



NCSL

THE CANVASS

STATES AND ELECTION REFORM®



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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

Voter Registration is All About Residency (and Domicile)

Donald Trump and Bernie Sanders have something in common (as strange as that sounds)—they both seem to be **turning out first-time voters**. But before those newly-minted participants in democracy can cast their ballots, there are a few boxes to be checked. Registration is often the first step for those voters towards casting their first-ever vote—it's required in 49 states (North Dakota does not have voter registration). And when it comes to registering to vote, it's all about residency.

Residency requirements matter in elections. They are one of the basic requirements for voting, along with age, U.S. citizenship and other factors. While those requirements have clear yes or no answers (you either are or aren't old enough to vote; you're either a U.S. citizen or not) residency requirements are more complex. This article will examine:

- What does it mean to be a resident of a state?
- How is domicile different from residency?
- How long must voters live in a state to qualify as residents?
- What do residency laws mean for college students, retirees traveling the country in RVs, or homeless people?
- What's happening in legislatures?



Inside this Issue

- Voter Registration is All About Residency (and Domicile) **1**
- Then and Now **3**
- It's Time to Spring Clean Your Voter Lists **4**
- Ask NCSL **4**
- From the Chair **5**
- The Election Administrator's Perspective **5**
- Worth Noting **6**
- From NCSL's Elections Team **6**

But first, a bit of history. Voter residency requirements have been a part of elections in the United States since the very beginning. The Founding Fathers only wanted people who **"had a stake"** in society exercising the franchise. That meant people not only needed to reside in a state to vote there, but own land in it as well. Since then, our understanding of who has a sufficient stake in society to vote has expanded, but the core concept remains. At a fundamental level our political system is predicated on the idea that voter's rights are properly limited to communities in which a voter belongs and a way of determining that is residency.

What does it mean to be a resident of a state?

Robert Frost said "Home is the place where, when you have to go there, they have to take you in." Then again, Robert Frost never wrote any election laws.

At its most basic level, residency is about where someone lives. Of course, where someone lives can be up for debate. People move around; some people own more than one home, some people split their time between states because of work or school. It's one of those issues where the law runs up against the messy reality of human life. Since defining where a person lives can be complicated, a key element of residency is

(cont. on page 2)

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(Residency, cont. from page 1)

voter intent. “Residency is a state of mind,” said Doug Lewis, founder of The Election Center.

Almost every state has laws that define what it means to be a resident for voting purposes. Residency definitions generally have two basic components: where you live, and how long you have lived there.

In terms of where you live, the [North Dakota Century Code](#) provides a good example: “[residency] is the place where one remains when not called elsewhere for labor or other special or temporary purposes and to which the person returns in seasons of repose.” Doesn’t the phrase “seasons of repose,” a time for rest, just make you feel right at home?

At least 24 states have a statutory requirement that a voter intend to keep living where they live to qualify as a resident. For example, in [Rhode Island](#), “[one’s] domicile is that person’s factual physical presence in the voting district on a regular basis incorporating an intention to reside for an indefinite period.” In [Utah](#) to be a resident a person must “[have] a present intention to maintain the person’s principal place of residence in Utah permanently or indefinitely.”

Changing residency also usually requires intent. To dip back into the North Dakota Century Code: “[Residence can be changed only by the union of act and intent.](#)” Just taking a trip or visiting another state, even for a prolonged period, is usually not enough for a voter to lose residency. In [Alaska](#), residence can only be changed by “the act of removal joined with the intent to remain in another place.” In [Colorado](#), a person loses their residence 22 days after moving to a new state with the intention to stay. In [Washington](#), a voter does not lose their residence because of being “engaged in the navigation of the waters of this state or the United States or the high seas, incarceration, being a student at any institution of higher learning, or being absent because of business.”

How is domicile different from residency?

Throwing another wrench in the works is that states often use another word to codify residency—domicile. To the outside observer the difference between them is not always clear. According to Black’s Law Dictionary, traditionally, [residence](#) is a “fixed abode where one actually lives for the time being.” [Domicile](#) is “the place where a person intends eventually to return and remain.”

If you were thinking that domicile sounds a lot like residency for purposes of the law, you’re not alone. More confusing is that states often use the word residence, but actually mean domicile. For example, the [Texas election code](#) says: “in this code, ‘residence’ means domicile, that is, one’s home and fixed place of habitation to which one intends to return after any temporary absence.” [New Hampshire law](#) says, “to hold any elective office in the state, a person must have a domicile in the state. Registration to vote or voting in another state during the relevant time period shall create a presumption that a person does not have a domicile in this state.” Along those same lines, [California](#) says that, “residence for voting purposes means a person’s domicile.”

How long must voters live in a state to qualify as residents?

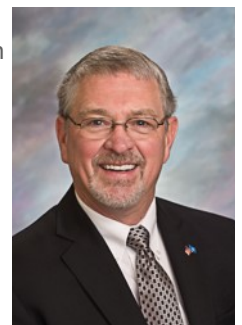
Another key part of residency is duration—when does a voter qualify as a resident of a state? In many states, voters must reside in the state or county for pre-determined time periods to qualify as a voter and that duration may be written into the constitution.

In 1962, a [survey](#) found that a one-year residency requirement was in place in 34 states. In 1970, Congress added Section 202 to the Voting Rights Act, which prohibited states from imposing durational residency requirements as a precondition to voting in presidential elections. The Supreme Court upheld this provision as constitutional the same year in [Oregon v. Mitchell](#). The only acceptable limit was a 30-day residency requirement for registration, though states could impose different durational residency requirements for non-presidential elections.

In 1972, the U. S. Supreme Court again addressed the issue, in [Dunn v. Blumstein](#). There the Court decided that a Tennessee provision which required residents to have lived in Tennessee for one year to be eligible to vote was unconstitutional. The Court said that one year, or even three months, was too long of a requirement for voting, because it doesn’t serve a compelling state interest and penalizes individuals for moving between states. However, the exact limit that states may impose is still unclear. Today, 26 states have durational residency requirements, ranging from as short as 10 days to as long as 30. The remaining 24 states do not have durational residency requirements but may impose a cutoff date for registering to vote prior to an election.

What do residency laws mean for retirees traveling the country in RVs, college students, or homeless people?

States have addressed the issue of residency for certain sector of the population in a number of ways. In South Dakota, legislators became concerned about the power of part-time residents, living in RVs with addresses registered to a local mailbox company, to sway local elections. Senator Craig Tieszen (R), introduced [Senate bill 164](#) this year which would make it harder for part-time residents to vote. “We were trying to establish residency requirements to keep people who aren’t connected with South Dakota from voting here,” said Senator Tieszen.



Sen. Craig Tieszen (SD)

Some legislators worry that students from out of town or out of state may impact local elections in which they don’t have a strong stake. States deal with students in different ways. In New Hampshire, a [proposed constitutional amendment \(CACR 17\)](#) would keep college students from voting by expanding the definition of domicile, making it more difficult to claim residency.

(cont. on page 3)



(Residency, cont. from page 2)

"I disagree with [this definition of residency]," said New Hampshire Representative Wayne Burton (D) in an interview with [New Hampshire Public Radio](#). "Students should be allowed to vote."



Rep. Wayne Burton (NH)

In other states, being a student is addressed directly in statute. For example, in [Vermont](#), students do not gain or lose residence solely because they have moved for school. In [Iowa](#) and [Louisiana](#), students can choose their own residence, whether that be living arrangements near the school they're attending or another appropriate residence.

Homeless individuals present a unique challenge to election administrators, and states across the nation don't generally have a standardized way of solving the problem. [Colorado](#) has all-mail elections, and homeless individuals need a mailing address in order to register to vote. In [Iowa](#), homeless individuals are considered to reside where they usually sleep. [Maine](#) makes allowances for "nontraditional residences," including shelters, parks and underpasses. In [Nebraska](#), "if a person is homeless, [their residency is] the county in which the person is living." The [National Coalition for the Homeless](#) has information on all states' regulations.

What's happening in legislatures?

Seven bills have been introduced this year that address the issue of residency:

- [Colorado Senate bill 142](#) addressed durational residency requirements, with the goal of eliminating disparities in durational residency requirements in local elections, as well as changing the durational residency requirements for party caucuses. It passed both houses and is before the governor for signature.
- [Maryland's Senate bill 331](#) would have added a proof of residency requirement for early voting.
- Most active on this front has been New Hampshire, with four additional bills addressing residency in the last year. [House bill 112](#), [House bill 1313](#), and [Senate bill 4](#) share the goal of changing the way the state addresses domicile and residency. [Senate bill 179](#) would have instituted a 30 day durational residency requirement and passed the legislature, but was vetoed by the governor.

-Michael Dolan

Michael Dolan served as NCSL's election law clerk from October 2015 to May 2016. He is a law student at the University of Colorado Boulder Law School entering his third year.

Then and Now: 2012 to 2016 Comparisons

From now until the November general election, we will be taking a look at one major election administration topic showing how it has changed at the legislative level from one presidential year to another.

This month: [Voter ID](#).

Amount of change: **Significant**

In 2012: 29 states required some form of documentary evidence of voter identification at the polls; of those, four were considered strict photo ID laws (Georgia, Indiana, Kansas and Tennessee).

In 2016: 33 states require some form of documentary evidence of voter identification at the polls; of these, nine are considered strict photo ID laws (Georgia, Indiana, Kansas, Mississippi, North Dakota, Tennessee, Virginia, Texas and Wisconsin).

States that will have voter ID requirements implemented for the first time for the presidential election this year:

- Mississippi (strict photo ID), New Hampshire, North Carolina and Wisconsin (strict photo ID).

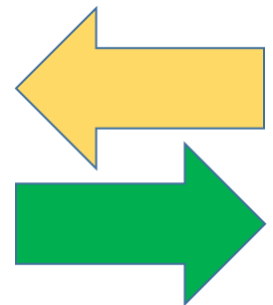
States that have strengthened existing voter ID requirements between 2012 and 2016:

- Alabama (non-strict photo ID, although some observers call it strict), North Dakota (strict photo ID), Rhode Island, Texas (strict photo ID) and Virginia (strict photo ID).

During this time other states, including Pennsylvania and Arkansas, enacted voter ID laws that were later struck down, and therefore are not included here. And, this year West Virginia enacted a photo ID law that will go into effect in 2018, so it also is not included here.

Additionally, it is possible that some states that have voter ID requirements in place right now, may not by Election Day, pending court action. States to watch are North Carolina and Texas.

To see current laws in effect, and the difference between and strict and non-strict photo ID, visit NCSL's [Voter Identification Requirements](#) page. To see a history of the adoption of voter ID laws, visit NCSL's [Voter ID History](#) page. To learn what is required in the states that do not require a document to be shown at the polling place, visit NCSL's [Voter Verification Without Documentation](#) page.





It's Time to Spring Clean Your Voter Lists

It's been a wild election season so far, with many twists and turns keeping legislators and election officials busy on a variety of aspects of election systems. One of the more recent stories involved nearly 125,000 voters [who were removed from the voter rolls in Brooklyn](#) prior to New York State's presidential primary in early April. In Ohio, [the American Civil Liberties Union has sued Secretary of State Jon Husted](#) over the process of removing voters who have not voted in three successive federal elections and local elections. Critics have called these actions "purges" but most admit every state must have a routine process of voter list maintenance that local election officials perform to ensure that the information on voter rolls is accurate.

With that in mind, NCSL held a webinar this month called [Spring Cleaning Your Voter List—the Legislative Role](#) (the archived webinar is now available).

Here are some of the things we learned:



- Research from [The Pew Charitable Trusts](#) found that one in eight voter registrations is inaccurate, more than 1.8 million deceased voters are still on the rolls and approximately 2.75 million voters are registered in more than one state.
- [The National Voter Registration Act of 1993 \(NVRA\)](#) forms the basis of how states can remove a voter from the voter registration list. Specifically, it requires states to create a program to remove ineligible voters from the lists because of death or change of address. The NVRA also says that states can't remove a voter for change of residence without the voter confirming the change in writing or failing to respond to a mailed notice and not voting in two general federal election cycles.

- [The Help America Vote Act of 2002 \(HAVA\)](#) says that states must have safeguards for ensuring that eligible voters aren't accidentally removed from the rolls.
- The best defense is a good offense and good voter registration list maintenance programs have several benefits: more accurate voter records, better administration of polling places, fewer problems at the polls on Election Day, reduced opportunities for fraud and cost savings from fewer taxpayer dollars spent on election administration.
- Online voter registration, better motor voter (and automatic motor voter) and interstate election data sharing are all tools to help with voter list maintenance.
- [The Electronic Registration Information Center \(ERIC\)](#) is an interstate data sharing organization that helps states improve accuracy of the voter rolls, reduce costs and improve efficiency.
- ERIC captures list maintenance issues, such as in-state movers, duplicates and deceased voters but also can identify eligible but unregistered voters. To date they've identified over 3.5 million records in the list maintenance category. Several states have realized cost savings.
- States have tackled voter list maintenance legislation in several ways: using the national change of address, improving data from the Department of Motor Vehicles (DMV), using jury questionnaires for proof of citizenship and improving sharing of death records between agencies.

To get the full scoop on all things list maintenance and additional resources [check out the full webinar](#) and visit NCSL's webpage on [voter list accuracy](#).



How many states allow voters to cast emergency absentee ballots?

At least 19 states have provisions which allow voters to cast absentee ballots in emergency situations, beyond the scope of normal voting rules. Often these provisions are intended for circumstances where voters are so ill that they are hospitalized or unable to leave their home, as is the case in [Pennsylvania](#), or circumstances where voters are unable to be physically present in the state. For example, in [Louisiana](#) voters are allowed to vote by absentee ballot if they are hospitalized, or are serving on a sequestered jury, during early voting or on Election Day.

[Alaska](#), massive state that it is, allows registered voters to cast a ballot at any voting station in the state (though only for statewide issues – voters are only allowed to vote on district issues if they vote in their own district), and absentee voting stations are open on Election Day in all major airports. In [Maine](#), the election clerk may issue an emergency absentee ballot to voters who are unable to travel to the polls because they reside in a coastal island district. [Michigan](#) allows emergency absentee ballots to be issued in cases where sickness or death in a voter's family occurs at a time which makes it impossible to request an absentee ballot by the normal deadline. [New Hampshire](#) has a provision which allows the secretary of state and the attorney general to make every reasonable effort to get absentee ballots to emergency service workers who are unable to vote because they have been called to duty.

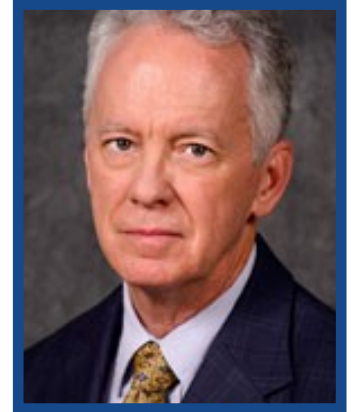


From The Chair

Delegate John Shott chairs the Judiciary Committee of the West Virginia House of Delegates. He represents District 27, which includes the city of Bluefield, the highest incorporated city east of Denver. Each year, the Bluefield Chamber of Commerce distributes free lemonade whenever the temperature reaches 90 degrees and above. Delegate Shott spoke to The Canvass on May 6.

- “The issue of voter ID that came up this year. It came up in order to rebuild trust with the public over voter fraud. While we don’t have many reported cases of voter fraud, some of our statistics indicated that the number of registered voters on the rolls exceeded the Census numbers for that community. We felt that a voter ID requirement would be helpful in rebuilding that confidence and trust.”
- “We felt that that the risk of fraud associated with automatic voter registration in a state like West Virginia, plus with the added ID requirements, would be minimal. When you go to the DMV odds are you’ll likely see people you know there. We certainly want to encourage people to vote who are eligible to vote. We thought it was worth the risk.” [Editor’s Note: West Virginia [House bill 4013](#) which authorized voter ID and automatic voter registration was signed into law in April].
- “We are really proud that we eliminated straight-ticket voting and moved to the nonpartisan election of judges. We are proud of the changes we’ve been able to make since taking over the Legislature after 83 years. In the long term, we are confident these changes are for the best, but they are definitely big changes in the short term.”

Read the [full interview](#) with Delegate Shott.



Delegate John Shott

The Election Administrator’s Perspective

Denise Dolan has served as auditor of Dubuque County, Iowa since 1987. Dubuque County is one of the first two counties in Iowa and the city of Dubuque is the oldest city in the state. Dolan spoke to The Canvass on May 11.

- “As probably everywhere is experiencing, the aging of our precinct election officials is a concern. We are focused on recruiting new election officials and specifically those with computer experience. It just helps with checking people in and in the post-election process. We have some officials who are a bit tentative on the computer so we are looking for new skill sets.”
- “Earlier this month we were able to get the legislature to pass a bill to allow us to use an intelligent barcode on our absentee ballots. Iowa allows a ballot that is mailed before the election, but received after it, to be counted. But we weren’t getting good postmarks on ballots. Do you disenfranchise someone because you can’t read the postmark? When that ballot is put in the mail it’s placed into their system and if we receive it after the election we can use an app to see when it was mailed. We are all excited about it and how it will help the election.”
- “Some of us in the largest counties are looking at getting to all-mail elections. It’s like we are running two elections with the amount of absentee ballots we send out and then running the polls on Election Day. If we get to 50 percent absentees, it may be time to talk to the legislature and say they need to look at this. Some of the smaller counties are already at 50 percent. I don’t know how soon it will be, but I could see us starting to push this after this year’s presidential election. I think it’s something we need to look at.”
- “Elections are very personal. Working with everyone to make sure elections turn out successfully are what I’m most proud of because I’ve done it for a number of years.”

Read the [full interview](#) with Dolan.



*Dubuque County Auditor
Denise Dolan*



Worth Noting

- If you thought Facebook and Instagram was where social media ended, think again. The social media app [Snapchat](#) is fighting for the right of its users to take ballot selfies this November.
- Vermont is now the fourth state to pass automatic voter registration legislation in the past year, after Oregon and California did so in 2015, and West Virginia followed suit this year. Hawaii was poised to become the fifth state but the legislature was not able to reconcile the House and Senate versions of the bill before the end of the session earlier this month.
- Oklahoma recently enacted Senate bill 1108 which takes the names of presidential elector candidates off the ballot. Only four remaining states do this: Arizona, Idaho, North Dakota and South Dakota. Hat tip to Richard Winger.
- Connecticut is joining the automatic voter registration party, but unlike other states is doing it through administrative action rather than legislation.
- Towns in California are looking at how moving election dates to even years will help save on costs and improve turnout. See the [April Canvass](#) for more on election dates.
- It seems like every aspect of primaries are being debated across the country lately. The latest news out of New York has a judge rejecting a challenge to the Empire State's closed primary system.
- Low turnout in the 2014 elections means fewer signatures are required for measures looking to get on the November ballot in California, because requirements are based on turnout in the last general election. This combined with the presidential primary has state officials predicting higher turnout and requesting more funding from the governor's office.
- Be sure to check out the Atlantic Council's latest report [Democracy Re-booted: The Future of Technology in Elections](#). It provides a global perspective on the use, and promise, of election technology.
- The state of Maryland has decertified the primary election in Baltimore and will now begin a probe of irregularities at the precinct level. The probe is affecting the U.S. Senate and presidential primaries as the results cannot be certified until the probe is completed.
- Missouri lawmakers have officially put a proposed voter ID Constitutional amendment on the ballot for voters to decide this November.
- The NCSL election staff has greatly enjoyed listening to the [Washington Post's Presidential Podcasts](#) and [Slate's Whistlestop podcasts](#). If you've got election fever, we think you'd enjoy them as well.



NCSL's Legislative Summit on Aug. 8-11 in Chicago, Ill. is fast approaching. The [online agenda](#) is now available for viewing. We've got some great election and redistricting programming planned. Check out the [elections track](#) and be sure to [register soon](#).

Browse the [most recent entries](#) from the election team on the NCSL Blog.

Look for #NCSLElections on Twitter for all NCSL election resources and news.

Thanks for reading, let us know your news and please [stay in touch](#).

—Wendy Underhill and Dan Diorio



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