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Our soothsayers predict that 2011 will be The Year of Voter Identification Legislation. For instance, there is reason to believe that:

- Senator David Rouzer of North Carolina will be introducing legislation in the Tar Heel State.
- Newly elected Kansas Secretary of State Kris Kobach will find a way to have legislation introduced by early January in the Sunflower State.
- And Colorado’s Secretary of State-Elect Scott Gessler will keep his campaign promise to push for stronger voter ID legislation in the Centennial State.

That list is only the beginning. The parade toward voter verification began 10 years ago. In 2000, only 15 states asked for any kind of ID to verify voters’ identities. Most years since then at least one state has passed new or stronger voter ID laws.

Voter ID laws vary greatly from state to state. Given that the topic will be hot this year, now is a good time to define the wide variety of voter verification mechanisms in use.

First, the term itself. “Voter ID” is shorthand for any number of approaches used to determine who’s who at the polls. The federal Help America Vote Act of 2002 sets a baseline: new voters registering by mail who have not already had their identity verified must show identification (photo or non-photo) before voting. After the first visit to the polls, a voter in 23 states simply gives his or her name and address, and if found in the pollbook and unchallenged, votes. In many of these states, a voter also provides a signature, and poll workers compare it to a scanned image of the voter’s signature.

Twenty-seven states have broader voter identification requirements. In these states, all voters are asked to show identification before voting a regular ballot.

Of the 27, nine states ask voters for a photo ID. In no state are voters turned away from the polls for lack of a photo ID. Of the nine, five (Hawaii, Idaho, Louisiana, Michigan and South Dakota) will allow voters to vote on a regular ballot with alternative IDs or affidavits.

Of the remaining four states, Florida permits voters without a photo ID to cast a provisional ballot, and the local elections board then determines whether the voter is eligible to vote and therefore whether to count the vote.

Voting ID Requirements

Source: NCSL, 2011.

Photo ID Required
Photo ID Requested
Photo Optional; ID Required or Requested
No ID Required

Variation in Voter Verification

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
Effective July 1, 2011, Oklahoma will also allow voters without a photo ID or voter registration card to cast a provisional ballot if they sign an affidavit that can later be reviewed.

Only two states—Georgia and Indiana—have what could be called “absolute photo voter ID” laws. In these states, voters without a photo ID are permitted to vote on a provisional ballot. Their ballots are not counted, however, until they show election officials a photo ID within a designated few days after the election.

For more information on voter ID and the details of state requirements, visit NCSL’s State Requirements for Voter ID web page for full details, including a state-by-state compilation of relevant statutes.

Voter ID tends to be a highly charged topic in state legislatures. Some of the questions state lawmakers commonly struggle with as they debate voter ID include the following.

• Is the goal to reduce voter fraud? Proponents see requiring ID as a basic first step in fraud prevention, while acknowledging that other forms of fraud also need attention.

• Does requiring ID place an undue burden on voters? Proponents note that it is common to show an ID at airports, liquor stores and even video stores. Opponents counter that as many as 12 percent of citizens don’t have the appropriate ID. It’s not showing an ID that’s a burden—it’s obtaining an ID that can be hard, especially for people living in group facilities or who move frequently.

• Could stricter requirements for voter ID be perceived as a potential form of intimidation by minority voters? Minority citizens are less likely to have government-issued IDs than the population as a whole, and some cite a long history of literacy tests, poll taxes, intimidation and other techniques designed to keep them from voting.

• How will IDs be confirmed for absentee ballots? As many states move toward more mail-in voting, the requirement for verification becomes trickier. For now, mail ballots are verified by a signature check in most states, although some states require that a photocopy of an ID be submitted along with absentee ballots.

• Will ID requirements have an impact on voter turnout? Some studies indicate that stricter ID requirements reduce turnout. However, quantifying the overall effect is hard to do.

• Are election costs or complications for poll workers greater with voter ID than without? Election administrators will determine these trade-offs.

What They’re Saying

• “We all lost fair and square.” Kansas’ outgoing Democratic Secretary of State Chris Biggs, who was defeated in his re-election bid by Republican Kris Kobach. During the campaign, Kobach listed stopping voter fraud as his first initiative.

• “We’re trying to be certain there is no mischief in Wyoming elections.” Representative Amy Edmonds of Cheyenne, Wyo., who is introducing a bill that would require people to decide on their party affiliation 90 days before the primary election, unless they are registering for the first time.

• “More often than not, the Republicans are convinced that there is rampant voter fraud, and there is just enough fraud that you can’t say it doesn’t happen. The Democrats, on the other side, believe that voter intimidation is all over America, and there is just enough of it that you can’t say it doesn’t happen. The point is that each party believes its own messages on this with little real provable data to back it up. There are allegations and claims but when questioned and followed-up, there rarely is enough proof to give the allegations validity.”

—Doug Lewis, director of the Election Center, which provides training for elections administrators around the nation.
Colorado Considers Elections

Colorado’s Best Practices and Vision Commission was the brainchild of outgoing Secretary of State Bernie Buescher. With it, he created a one-stop shop to review any and all elections-based proposals. The commissioners represent a wide variety of elections stakeholders: state legislators, elections administrators, and elections activists. One legislator is Representative Carole Murray, a former county clerk. She says that before the commission was established a year ago, “the Secretary of State or legislators would have a bill in mind and they’d develop it in an informal way. This commission just formalizes the process and makes it public.”

Murray reports that Colorado has been ahead of many states in implementing changes to elections practice since 2000. She says that now the question for Colorado is, “how will we really be voting in the next 10 or 20 years?” She expects to see the state legislature consider permitting all-mail elections, a move that she says will be driven in large part by costs. Currently, Colorado clerks have the authority to decide to conduct all-mail elections for all but general elections; in general elections, voting in the traditional, in-person manner must be available.

Commission member Senator Rollie Heath, a former military careerist and businessman, says “it’s always a balance between convenience and cost” when legislators consider how to conduct the vote. In Boulder County, where Senator Heath lives, voters could vote in November’s election by mail, at early voting centers prior to Election Day, or at their precinct. He says that these convenience options made it an “optimal” situation for voters—but that from a cost perspective, “the county clerk got killed. Is the intent to try to enfranchise as many people as we possibly can, which means more convenience voting, or is the object to do a good job as cheaply as we can?”

The existence of this Colorado commission is a bit unusual. Doug Lewis, director of the Election Center, and the National Association of Election Officials, says that Colorado’s commission is noteworthy both for its recent birth (in the early 2000s a number of commissions sprang up and have since withered away) and its membership mix. Lewis would be pleased to see more states create commissions if the intent is to do what he calls “future think.” What does that mean? “When you go through the economic dislocation we’ve just experienced, it gives the impetus to make the big changes that will make the system last for the next fifty years.”

At least three other states, Georgia, South Carolina, and Connecticut, recently have floated the idea of creating broad-based commissions to review elections options this year.

The Election Reform Eras

Modern election reform began on Nov. 8, 2000, when the nation woke up after Election Day and realized it didn’t know who the new president would be. Doug Chapin, from the Pew Center on the States, categorizes this short history of reform as coming in three stages:

- **2001-2004:** The nation focused on how we vote—and how we count the votes.
- **2004-2008:** Concerns about the security of voting (in terms of voter fraud and the potential for large-scale hacking) took center stage.
- **2008-now:** When the economy tanked, the focus switched to (you guessed it) cost consciousness.

Chapin’s perspective, shared in a five-minute video (link) created by NCSL at the Fall Forum, is that “the challenge for the next ten years is to stop treating elections like they’re something special. To be able to vote is wonderful, and essential to our democracy, but money matters, too.”

Turnout Is Up, But Not By Much

Turnout in the United States was up by 1.05 percent between the midterm elections of 2006 and 2010, according to numbers just released by Curtis Gans, author of the new book, Voter Turnout 1788-2009 (2010, Congressional Quarterly Press). He says that, “with the depth of this recession, we’d expect a substantial increase. This is a modest increase.”

That increase masks more significant increases and decreases in the states. The “biggest loser” was Nebraska, where there was no senatorial race and a one-sided governor’s race to lead the ticket. Turnout there declined from 48.11 percent in 2006 to 39.01 percent in 2010.

Louisiana was the “biggest gainer,” moving from turnout of 27.24 percent to 37.39 percent. South Dakota had the highest turnout this year: 54.80 percent, and Texas had the lowest, with 32.26 percent.

These percentages represent the number of votes cast divided by the number of citizens of voting age (over 18). With new census figures and the last of the final tallies yet to come, Gans expects to see slight changes in the data before mid-January.
Kids Vote, Too

Kids Voting USA, a national non-profit association made up of state affiliates, made it possible for 650,000 K-12 students from 19 states to “vote” in November at school-based mock elections. This year, as in previous election years, children voted very similarly to their parents, indicating perhaps that family values are passed down at the dinner table or in the minivan.

Kids Voting USA director Rachel Willis says that “there are more and more adults taking advantage of advance voting [and thus changing the experience of a community-wide election day], so adapting to that change is at the top of our list as we prepare for the next election.” NCSL has created a web document, Children, Teens, and Democracy, outlining several ways that children can be engaged long before they cast their first real vote.

NCSL Federal Update

With the November election behind us, changes are afoot in Congress with respect to committee leadership. In the House, Representative Dan Lungren (R-Calif.) will become chair of the Administration Committee, while Representative Robert Brady (D-Pa.) will assume the post of ranking member. In the Senate, it appears Senator Charles Schumer (D-N.Y.) will retain his position as chair of the Senate Committee on Rules and Administration and that Senator Lamar Alexander (R-Tenn.) will take over the post of ranking member. These committee positions will be finalized in the coming weeks.

With a party switch and a new chair in the House come a new slate of issues. Although a firm agenda has not yet been set, House committee majority staff have indicated three areas of focus in the new year: 1) oversight hearings for the U.S. Election Assistance Commission (EAC), the Federal Election Commission (FEC) and the Federal Voting Assistance Program (FVAP); 2) MOVE Act implementation issues; and 3) easing the current costs to the states of election reform mandates.

In other news, EAC Commissioner Gracia Hillman recently resigned from her post, effective Dec. 10, 2010. Commissioner Hillman was one of the four original commissioners confirmed in 2003. Her term officially expired in December 2009, but with no replacement identified, she remained at the EAC. Only two members are left on the four-person EAC, Commissioner Gineen Bresso and Chair Donetta Davidson; both are GOP appointments.

—From Susan Parnas Frederick, NCSL’s Washington, D.C., expert on elections issues

From NCSL’s Election Team

Nothing is simple about electing over a half million officials in the United States. Starting with the President of the United States and moving right to school board members, well over 500,000 elected officials are doing the people’s business. Legislators can help this gargantuan undertaking work even more effectively by drafting laws that make elections simpler, cleaner, more cost-efficient or more convenient.

NCSL is here to help legislators. Our election team can answer questions; give fact-based, unbiased legislative testimony; or provide technical assistance and consulting in your capitol. Contact us with questions, thoughts or ideas at thecanvass@ncsl.org, or call us at (303) 364-7700.

Here’s wishing you a good start to the new legislative year.

—From Jennie Drage Bowser, Susan Parnas Frederick, Tim Storey and Wendy Underhill

Kids Voting USA

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