



NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

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**Remarks by Wendy Underhill, NCSL Senior Policy Specialist**  
**Prepared for the Presidential Commission on Election Administration**  
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Thank you for inviting me to be here today. I work for the National Conference of State Legislatures, a bipartisan organization that supports the work of legislatures and legislators in all states and territories. Along with Jennie Drage Bowser, whom many of you know, I specifically focus on elections policy.

Much of our work involves gathering and disseminating unbiased elections-related information for legislators. You'll be glad to know that there is a great deal of overlap between their interests and the questions you are addressing here at the commission. I'll start right off with the top five issues that legislators ask us about. You'll see that *integrity* and *costs* are common themes through most of these issues.

*Issue Number One*, as measured by the number of requests we get, is voter ID. While this topic is not in your executive order, it might still be of interest to you. Many legislators see this as an integrity issue. What "integrity" means may vary from person to person, but if best practices don't address integrity in general, and how it relates to verifying a voter's identity in particular, they are unlikely to be adopted at the state level.

Right now, 34 states have passed requirements for voters to show an ID of some kind at the polls, although not all of these are implemented yet. Within that category, 12 states have enacted what NCSL calls "strict" voter ID. "Strict" voter ID laws mean that a voter who doesn't have the required ID votes on a provisional ballot, and that ballot is not counted unless the voter returns to an administrative office with the right ID within a few days. (Here too, not all of these new laws are implemented yet.) Information about the variations in voter ID laws is available on our webpage, [Voter ID: State Requirements](#). Additionally, we have a webpage, [Voter Verification without ID](#), that details how the other 16 states manage voter check-in. You may want to consider how all these procedures relate to polling place management.

*Topic number two* at NCSL is early in-person voting and no-excuse absentee voting. In a slow but steady trend, more states are offering one or both of these options. Right now, 32 states offer early in-person voting, and 27 states offer no-excuse absentee voting. It is true that occasionally a state has reduced its

early voting window, but no state that I know of has abandoned these options once they've tried them. Here, the questions we get are about *integrity*, especially in regard to no-excuse absentee voting, and *costs*—will it cost more or less to offer pre-Election Day voting? The answers to these questions aren't clear, and I hope that more research will address them over the next couple of years.

*Topic number three* is voter registration. Lawmakers want to understand why one out of eight voter registrations in the U.S. has a data error or is a duplication, as detailed in the report, [Inaccurate, Costly and Inefficient: Evidence That America's Voter Registration System Needs an Upgrade](#), from Pew Charitable Trusts. More importantly, they want to help their states do a better job of maintaining these lists with as few errors as possible.

We see two specific efforts. The first is online voter registration. 17 states have enacted legislation to permit citizens to register themselves online, although not all these states have implemented it yet. As with the other issue areas, the questions we are asked about online voter registration include *integrity*—can these systems be secured? and *money*—how much will it cost? By surveying the states that offered online voter registration last year, we now answer the money question by saying that implementation costs are low, and the savings are dramatic once the system is up and running.

States are also interested in improving voter list maintenance, including checking their data with in-state databases or cross-state resources. While we haven't heard as much about cost on this issue, integrity has certainly played a role, in the sense that some states would like to be able to check for citizenship as they register their voters. Both online voter registration and list maintenance efforts relate to Election Day management because fewer discrepancies on the rolls mean fewer problems at the polls.

*The fourth topic* is the transmission of ballots. Motivated particularly by the needs of military and overseas voters, legislators are looking for ways to make it easier for people to receive and return ballots electronically. Virtually all states allow citizens from afar to request that a ballot be sent to them electronically; 32 states also allow some citizens to return their ballots as an email attachment or by fax. That number of states is steadily increasing, and so are the categories of voters who are permitted to use these systems. The questions we get are, not surprisingly, about integrity and cost. Integrity, because cybersecurity experts advise caution in regard to sending ballots electronically—can they be hacked? And cost, because handling individual ballots is time consuming and therefore costly.

*The fifth topic* is broad: voting technology, both the funding for it and what voting equipment will look like in the next several years.

As for funding, new voting systems compete with new schools, new fire trucks and new bridges at budget time, and rarely do voting systems come out on top. In most states, the equipment bought with federal monies a decade or longer ago is nearing the end of its life cycle. Finding funding mechanisms that don't include large appropriations from still-stressed state coffers is beginning to be on everyone's mind, especially because local coffers are stressed, too.

As for the equipment itself, technology is advancing, and many citizens expect to do just about all of life's work on iPads. That's not where we are with voting at this point. Figuring out "best practices" for

voting system certification and design will be a challenge. NCSL has identified voting technology as the coming crisis in elections, and we will focus more of our attention on this policy area in the next couple of years.

We have online resources for most of NCSL's "big five" elections issues, and these are listed on the handout, *NCSL's Elections Resources*. We also maintain background information on many of the other topics that you are dealing with, such as vote centers, contingency planning and ballot design, and we will be glad to share what we have.

In addition, at the commission's request we have already gathered 50-state data on polling place requirements; that will be available shortly. We'll follow up with similar research on poll worker requirements and voting assistance for people in residential facilities. Please feel free to ask about other research projects; we'll help when we can.

Now I'd like to share with you an NCSL perspective on the primary role that legislators play in setting elections policy—and how seriously lawmakers take that responsibility.

One way we know this is a big issue for our constituents is that NCSL receives more questions about elections policy than any other single issue—511 in the last twelve months. That is literally twice as many as the runner up, gun control.

The number of information requests is just one measure of the interest state lawmakers have in elections. Another way to measure it is through legislation. Since 2001 25,248 bills that relate to elections have been introduced in state capitols. Of those, 3,087 were enacted. Some of these laws have involved sweeping changes, such as Colorado's new law this year and the bill that is on the governor's desk in North Carolina now. Others have made minor changes aimed at making elections run more efficiently.

Of the nation's 7,383 state legislators, approximately 1200 of them serve on committees that have jurisdiction over election laws. Because these legislators have all been candidates, they are familiar with the mechanics of elections. Few legislators, however, claim to be experts. They may be able to devote just two to three hours per week to election work while they're in session. Legislators have competing committee assignments to tend to, plus constituent work, and often full-time jobs on top.

The point is that lawmakers do not have, and shouldn't be expected to have, detailed expertise. They count on election officials such as we heard from earlier today to provide advice and analysis. NCSL supports efforts to connect administrators with legislators as a mechanism to ensure good policy outcomes.

While that connection is essential, so is access to information about evidence-based policies, especially when that information is provided through an easily-absorbed format, such as best practices. This means the work you are doing on the commission will be of great interest to our constituents. We can be sure that each legislator will review your "best practices" through the lens of his or her own state's history, geography and culture.

As I wrap up, I'd like to highlight two additional NCSL resources that are available to everyone. The first is NCSL's [Elections Legislation Database](#), which captures all elections-related legislation from 2011 to the present.

The second is [The Canvass](#), a newsletter we produce with support from Pew Charitable Trusts. In it, we provide background information on many of the issues that you are grappling with on this commission. For instance, the [April issue](#) specifically addressed customer service for elections, and [this month's issue](#) includes a description of your commission. When your work is complete we'll be ready to share the best practices that you develop. Everyone is welcome to subscribe to *The Canvass* simply by giving me your card or emailing me at [wendy.underhill@ncsl.org](mailto:wendy.underhill@ncsl.org).

I welcome any comments or questions you may have, either now or as your work goes on, and I thank you for the work you are doing.

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