



NCSL

THE CANVASS

STATES AND ELECTION REFORM®



Issue 45 | January 2014

**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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## Will Schools Continue to Serve Voters?

The longstanding American tradition of voting at neighborhood schools is expected to draw more legislative attention in 2014.

School administrators, in the wake of the Sandy Hook Elementary massacre and more recent school shootings, are grappling with how best to keep students safe, especially on Election Day. Some districts are asking to no longer serve as voting locations.

This month the [Presidential Commission on Election Administration](#) recommended “that all states review their laws and contemporary practices within their jurisdictions to ensure the continued and future use of schools as polling places.”

Some lawmakers plan to file legislation this year to address the issue, but getting approval for a bill that would move polls out of schools or would force schools to close on Election Day may prove difficult. In 2013, 15 bills were introduced to address schools as polling places, but none passed. Critics of such legislation say that schools offer communities the kind of space that is optimal for voting.



### Policies for Polling Locations at Schools

Current law frequently refers to using “public places” as polling places, and schools historically have been likely choices.

Some states, however, put restrictions on schools as polling places. For instance, [Rhode Island](#) and [West Virginia](#) cancel classes on general and primary election days; [Delaware](#) cancels classes for general election days.

In [California](#), [Illinois](#), [New Mexico](#) and [North Dakota](#), school boards may choose to close schools or cancel classes when there is an election. And, in [Arizona](#), [Georgia](#) and [New Jersey](#), schools may be made available for elections—but only if the elections do not interfere with school operation.

By law in [Illinois](#), sex offenders must vote via absentee ballot if their designated polling places are schools.

### A Push for Clearer Guidance

In 2013, bills relating to school safety during elections were introduced in seven states. In addition to bills calling for schools to be closed on election days or giving school districts the choice to close, a couple of new ideas surfaced. New York [SB 4348](#) would have required a joint report by the state board of elections and state education department concerning the safety of students and staff at schools used as polling places for elections. New Jersey [SB 997](#) would have asked schools to develop security plans for schools used as polling places. (cont. on page 2)

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## Will Schools Continue to Serve Voters? *(cont. from page 1)*

Additionally, three bills in two states were introduced to ban sex offenders from voting at schools: Indiana's [SB 596](#) and [HB 1278](#), and New York's [AB 3037](#).

Indiana Representative Shelli VanDenburgh (D) appreciates the safety measures used at her children's schools. Like all visitors to those campuses, she is allowed inside the building only after providing identification and signing in. But that level of safety fades whenever a school has to open its doors to voters, she said.

"On Election Day, a sex offender can walk right into a school and vote and we cannot keep them away," VanDenburgh said.

In 2013, she authored [HB 1244](#), which would have prohibited schools from being used as polling sites. It never received a hearing.

VanDenburgh is hoping for more support with [HB 1135](#), her 2014 bill that would allow a school district to choose to not have polling at its buildings. It also would require a county to pay for security at a school used by voters during an election.

In 2013, Texas Representative Stephanie Klick (R) tried with [HB 1865](#) to allow schools to shut down for elections but her bill also was not heard by a committee.

"We have had a number of schools that have been locked down because of some event," she said. "What would happen if that occurred on Election Day?"

Klick said if she is still serving in the Texas House when the legislature meets again in 2015, she will offer a similar bill. She said other lawmakers shared their concerns that more school districts were flirting with shutting their doors to voters, which would force local election officials to search for new polling locations.

### Preserving Schools as Polling Places

Many elections officials agree that an empty school building offers clear benefits for hosting an election.

Schools typically are located in the heart of a voting precinct, provide ample parking and satisfy requirements laid out by the Americans with Disabilities Act. In addition, they are a low-cost option for communities during an election.

But when a school is in session, elections become cumbersome if not chaotic.

Traffic can be snarled and dangerous for students, parking capacity shrinks considerably and voters are often crammed into a small space barely suitable for voting, said Elaine Manlove, Delaware's elections commissioner.

She has been trying to convince her state's lawmakers to create an in-service day for schools during primary elections.

Manlove said that following the school shooting in Newtown, Conn., she believed lawmakers would see one more reason to keep students separate from voters on Election Day and would approve a bill she supported.

"Literally, we are putting ads in the paper essentially saying 'Come on down (to school) and feel free to wander' because they have to put us in the same place," she said. "I think that's frightening."

Manlove presented some of her concerns during testimony before the [Presidential Commission on Election Administration](#), which spent much of 2013 gathering the country's best practices and suggestions about how to improve voting. Polling locations were one focus area of the commission.

"I'm almost hoping for federal law now because I'm having so little luck with Delaware law," she said.

The report by the presidential commission does not make any federal legislative recommendations. It does recommend that Election Day be an in-service day for schools to address concerns about student safety. State lawmakers could propose legislation to align state guidelines for elections with the recommendations offered by the commission.

About a quarter of voters nationwide voted in schools in the 2008 and 2012 elections, and close to one third of Election Day voters cast their ballots at schools, the commission's report said, touting schools as ideal polling locations.

"In the end, there is no better alternative than schools, and there are few locations more familiar and convenient to voters," the report stated. "Most communities do not have adequate alternative sites for polling places."

### Defending In-Session Schools as Polling Places

Kathy Christie, a vice president at Education Commission of the States, a national education policy organization, said voting should continue at in-session schools, which should be valued as gathering places for communities, especially on Election Day.

"Voting in schools brings an immediate real lesson in civic education to students and it provides people with the sense of community," she said.

– Michael D. Hernandez



## Voter ID Shared 2013 Spotlight with Other Notable Election Issues

When it came to new election law, 2013 was both remarkable and not-so-remarkable. What was remarkable is that voter ID was no longer the singular big story, as it had been in 2011 and 2012. Online voter registration and election crimes were equally significant from a national perspective. Unremarkably, the number of bills introduced and enacted (2,384 introductions, 295 enactments) were right in line with other recent odd-numbered years.

Odd-numbered years always produce more election legislation. These years are viewed as good ones for “fixing” whatever went awry in the preceding November election or more generally across the nation. For instance, long lines during the 2012 presidential election led to enactments in several states aimed at reducing wait times.

Additionally, odd-year enactments give most election administrators time to adjust their procedures and even debut them in small elections before going into the larger even-year general election. And introductions (and therefore enactments) drop off in even-numbered years partly because legislatures in Montana, Nevada, North Dakota and Texas only meet in odd years.

### Voter ID

As for voter ID requirements, eight states passed 11 bills dealing with this high-profile issue. The years-long trend toward stricter requirements continues, but some



states went the other way. Arkansas, North Carolina and Virginia joined the ranks of the “strict photo ID” states with Arkansas doing so by overriding a veto (see [NCSL's Voter ID Requirements](#) webpage). North Dakota now requires all voters to show some form of ID document, though it does not have to have a photo. New Hampshire and Rhode Island delayed implementation of stricter provisions, and Oklahoma added an exemption to its requirements.

### Online Voter Registration

Online voter registration was introduced in 17 states and enacted in Illinois, Virginia and West Virginia. New Mexico passed legislation moving in that direction as well, permitting changes to registration but not allowing *new* registrations to be done online. (Online registration went live in Minnesota without enabling legislation, engendering a lawsuit. Minnesota's legislature will take up online registration and online applications for absentee ballots when it convenes.) See NCSL's [Online \(Electronic\) Voter](#)

[Registration](#) page or the November 2013 webinar, [Online Voter Registration: The Bipartisan Trend in Elections](#).

### Election Crime

No one condones rigging, stealing or tampering with elections so election crime is a perennial subject for legislation. In 2013, 16 new laws relating to election crimes were enacted – an increase from nine laws in 2009 and six in 2011. These new laws are intended to curtail absentee voter fraud, to increase penalties for coercing a voter and to provide authority to additional state agencies to prosecute fraud.

### Other Key Issues

- Voting for military and overseas voters, including an Arkansas law that guarantees that a fallen soldier's last vote will be counted.
- Same day registration (created in Colorado, eliminated in North Carolina and put on the 2014 ballot in Montana to eliminate it).
- Early voting (the number of available days was restored in Florida to the 2010 standard, while other states tweaked their early voting period. Indiana and Ohio ensured that voters in line when early voting ends for the day will be permitted to vote).
- Absentee voting (Virginia approached “no-excuse absentee voting” by expanding the number of excuses to 19, and Minnesota created no-excuse absentee voting for the first time).
- Cautious steps toward the electronic transmission of ballots, while keeping security in mind.

### Odds and Ends

Every year provides a few one-of-a-kind laws, and 2013 was no exception. California now permits non-citizens to work in polling areas to offer language assistance with uncommon languages. Louisiana will make voter registration forms available at firearms retailers and Texas has created the post of cybersecurity expert, a role that will intersect with many policy areas, including elections.

For more on 2013 elections-related enactments, see [2013 Election Legislation Enacted by State Legislatures](#). NCSL also will review notable elections bills and trends from 2013 during a free [webinar](#) on Jan. 31.

– Wendy Underhill



## Bookmark This: e-Book on Election Law

The e-Book on Election Law is a series of short, explanatory entries written collectively by the faculty at the Moritz College of Law at The Ohio State University to almost form an electronic encyclopedia of election law. Although many entries focus on Ohio, the e-Book includes national election law subjects such as voting technology, campaign finance, polling place procedures, voter eligibility and felon disenfranchisement. Sections of the e-Book include updates and news alerts as well as commentary. Also, relevant statutes accompany the entries.

### One big number

427

**427.** That's how many online comments poured in during an 11-day period before the U.S. Election Assistance Commission [decided not to make changes](#) to the national voter registration form. The commission decided against amending instructions on the form for Arizona, Kansas and Georgia, which were asking for inclusion of their states' additional proof of citizenship requirements.

The comments can be [viewed](#) by the public. The National Mail Voter Registration form was created in response to the National Voter Registration Act of 1993. It can be used by U.S. citizens from any state to register to vote or update their registration information. The form includes state-by-state instructions and requires an applicant to sign under the penalty of perjury indicating that the person is a citizen.

Kansas and Arizona have filed a joint lawsuit demanding a modification to the form's instructions to include state-specific requirements that voters show proof of citizenship, such as a birth certificate or passport. Georgia has requested a modification for its instructions, but did not join the lawsuit.

In its decision the EAC found that granting the states' "requests would likely hinder eligible citizens from registering to vote in federal elections, undermining a core purpose of the (National Voter Registration Act)." The matter goes back to a U.S. District Court in Kansas.

## Election Snapshot: Hawaii

Elections administrators in Hawaii performed well for military and overseas voters in 2012.

A [snapshot of election performance](#) by The Pew Charitable Trusts highlights Hawaii as the only state to report to the U.S. Election Assistance Commission that it rejected no military or overseas ballots that year. Of the 2,995 ballots the state sent abroad to voters, 2,018 were returned, and all were counted.

Still, Hawaii had the lowest turnout in the country with only 45 percent of voting-eligible people casting a ballot. That mark lags 14 percentage points behind the national turnout of 59 percent. The state in 2008 also had the lowest turnout in the country with just 49 percent of voting-eligible people participating as compared to the national turnout rate of 62 percent.

The data comes from the more extensive [Elections Performance Index](#) that Pew has created using 17 indicators to gauge how well elections are being run in each state.



### DATAPPOINTS

2012

## ELECTION STATE SNAPSHOTS



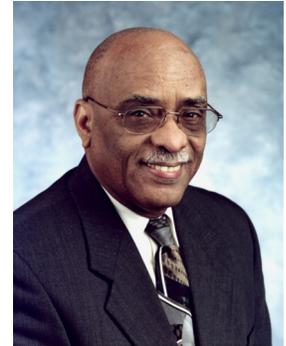


## From the Chair

Kentucky's Representative Darryl Owens chairs the House Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs. Since 2005, he has represented the 43rd district, which includes Louisville. Owens is an attorney specializing in probate and family law. The Canvass interviewed him on Jan. 13.

Excerpts:

- “You want to do those things which encourage people to vote and to make the voting process easier. I would love to get to the point where you could vote from your computer at home.”
- “We have wet/dry votes, sort of special elections in which voters decide whether to allow liquor sales in their precinct. We want to move those to a primary or general election date because there is a cost of conducting these elections and the turnout in those elections is pretty small.”
- “We still carry poll books to the poll. I would like to get that electronically done, although I'm one of those folks who believe you still need a paper trail if you want to check ballots.”
- “We are interested in seeing if we can get through the legislature the ability for the military and people overseas to cast their votes (electronically). The question that comes up is security. There are already countries doing this. We need to ensure that our military and overseas voters can cast their vote in a timely manner.”



Read the full interview [here](#) for more with Representative Owens.

## The Election Administrator's Perspective

Sherril Huff is the elections director for King County, Wash., the biggest jurisdiction in the state and the largest vote-by-mail jurisdiction in the country. She has held that role since 2007. The Canvass interviewed her on Jan. 10.

Excerpts:

- “Vote-by-mail gives elections offices far more control over the processes and far greater accuracy. We are able to reconcile and account for every ballot that comes back to our office.”
- “The difficulty is getting (lawmakers) to check with us when they are considering legislation so that we can be a part of that conversation.”
- “Three years ago we launched what we termed the “informed voter” campaign and we began doing ads using local celebrities...to address all of those issues where voters make mistakes or ignore instructions and end up with our not being able to count their ballots. So we addressed each of those issues that can result in that circumstance with education pieces, and it was fabulously successful.”
- “We applied lean business principles to all of our ballot processing functions...we have reduced time and we have reduced staffing tremendously.”



Read the full interview [here](#) for more from Sherril Huff.



## Worth Noting

- The New York Times has published a [set of graphics](#) showing a rise in single-party control in many states. This partisan divide framed several policies, including whether states required voters to confirm their identity through documents. The breakdown of 32 states that require identification documents and 18 states without the requirement was built from NCSL's [Voter ID: State Requirements](#) and [Voter Verification Without ID Documents](#) web pages, which include a timeline of the issue and links to significant voter ID litigation and related statutes.
- Nearly all of the 13 states that offered online voter registration before June 2013 saved money, enjoyed greater voter satisfaction and reduced burdens on election officials, a survey by The Pew Charitable Trusts shows. The survey, [Understanding Online Voter Registration](#), focused on cost, implementation, voter convenience, system management and online security. California reported saving about \$2.5 million from implementing online voter registration. Arizona, Colorado, Indiana, Kansas, Louisiana, Maryland, Nevada, New York, Oregon, South Carolina, Utah and Washington also were part of the survey. Seven states cited reduced opportunities for fraud as a major benefit of their online voter registration program.
- In 2013, the Connecticut Senate and House agreed that it was a good idea for military and overseas voters to use the Internet to return their absentee ballots. However, the secretary of state, Denise Merrill, released a [report](#) this month recommending a system that allows these voters to download and print their ballots, then return them by mail—not electronically—due to security and privacy concerns. Election offices nationwide must balance the convenience of [returning ballots as an email attachment](#) and concerns about security.
- John Lindback has been named executive director of the Electronic Registration Information Center ([ERIC](#)), a partnership of seven states plus the District of Columbia that is working to improve the accuracy of voter registration rolls. Lindback previously was a senior officer with The Pew Charitable Trusts and, before that, the director of elections for Oregon. Additional states are expected to join ERIC this year; legislative authorization often is required to do so.
- Robert Pastor, executive director of the 2005 National Commission on Federal Election Reform (aka the Carter-Baker Commission), [died Jan. 8](#). He was 66. Pastor also served as director of the Center for Democracy and Election Management and vice president of International Affairs at American University. He was a fellow and founding director at the Carter Center, where he helped develop elections mediation standards and observed more than 30 elections throughout the world.
- Going online to efficiently find voting information remains a challenge for many citizens who are overseas, according to a study by the Overseas Vote Foundation. The study, [State of the States' Website UOCAVA Support](#), reviewed the website of each state and the District of Columbia to gauge online support for voter registration, requests for absentee ballots and assistance for overseas voters. It found, in part, that 26 states offer a direct link to military and overseas voter services on their elections page and that the average number of clicks required to navigate from a state's elections homepage to the military and overseas section of the website was 1.59. Still, the survey found that most states ensured that people in the military and overseas were able to register to vote and request an absentee ballot.

## From NCSL's Elections Team

Katy Owens Hubler has joined our elections team, bringing an impressive background with her. She most recently served as Denver's election judge coordinator and previously helped manage a team of international elections observers in Tunisia during her tenure at the Carter Center. Her work at NCSL will focus on an exciting field within elections—voting technology. You can welcome her at [katy.owens.hubler@ncsl.org](mailto:katy.owens.hubler@ncsl.org) or 303-856-1656.

Here's to a busy, elections-filled 2014.

*Wendy Underhill and Michael D. Hernandez*



*The Canvass*, an Elections Newsletter for Legislatures © 2014  
Published by the National Conference of State Legislatures  
William T. Pound, Executive Director

In conjunction with NCSL, funding support for *The Canvass* is provided by the Pew Charitable Trusts' Election Initiatives project.

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