



NCSL

# THE CANVASS

STATES AND ELECTION REFORM®



Issue 66 | February 2016

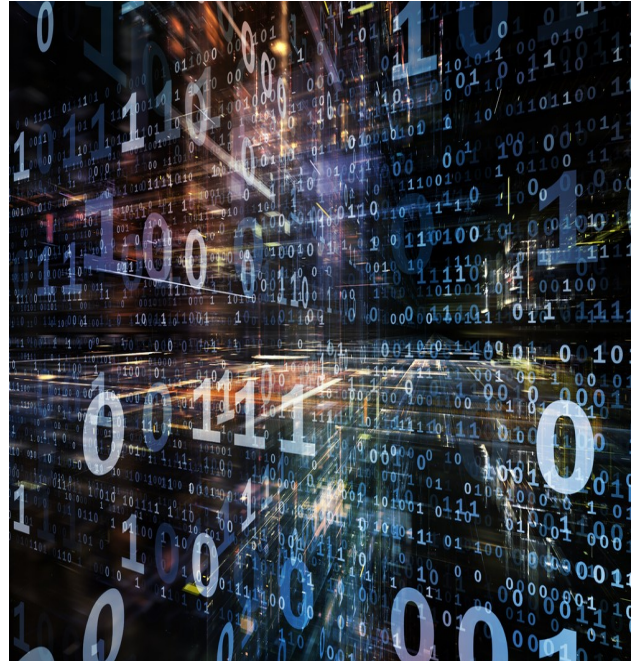
canvass (n.)

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*

## It's a Presidential Election Year: Do You Know Where Your Voter Records Are?

One of the secrets of the election world is how readily available voter data can be—and it's been making headlines lately. In late 2015, information such as name, address, party, and voting history relating to **approximately 191 million voters was published online**. And recently, the presidential campaign of Texas Senator Ted Cruz came under fire for a mailer in Iowa that **used voter data to assign grades to voters** and compared them to neighbors to motivate turnout. Voter records have always been public information, but now it's being used in new ways. Here are some key facts you need to know about the privacy (or lack of privacy) of voter information.



### *What voter information is public record?*

All 50 states and the District of Columbia provide access to voter information, **according to the U.S. Elections Project** run by Dr. Michael McDonald at the University of Florida; but as with everything related to elections there are 51 different variations on what information is provided, who can access it, and how much it costs to get it.

Generally, all states provide the name and address of the registered voter. From there it gets complicated. Some states have statutory limitations on what information is available. At least 25 states limit access to social security numbers, date of birth or other identifying factors such as a driver's license number. Ten states limit the contact information, such as a telephone number or email address. Nine states include miscellaneous information like place of birth, voter identification numbers, race, gender, secondary addresses, accommodations to vote and signatures on the list of exemptions for the voter file. Texas **specifically restricts the residential address** of any judge in the state.

While, there are 13 states that have no codified restrictions on the information available to the public, the secretary of state may have the ability to limit information. Six states have a general prohibition on "information of a personal nature" or information related to matters of individual safety that pertain to voter records as well as all other state records.

Every state except Rhode Island as well as the District of Columbia also provide information about voter history—not who a person voted for but just if they voted (Rhode Island does not provide access to that information). Absentee voting information—ballot requests or permanent absentee lists—are also available, sometimes for an extra fee and sometimes only through municipalities or local jurisdictions. At least five states do not offer absentee voting data as part of the available voter file.

### Inside this Issue

- It's a Presidential Election Year: Do You Know Where Your Voter Records Are? **1**
- One Big Number **3**
- Election Legislation By the Numbers: 2015 and 2016 **4**
- Ask NCSL **4**
- From the Chair **5**
- The Election Administrator's Perspective **5**
- Worth Noting **6**
- From NCSL's Elections Team **6**

TO SUBSCRIBE to *The Canvass*, please email a request to [TheCanvass@ncsl.org](mailto:TheCanvass@ncsl.org)

(cont. on page 2)

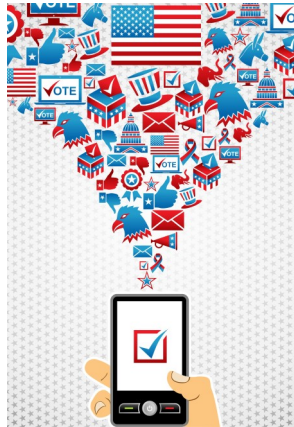


(Voter Records, cont. from page 1)

## Who can access the information?

All states allow candidates for elected offices or political parties to access voter records, typically for political purposes. Which makes sense—if you want to run for office it helps to have a list of your constituents to contact.

Beyond candidates and political parties, who can access voter lists varies state by state. Eleven states do not allow members of the public to access voter data. Several other states restrict access to state residents (11), other registered voters (7), non-profit organizations (6), and those doing research (9).



## What can it be used for?

Most often, voter information can be used for “non-commercial” purposes only—in other words, an entity or person can’t access the information to sell a product or a service, but can use it for anything else.

Several states are stricter, limiting the use to just political purposes or election purposes, which may or may not include voter registration drives, getting-out-the-vote and research. Further, the available uses may vary between the different users groups mentioned above. And it can be hard for states to control what happens to the data once it’s been turned over.

## Cost for accessing data

Accessing voter data comes with a price. “There is a wide variation in the costs that states charge for accessing this information,” says McDonald.

Washington, D.C. only charges \$2 for the entire voter registration list; other bargain rates include Arkansas (\$2.50) and New Jersey (\$2.55).

In Massachusetts, New York, Ohio, Oklahoma, Vermont, Washington or Wyoming accessing the voter is free, provided you meet the criteria.

Accessing the date is much pricier in some states. Several states charge \$5,000 and Wisconsin charges \$12,500. Alabama and Arizona got creative with setting their fees by charging one cent per voter, resulting in a cost of upwards of \$30,000.

Ultimately, the average cost for a voter list is approximately \$1,825—which isn’t prohibitively expensive.

## What other exceptions are there?

As mentioned above, states can restrict certain information from being released in the voter file. But states can also withhold information if a voter’s information is marked as confidential.

## Voter-Shaming—How does Social Pressure Influence Voter Turnout?

Get ready to add “voter-shaming” to your vocabulary. The term has been popping up in news stories everywhere over the past month—most notably in controversial presidential campaign mail pieces that compared the voting history of Iowa voters to their neighbors. But just what is it exactly?



The practice of comparing voting history to that of peers stems from a 2008 study conducted by Alan Gerber and Donald Green from Yale University and Christopher Larimer from the University of Northern Iowa entitled [Social Pressure and Voter Turnout: Evidence from a Large Scale Field Experiment](#).

The study examined the effect of various mailings on voter turnout. Specifically, the mailers had different messages that encouraged voters to do their civic duty, indicated that the voter’s vote history was being studied, listed the vote history of each member of the household, or listed the voter’s vote history compared to their neighbors. The results showed that each of these “social pressures” increased voter turnout but none more so than the neighbor mailing which increased turnout by eight percent.

Candidates, campaigns and other researchers took notice of the study which has resulted in “voter-shaming” mailers popping up in places like [Alaska](#), [North Carolina](#) and most recently in the first two presidential nominating contests in the nation—Iowa and [New Hampshire](#). They’ve shown to be powerful motivators so keep an eye out for social pressure mailers coming soon to your mailbox.

Thirty-nine states maintain address confidentiality programs designed to keep the addresses of victims of domestic violence or abuse, sexual assault or stalking out of public records for their protection. The programs allow victims to use an alternate address, usually a government post office box, in place of their actual home address. Of those 39 states, at least 29 of them have specific references to voter registration and voter records. That means those voter records won’t be included in the comprehensive list purchased from the state.

In 2015, Iowa established an [address confidentiality program that includes voter records](#) and Florida updated their [address confidentiality law](#) to include victims of stalking. This year [Kentucky](#) and [New York](#) have legislation to connect address confidentiality to voter records.

Another sensitive demographic is 16- and 17 year-olds that may be able to preregister under state law. How do you protect the information of minors? Of course the answer is complicated. Utah considers the records of preregistered voters private under

(cont. on page 3)



(Voter Records, cont. from page 2)

state law and Minnesota designates preregistered voters as “pending” until they become eligible in which case they are changed to “active.” Only active voters are included on the public voter list. The same is true in Louisiana, Missouri, New Jersey and Rhode Island.

In states where 17-year-olds are on the active voter rolls because they’ll be able to vote in the next election, their information will be treated like all the other voters. That’s the case in Nebraska where 17-year-olds can register, and in some cases vote, if they turn 18 by the first Tuesday after the first Monday in November. Maine doesn’t allow the public to access the voter list, but since the Pine Tree State allows 17-year-olds who will be 18 by the general election to vote in primaries, that information is included on the lists accessible to candidates and political parties. Delaware, Iowa, Nevada and Oregon have similar systems in which those under 18 are included on the list if they turn 18 by the date of the general election or are eligible to vote in primaries. Florida includes the information of preregistered voters unless an exemption is claimed.

### How have legislatures responded?



Sen. Paul Doyle (CT)

In 2015, 16 bills in 12 states were introduced that dealt with some aspect of distribution and the availability of voter information. In Connecticut, Senator Paul Doyle (D) responded to constituent concerns about their voter information being publicly available online by filing legislation to specifically prohibit that information from being [published on the Internet](#). “My constituent told me that they were going to take themselves off the voter list and de-register because of their information

being available online—that’s a problem,” says Doyle. “I understand First Amendment concerns, but I wanted to start the discussion on the issue.”

Three bills were enacted in 2015. In addition to the Florida and Iowa bills mentioned above, Alabama [decided to allow state legislators to receive only one free copy](#) of the voter list for their district rather than two.

So far in 2016, there are 13 bills in 8 states—some carried over from last year—dealing with voter information and a few those

are carryovers from 2015. One of the more notable battles is being waged in Florida where Senator Thad Altman (R) has [introduced legislation](#) to make voters’ residential addresses, dates of birth, telephone numbers and email addresses confidential and only available to candidates, political parties and election officials, and not to the public. Senator Altman’s bill also seeks to protect all the personal information of 16- and 17-year-olds who preregister to vote. The bill has the [support](#) of the Florida State Association of Supervisors of Elections.



Sen. Thad Altman (FL)

“Right now all this data is public information,” says Altman. “You can put it on the Internet or resell it. You can see someone’s address, phone number, and party affiliation. There have been cases where someone received an electioneering piece that said how many times they voted. I’m concerned it could keep people from voting or registering to vote or lead to discrimination. If you want that information to be private you should have that right.”

Other states are tackling this issue as well. [West Virginia](#) is considering legislation to keep private the address of law enforcement officers and their families. Massachusetts is one of the states that offers voter information for free, but now has legislation to [limit public access and to charge for lists](#). Legislation in Kentucky seeks to [remove social security numbers](#) from the voter list. Lastly, Illinois wants to make sure you know who paid for voter information on [any mailings that use your voter history](#).

But there are some who are concerned states may go too far in limiting access to this information. “I’m a researcher who studies voting trends to improve elections—I need access to this information,” says McDonald. “There has to be a balance between privacy concerns and access.”

Given some of the recent headlines, it remains to be seen how states will react to the increased concern of voter privacy. It’s the information age where answers are available at the click of a button and that includes voter information.

### One big number

**144 million**

**144 million.** The approximate number of eligible American voters that did not vote in the 2014 elections according to data from the U.S. Elections Project and quoted by [The Pew Charitable Trusts’ David Becker in the Stanford Social Innovation Review](#). It’s one of a 15-part series called “Increasing Voter Turnout: It’s Tougher Than You Think.”

Becker calls for a two part approach. First—conduct research; more specifically “comprehensive surveys of the eligible electorate that never or rarely votes to assess the attitudes and behaviors of these potential voters.” Then “create field experiments that test the effectiveness of various messages and modes of contact on nonvoters, maintaining a randomized control group that would receive no encouragement to vote.” The end result could be a “toolkit for those seeking to engage citizens in the democratic process to reach potential voters in a highly efficient, cost-effective way.”





# Election Legislation By the Numbers: 2015 and 2016

Election years are notoriously stodgy when it comes to enacting election legislation. First, a recap of 2015:

- 2,355 election-related bills were introduced.
- 241 bills in 45 states were enacted.
- 17 bills in seven states were vetoed.

Highlights included online voter registration, automatic voter registration and items related to preparing for the presidential election. For more information on what exactly was enacted in each state visit [NCSL's 2015 Elections Legislation Enacted by State Legislatures](#) webpage.

Now onto 2016:

- 1,747 election-related bills have been introduced in 42 states, including some bills from 2015 that were carried-over into 2016.
- Ten bills have been enacted already including: one in Michigan that **eliminates straight-ticket voting**; one in New Hampshire that allows **local selectman to appoint a replacement** if they can't fulfill their duties on election; four in New Jersey, which allow **preregistration for 17-year-olds**, **standardize polling place hours** and deal with other administrative issues; two in South Dakota including **authorizing the use of vote centers and electronic pollbooks statewide**; and one in West Virginia concerning **candidate withdrawal from the ballot**.
- Automatic voter registration seems to be leading the pack this year with a big increase in legislation from 2015. So far in 2016, 88 bills in 27 states have been introduced which is a 25 percent increase from last year.

- **Voter ID** legislation continues to be common, with 74 bills introduced so far and Missouri **poised to join the ranks** of strict voter ID states.
- **Absentee voting** issues remains popular with 68 bills pending and several states looking at early voting or no-excuse absentee voting.



- Because **online voter registration** is now active or authorized in 32 states plus the District of Columbia, legislation on this has taken an expected dip. Only 16 bills are in the hopper, but with high profile states like Ohio and Wisconsin considering enacting systems, online voter registration will remain a hot topic.

- Other registration issues, like preregistration for youth, **same day registration** and **list maintenance**, are still hot topics with a combined 129 bills.

- 179 bills deal with poll workers, polling places and vote centers.
- 134 bills deal with some aspect of the **primary process**.
- **Voting equipment** and technology bills total 53.
- 68 bills address election crimes.

NCSL's [Elections Legislation Database](#) is your go-to resource for all things 2016 election legislation. Stay tuned for updates throughout the year.



## *How many states allow a candidate to withdraw from the ballot after already qualifying?*

All but six states allow candidates to withdraw after making it onto the ballot. This is generally subject to some exceptions, most often deadlines after which a candidate may not withdraw. These deadlines are usually well in advance of the election, but in some states the deadline is much closer to the election. For example, in Alabama a candidate may withdraw even after ballots have been printed for the election. In Arizona, Georgia, Hawaii, Maine, Ohio, and Wyoming candidates may withdraw after ballots have been printed, but election officials must post notice of the withdrawal in prominent locations in polling places. Only California, Kansas, New

Hampshire, and Wisconsin expressly prohibit candidates from withdrawing from the ballot. Utah and Tennessee do not specifically address candidate withdrawal in statute. In Kansas the rule isn't absolute: A candidate may withdraw from the ballot if they certify to the Secretary of State that they do not reside in Kansas. In New Hampshire, a candidate may not withdraw once they have received a nomination, but they may be disqualified for age, health, or residency reasons. In Wisconsin, the name of a candidate may be removed from the ballot only if the candidate dies before the election, although a candidate may refuse to take office after being elected. For the full list contact the elections team.



## From the Chair

Assembly Member Sebastian Ridley-Thomas serves as chairman of the Elections and Redistricting Committee in the California Assembly. He represents the 54th Assembly district which is entirely in Los Angeles County and consists of communities in the western part of the city of Los Angeles. Assembly Member Ridley-Thomas spoke to The Canvass on Feb. 24.

- “We’ve done a great deal on language access, accessibility for those with special needs and engaging our high school students and young people through preregistration and other means. The new motor voter law will help to add potentially 5 million people to the voter rolls, but now they have to turn out to vote.”
- “We are working with several groups on legislation to give special districts more flexibility in transitioning from at-large representation to district-based representation ([AB 2389](#)). Currently, these special districts can only make this change after receiving approval from the voters. Enabling them to do it by ordinance will save time and money, especially in court costs, and help to de-escalate the tension in the courts. The residents will be better represented through this method. Communities are better served when they can elevate members of their own choosing that reflect them and their priorities.”
- “Myself and Senator Ben Allen (chair of the Senate Committee on Elections and Constitutional Amendments) are among the youngest legislators and we are focused on the future, but also not leaving our peers behind. I’m proud that California is looking toward the future and making elections better and more collaborative so voters can express their will and values at the ballot box. California is the innovation hub of the world and there’s no reason that can’t apply to elections.”

Read the [full interview](#) with Assembly Member Ridley-Thomas.



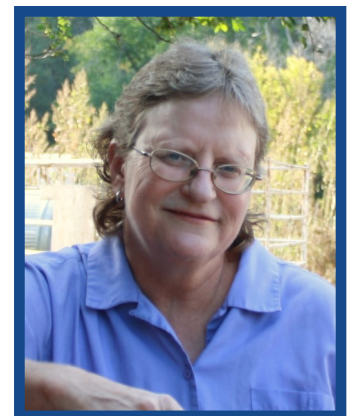
*Assembly Member  
Sebastian Ridley-Thomas*

## The Election Administrator’s Perspective

Sue Ganje serves as the auditor for Fall River County and Oglala Lakota County (formerly Shannon County) in southwest South Dakota. She is one of two auditors in South Dakota that cover multiple counties; Oglala Lakota County doesn’t have a county seat, so the administrative offices are in Fall River County. Ganje spoke to The Canvass on Feb. 18.

- “Things have definitely changed. I can remember hand-counting ballots into the early morning hours and using different colored ballots and straight party voting for political parties. When I look at where we were then to where we are now—we’ve come a long way in elections.”
- “I’m very interested in vote centers. Everywhere you go is a distance in our counties. There can be 30, 40 or sometimes 50 miles between towns. If a voter is not at the right location for voting at the time the polls close, they may have to vote a provisional ballot that may or not be counted. Vote centers would help alleviate that problem. Right now, the county cannot afford the equipment needed for a vote center but I hope there will be funding in the future.”
- “I’m proud that we’ve helped every voter we can to cast a vote. We have a great statewide voter registration system in South Dakota. It’s very easy for us to use and we have all the relevant county records right there in order to update the voter records. I think other states should be looking at our system to use.”
- “I think we also have a good voter identification system. The state created a personal identification affidavit that voters who do not have IDs can sign at the polls. It works well, and the voter can then vote a regular ballot, not a provisional one. The worst thing we want to do as election officials is turn someone away from the polls. Everyone gets to vote here.”

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



*Fall River County/Oglala Lakota  
County Auditor Sue Ganje*



## Worth Noting

- The Maryland Legislature has overridden the veto of Governor Larry Hogan and [will now restore voting rights to felons](#) once they have completed their prison sentence. Previously felons waited until completing parole and probation to get voting rights restored.
- Voter ID is back in the news as the Missouri Senate [considers two measures to require voter identification](#). One is a constitutional amendment that would be sent to voters for their approval and the other would limit the types of identification that can be used. Both measures previously [passed the Missouri House](#).
- Speaking of voter ID, NPR has a [look at the issue along with the recent changes](#) made to the state instructions on the federal voter registration form by the U.S. Election Assistance Commission (EAC).
- Politico has an excellent piece on how the recent passing of Supreme Court Justice Antonin Scalia [could affect cases and court rulings related to elections and redistricting](#).
- The plan by the Virginia Republican Party to [require loyalty oaths for voters](#) in the Republican Presidential Primary has been scrapped after earning the ire of presidential candidate Donald Trump and others. The Old Dominion State has an open primary that lets independents participate.
- As online voter registration continues to gain steam in states, David Levine, an election management consultant, offers [five key steps to getting online voter registration right](#) in electionlineWeekly.
- Oregon, the first state in the country to have automatic voter registration, began implementing its program in January. The Beaver State has added [4,653 voters](#) to the rolls since the law took effect.
- Nebraska is the latest state grappling [with legislation allowing voters to take ballot selfies](#).
- A new year means a new look at why Americans [aren't yet voting over the Internet](#) or on their phones according to USA Today.
- New Mexico is [on the cusp of allowing 17-year-olds to participate in primary elections](#) if they will turn 18 by the general election.
- The uncertainty surrounding the boundaries for two North Carolina congressional districts [may have an impact on military and absentee voters](#) who have already begun early voting for the March primary.
- Straight-ticket voting could be as dead as the dodo in a few years—one of the few remaining states to allow the practice, Indiana, is [looking at eliminating it](#).
- The Election Law Program at William and Mary Law School has a series of [helpful video modules](#) on various election issues, like campaign finance, public access to voted ballots, voting equipment malfunctions and absentee ballot disputes.



Replacing outdated voting machines is one of the hottest topics in election news right now so keep an eye on NCSL's [Election Technology News Feed](#) for all the latest on election technology and funding from around the nation. The page collects news articles on purchases, and discussions about voting systems, electronic pollbooks or other major decisions, broken down by state.

The NCSL team has been hard at work updating several of our webpages to provide the most current information: [2016 State Primary Dates](#), [Online Voter Registration](#), [Voter ID](#), [Absentee and Early Voting](#), and [Provisional Ballots](#).

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

—*Wendy Underhill and Dan Diorio*

*The Canvass*, an Elections Newsletter for Legislatures © 2015  
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.

Any opinions, findings or conclusions in this publication are those of NCSL and do not necessarily reflect the views of The Pew Charitable Trusts. Links provided do not indicate NCSL or The Pew Charitable Trusts endorsement of these sites.

TO SUBSCRIBE, contact [TheCanvass@ncsl.org](mailto:TheCanvass@ncsl.org)