, nine have legislation this year to permit either early in-person voting or any voter to get an absentee ballot without offering an excuse: Connecticut, Michigan, Mississippi, Missouri, New Hampshire, New York, Pennsylvania, South Carolina, Tennessee and Virginia.

Additionally, Minnesota HB 47 and SB 414 and New Jersey AB 2230 and SB 536 would add early in-person voting to their existing no-excuse absentee voting (which often takes place in person).

That’s hardly all the news, though. There are bills relating to:

- ID requirements to submit with an absentee ballot.
- Increasing the groups of people who can vote absentee, such as emergency workers (Missouri HB 359) or people who are in confidentiality programs.
- Emailing addresses to confirm continuation on a permanent absentee list.
- Permitting voters with disabilities to request, receive, mark and print a ballot electronically, while not permitting electronic return (Montana HB 400).
- The days and hours early voting is to be conducted.
- Ensuring that a voted absentee ballot from a voter who dies between voting and Election Day would be counted.

As for the western phenomenon of holding all elections by mail, bills in California (SB 163), Hawaii (HB 124, HB 294, HB 1211, HB 1481, SB 219, SB 336, SB 287, SB 578 and SB 255) and Montana (HB 70) would move these states to all-mail elections. They’d join Colorado, Oregon and Washington in mailing ballots to all registered voters for all elections. Arkansas HB 1020 would amend the constitution to permit voting by mail, Iowa HB 29 would permit cities to hold elections by mail, and New Jersey AB 4116 would permit primaries to be conducted entirely by mail.

Wrapping Up

Then there’s Rhode Island’s SB 58 and HB 5261 that would permit bake sales at polling places and Virginia’s HJR 715 that would commemorate the 50th anniversary of the Voting Rights Act of 1965.

Where to stop? When we run out of space … so, we won’t write about bills that deal with straight ticket voting (several states are looking to eliminate it and Kansas has a bill to institute it), data privacy, the uses of e-poll books, the Electoral College, primary dates or keeping kids out of schools when the buildings are used as polling places.

For those, please visit NCSL’s Elections Legislation Database, or call us at 303-364-7700.
Looking Back: 2014 Enactments

No surprise: 2014’s enactments look a lot like 2015’s bills; there are just far fewer of them. 187 bills were enacted in 39 states in 2014, fewer than in 2012 and on par with 2010.

Notably lacking last year was legislation on voter ID, the hottest topic of 2011 and 2012, and even in 2013. Also missing was legislation relating to long wait times at polling places—that topic was so 2013.

Instead, anything registration-related won top honors this year—especially online voter registration. The Minnesota legislature officially authorized online registration in 2014 (HB 2096), although the secretary of state’s office had already developed a system and gone live with it in 2013. Massachusetts (HB 3788) and Nebraska (LB 661) both passed bills establishing online voter registration, and Nebraska also appropriated money to pay for it. (Massachusetts’ bill also established early voting, which begins in 2016.) In addition, Georgia, Delaware and Illinois all went live with their systems. Hawaii, D.C. and West Virginia should all be live soon.

Maintaining accurate voter lists was a hot topic this year. Minnesota ( HB 2265) and Louisiana (HB 365) both joined the Electronic Registration Information System, an interstate compact that allows states to compare their voter lists to identify potential duplicates or inaccuracies. And over half the states are now part of the Interstate Voter Registration Crosscheck Program, which provides an annual check of voter rolls.

Additionally, Hawaii (HB 2590) authorized same day registration and Utah (HB 156) authorized a pilot program to test same-day registration procedures. Alabama (SB 235) changed its registration deadline from 10 days before the election to 17 days.

Other Noteworthy Enactments

Voting by electronic means: Utah (SB 245) voters with disabilities joined military and overseas voters (Uniformed and Overseas Citizens and Absentee Voting Act [UOCAVA] voters) in being allowed to return ballots by electronic transmission. Virginia (SB 11) now requires the establishment of a secure electronic ballot return mechanism for UOCAVA voters.

Emergency workers: Mississippi (HB 624) passed legislation to allow emergency first responders to vote absentee, and California (SB 362) will now issue them a vote-by-mail ballot.

Counting mail ballots: California (SB 29), along with many western states, has seen an uptick in the number of voters requesting mail ballots. In 2014, California updated legislation to permit the counting of vote-by-mail ballots that were postmarked on or before Election Day and received within three days of the election. Washington, an all vote-by-mail state, also permits the counting of ballots postmarked by Election Day, whereas Colorado and Oregon, the other two all-mail states, say ballots must be received by Election Day.

Schools as polling places: The January 2014 Canvass highlighted states’ need to balance security at schools with allowing them to be centers of civic activity by serving as polling places. Now, in Delaware (HB 205) schools will have teacher and staff in-service days on Primary Election Day, and in Illinois “school districts are encouraged to close the school or hold a teacher’s institute.”

Voter information confidentiality: Alabama (SB 280) will keep voter records of victims of domestic violence confidential, and Maryland (SB 818) will do the same to protect against human trafficking. Utah (SB 36) allows voters to request that their voter records be kept private if disclosure could put the voter at risk.

Youth: Louisiana (HB 501) permitted preregistration at 16 and required that an application for a driver’s license serves as preregistration unless the applicant opts out or fails to sign the form. California (SB 113) lowered its preregistration age from 17 to 16, Utah (HB 282) permitted 16- and 17-year-olds to serve as poll workers and Missouri (HB 1136) removed a prohibition on paying youth poll workers.

Technology: No state passed a sweeping change to technology standards or practices, although there were many small tweaks that reflected updates in elections-related technology, including updating references and definitions of voting machines and what qualifies as a modification to an existing certified voting system. Notable enactments include Minnesota’s authorization of electronic poll books (HB 2166) and an extension of the deadline to use Help America Vote Act funds (SB 1732) for purchasing voting equipment. Tennessee (SB 1999) will now require voter registration systems to be certified—that’s a first.

Election crimes: The recent emphasis on making elections even more secure drove this year’s crop of bills regarding election crimes. Bills in several states addressed false statements, disruptive behaviors at polling places and voter complaints. Of note is Hawaii’s bill (HB 452) that made it a crime to make false statements about where and when to vote.

See NCSL’s Web page on 2014 Election Legislation Enacted by State Legislatures for more information.

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Ask NCSL

**How many states rotate the order of candidates on the ballot?**

Twelve states require “ballot rotation,” one way to mitigate giving an advantage to just one candidate by placing his or her name at the top of the ballot. Instead, a roughly equal number of ballots are printed and used with each candidate’s name in the top slot. States that have ballot rotation: Alaska, Arkansas, California, Idaho, Kansas, Kentucky, Montana, Nebraska, New Hampshire, New Jersey, North Dakota and Ohio.

Every state, including those with ballot rotation, must determine an initial order of candidates on the ballot. Most commonly, candidates are listed in alphabetical order (although not necessarily starting at A) or drawn by lottery. Some states may list the incumbent first or the party that received the most votes in the previous election or always position one party in the first position.

In states with ballot rotation, the candidate order is then rotated on ballots across political subdivisions within the jurisdiction. The process of rotating candidates’ names on ballots creates additional ballot styles, complicating life for election administrators and increasing printing costs, but it may also address what political scientists have dubbed the “ballot order effect,” i.e., the position on the ballot affecting a candidate’s chances of winning the election.

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From the Chair

Delegate Mark Cole (R) has headed the Privileges and Elections Committee since he was first elected to the Virginia House of Delegates in 2002. A systems analyst by trade, he represents the 88th district which includes parts of Stafford, Spotsylvania and Fauquier counties and the city of Fredericksburg. The **Canvass** spoke with him on January 27.

- Election integrity is of paramount importance. If you think your vote doesn’t matter, you lose faith in government in general. People need to have confidence that whatever the results of the election are, that they reflect the will of the majority of the people.

- We have to start working on cleaning up our voter rolls. My son moved out of state 10 years ago, and up until recently we kept getting voter registration cards for him at the house. We want to make sure our voter rolls are accurate, and that people who are lawfully registered can vote.

- In Virginia right now, the purchase of elections equipment is a local responsibility, but the state and the federal government from time to time have made grants to make those purchases. [Editor’s note: The governor has put $28 million in the state budget for equipment replacement.] I have no issue with it, if we can find the money. Right now we’re looking for places to cut. It’s not like we have a lot of extra revenue coming in this year. Our economy is kind of flat.

- I know that across the country there has been a move toward a month-long election period. My concern is that when you have so much early voting, people have already cast their votes before the candidates have had a chance to make their case to the public. We may be cheating ourselves by people making their minds up beforehand.

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The Election Administrator’s Perspective

Jerry Midgette is the election administrator for the Somerset County Board of Elections in New Jersey. He is the top staffer for this bipartisan board. The **Canvass** interviewed Midgette on Feb. 3.

- I started as an elections lawyer representing candidates, parties and interest groups. As an administrator, I’m ensuring that the election process is fair and correct—if there are any issues with the procedures they need to be identified and corrected. It’s a whole different perspective on the pursuit of fair and accurate elections.

- Ever-increasing issues are the recruiting and training of poll workers and finding ADA-compliant locations. New Jersey has an aging population of poll workers, so we are always trying to increase the numbers and improve their training. Identifying appropriate poll locations is becoming more difficult, too, with public schools not wanting elections to take place in their schools given the tragedies we’ve seen in the last several years.

- When Superstorm Sandy hit, downed trees caused traffic issues for staff as well as voters. We lost power for over a week, so I had to implement our emergency elections plan on a very short time frame to minimize the impact on the voter. Since the election wasn’t the primary focus for all the county’s officials, I had to advocate for the resources I needed.

- I want to implement electronic poll books to serve, minimally, a three-fold purpose: to ease voter check-in; to ease the duties for poll workers; and, more importantly, to create an efficient process to update voter history and signatures, as opposed to how we do it now.
300,000. That is the number of voters that former Oregon Secretary of State Kate Brown (now governor) believes could be added to the voter rolls if the plan for automatic voter registration (aka “opt out registration” or “universal registration”) wins approval this year. **HB 2177** would allow the secretary of state to use records from the Department of Transportation to register all eligible voters in the state; new registrants would receive information about how to decline registering. Oregon has debated automatic registration before; four other states—**Arizona**, **Georgia**, **Hawaii** and **New York**—have legislation aimed at automating registration this year.

## Worth Noting

- Doug Lewis has retired from his 21-year gig as executive director of The Election Center. He is well known for saying to election officials (or any audience) that “Democracy isn’t healthy if it isn’t fair.” Tim Mattice is stepping up to take Doug’s place, a choice that will make for a smooth transition. Our best wishes go to Doug—and we hope he stays involved in elections as a consultant, mentor or advisor.

- In case you haven’t heard, the [U.S. Election Assistance Commission now has a quorum of commissioners](https://www.eac.gov), with three out of four slots filled. That means the EAC is open for business, the business being agreeing on new standards for voting equipment and continuing its role as a clearinghouse for elections administrators.

- The co-chairs of the Presidential Commission on Election Administration, Ben Ginsberg and Bob Bauer, shared [this letter](https://www.eac.gov/sites/default/files/2015-01/pce-letter.pdf) with the new EAC commissioner. In it they say they’d like to see the EAC tackle some of the commission’s recommendations, specifically those on voting system standards. The letter includes a nice nod to the decentralized elections system we have: “It is important for any voting system standards process to recognize that state and local governments will upgrade or replace voting equipment over a period of years and, therefore, new standards, as developed and adopted by the EAC, are additional choices for elections jurisdictions.”

- [IACREOT](https://www.iacreot.org) and [NACRC](https://www.nacrc.org) are thinking of merging. These two groups—the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT) and the National Association of County Recorders, Election Officials and Clerks (NACRC)—have served the needs of election officials (and others) for decades each. And, both have prominent elections professionals at the helm: Michael Winn, from Travis County, Texas, at IACREOT and Neal Kelley, from Orange County, Calif., at NACRC. While the deal is not sealed, the idea is to have a single, stronger voice as they provide education, networking and the latest on technology.

- If you want people to vote, how do you do it? Through YouTube? Maybe—if the quality is as good as these public service announcements from the Federal Voting Assistance Program (FVAP): [Your Greatest Weapon](https://www.youtube.com/watch?v=6Xt6ZCxtAWE), [Checkboxes](https://www.youtube.com/watch?v=肿瘤) and [Voting Comes Easy](https://www.youtube.com/watch?v=肿瘤). Just because these were designed for far-afield voters doesn’t mean they couldn’t work for all our voters; maybe FVAP can share.

- One more bit of video fun: if you’re a legislative staffer, take a couple of minutes to look at this [NCSL video](https://www.youtube.com/watch?v=肿瘤) about you (scroll to the bottom of the page). It’s perfect for a Friday afternoon smile.

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Our big news is that we’re hosting a big bash June 3-5 in Santa Fe, N.M., and you are all invited. The topic is voting technology, tempered with two arts events in an art-centric town, one at the Georgia O’Keeffe Museum and one at the Roundhouse (aka the New Mexico capitol). While we’re aiming the agenda for [Policy and Elections Technology: A Legislative Perspective](https://www.ncsl.org) at legislators who deal with elections issues, we’re pretty certain that everyone who plays a role in elections will want to come. Contact [Katy Owens Hubler](mailto:Katy.OwensHubler@ncsl.org) at 303-856-1656 to get the scoop.

*—Wendy Underhill and Katy Owens Hubler*

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