

Stateline Midwest

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Transforming elections

Changes in state law have more people registering online, voting early and casting ballots in centralized locations

by Ilene Grossman (igrossman@csg.org)

To explain Minnesota's nation-leading election figures — high percentages of eligible voters who are registered, for example, and who turn out on Election Day — Rep. Steve Simon doesn't start by talking about his home state's laws.

He begins with a factor that is unwritten and transcends generations.

"Minnesota has a civic culture that encourages and celebrates voting," he says. "It isn't something you can legislate."

Across much the Midwest, in fact, that tradition of civic engagement is strong; voter turnout rates, for example, are higher than the national average — sometimes much higher in states such as Minnesota, Iowa and Wisconsin.

But while state election laws don't tell the whole story, their importance in the nation's democratic system is widely understood, with the recent political and legal battles over voter identification being perhaps the most prominent recent example.

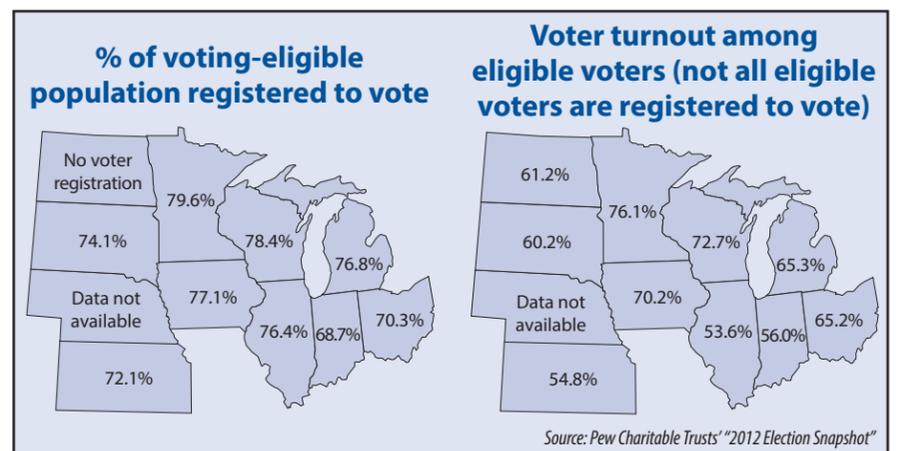
These laws have also been used to explain differences in voter participation among the states. Supporters of same-day election registration, for example, say it is no coincidence that high-turnout states such as Iowa, Minnesota and Wisconsin also allow for individuals to register and then cast a ballot on Election Day.

"[We want] to make voting as accessible and trouble-free as possible for all eligible voters," says Rep. Simon, who is now running for secretary of state, "since elections are about who has a say and who doesn't."

State policymakers serve as the nation's election gatekeepers, and they have been busy in recent years enacting new laws that have reshaped the U.S. election process. In the shadows of the voter-ID debate, states have been changing how people can register to vote and where they actually cast ballots. They also have begun to work more closely together to improve election management.

More early voting, data sharing

Doug Chapin, director of the Program for Excellence in Election Administration at the University of Minnesota's Humphrey



School of Public Affairs, identifies several major trends in U.S. elections.

For starters, fewer voters are using traditional polling places.

Due in part to changes in state law, he notes, voters "are expanding Election Day, either by voting before or by opting to vote in a different location than their

neighborhood polling place."

With the exception of Michigan, every state in the Midwest now allows some version of in-person early voting, and in states such as Iowa, Kansas and Ohio, one-third or more of ballots were cast early in the 2012 election (see sidebar and table on page 6).

Second, Chapin says, states are giving

▶ PLEASE TURN TO PAGE 6

Recent court decisions impacting state election law in Midwest

✓ **Wisconsin and voter ID** — In April, a U.S. District Court judge struck down a law passed by the Wisconsin legislature in 2011 that required individuals to show photo ID before casting ballots. The measure violates the U.S. Constitution's equal-protection and due-process clauses, the judge ruled, and also conflicts with the U.S. Voting Rights Act. In the decision, Judge Lynn Adelman found that the state requirement would disproportionately impact poor and minority voters, who are less likely to have photo identification. He also rejected the state's justification for the new law, voter-impersonation fraud. "The evidence at trial established that virtually no voter impersonation occurs in Wisconsin," he said. Wisconsin's attorney general has appealed the decision.

✓ **Kansas and proof-of-citizenship requirement** — Kansas, which now requires proof of citizenship for people registering to vote, recently prevailed in a federal lawsuit it had filed (along with the state of Arizona) against the federal Election Assistance Commission. As a result of the decision, the commission's state-specific voter-registration forms must include language about Kansas' and Arizona's rules regarding proof of citizenship.

✓ **Local court rulings in Iowa and Minnesota** — The Iowa and Minnesota secretaries of state have recently lost two separate rulings in state district court. In Iowa, Secretary of State Matt Schultz had developed a process for removing people from voter rolls based on a search of a federal database that can be used to verify citizenship. Iowa law only allows voters to be removed from registration rolls for specific reasons (death or felony conviction, for example), the judge said, and citizenship is not one of them. Schultz is appealing the decision. In April, a state district judge in Minnesota found that Secretary of State Mark Ritchie had also exceeded his authority — in this case, by establishing an online voter-registration system. However, a bill allowing for online registration has since been signed into law.

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Rise in early voting, online registration among trends in Midwestern states

voters more options on how to become eligible to vote.

In most states, with notable exceptions such as Iowa, Minnesota, North Dakota and Wisconsin, an individual must register before Election Day. (North Dakota is the only state without voter registration; the other three states have same-day registration.)

This registration requirement has usually meant that a first-time, would-be voter needed to go to a government facility or temporary site, present credentials and register — often weeks in advance of an election.

But that is beginning to change. Across the country, including in Illinois, Indiana, Kansas, Minnesota and Nebraska, individuals now have or will soon have the option of registering online, which holds the promise of making registration more convenient for voters and less expensive for states (paper processing costs more).

“We are seeing more interest in getting away from the paper-based, handwritten system that has been in place in this country for years,” Chapin says, “and we are seeing more and more legislation in the states reflecting that interest.”

Chapin adds a third big trend: The move by states to share information with each other about voter rolls and other data, in order to help election officials keep track of people as they move, die or change names.

With one in seven Americans moving every year, keeping voter lists up to date requires an organized, multistate effort.

Without such coordination, “bloated and inaccurate voter registration lists” — a problem highlighted earlier this year by the Presidential Commission on Election Administration — become more likely.

A failure to address the problem, the commission says, makes every aspect of election administration more difficult and state systems more vulnerable to voter fraud.

“As states try to keep up with that, and make sure that their voter rolls have only folks who are not only eligible but registered to vote, interstate-sharing programs are [gaining in] interest and popularity,” Chapin says.

Over half of the U.S. states are now participating in programs that track voters across state lines.

The Interstate Voter Registration Cross-Check program, for example, was spearheaded by the state of Kansas and now includes participation by Illinois, Indiana, Iowa, Kansas, Michigan, Nebraska, Ohio and South Dakota, among other states.

Each state submits its own voter data in early January, and the state of Kansas then provides the staffing and technology support to compare this data. When potential matches are found, the states are notified in order to avoid duplicate records and double voting. This year, 110 million voter records were reviewed.

The Electronic Registration Information Center, or ERIC, was launched in 2012. It, too, is a multistate partnership that aims to improve the accuracy of

Early voting in the Midwest		
State	% of votes cast early (2012)	Time frame for casting regular or absentee ballots in person before Election Day*
Illinois	22.5%	From 15 days before election to three days before election
Indiana	21.0%	From 28 days before election to noon on day before election
Iowa	43.1%	No sooner than 40 days before election to close of business day before election
Kansas	33.7%	From Tuesday before election (20 days before in certain counties) to noon on day before election
Michigan	26.3%	No in-person absentee/early voting
Minnesota*	9.0%	From 46 days before election until 5 p.m. day before election
Nebraska	25.8%	From 30 days before election through Election Day
North Dakota	28.8%	Determined by county; average is 4 or 5 days before election until close of business on day before election
Ohio	33.0%	From 29 days before election to Saturday before election
South Dakota	23.8%	From 46 days before election through Election Day
Wisconsin	22.5%	From 14 days before election until close of business on Friday before election

* This election year marks the first in which all Minnesotans, for any reason, can vote absentee (in person or by mail).
Sources: Pew Charitable Trusts' "2012 Election Snapshot" and CSG Midwest research

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Laboratories of electoral democracy: Unique features, facts and firsts about elections in 11-state Midwest



ILLINOIS elects more people to state and local office than any other U.S. state — and by a very wide margin, according to the last nationwide compilation done by the U.S. Census Bureau. The reason: The state's high number of state and local government units. Illinois has close to 7,000 of them, most in the nation. In the Midwest, **KANSAS** has the second-largest number of government units, 3,826.



Starting in 2007, **INDIANA** emerged as a national leader in the use of vote centers — polling places where any eligible voter in the county can cast a ballot. The idea is to give individuals more flexibility in where they vote (not limited to a single polling place) while providing potential cost savings for local governments (little-used neighborhood sites, for example, can be closed). Indiana ran a pilot program from 2007 to 2010 in three counties. Because of its success, legislators have now given all Indiana counties the vote-center option.



One of the early adopters of no-excuse, in-person early voting, **IOWA** now has nearly half of its voters casting ballots before Election Day. According to the Pew Charitable Trusts, early voting accounted for 43 percent of total votes cast in Iowa in the 2012 election — highest rate in the Midwest. Along with **MINNESOTA** and **SOUTH DAKOTA**, Iowa has the region's longest early-voting period (it lasts more than a month in each of the three states; see table on this page). **MICHIGAN** is the only state in the Midwest that does not offer some form of in-person early voting.



Starting in 2013, **KANSAS** began requiring individuals to prove U.S. citizenship when registering to vote. Accepted proof-of-citizenship documents include a birth certificate and U.S. passport. Earlier this year, Kansas and Arizona won a federal lawsuit that they brought against the U.S. Election Assistance Commission. As a result, the commission must include specific instructions on the federal voter-registration form informing those two states' residents of the proof-of-citizenship requirement.



In 1908, **MICHIGAN** joined Oregon as the first two U.S. states to adopt procedures allowing voters to recall elected officials, according to Ballotpedia. Today, recall laws are in place in five other Midwestern states: **ILLINOIS** (governor only), **KANSAS**, **MINNESOTA**, **NORTH DAKOTA** and **WISCONSIN**. Between 2000 and 2011, 457 officials in Michigan (mostly local rather than state) faced recall elections, according to the Citizens Research Council of Michigan. A legislative package signed into law in late 2012 could reduce those numbers. It shortened the period of time in which a Michigan official can be recalled and narrowed the time period for collecting the signatures needed to trigger a recall election.



MINNESOTA consistently leads the nation in voter turnout, with more than 75 percent of the state's eligible voters casting ballots in recent presidential elections. One oft-cited reason for Minnesota's strong turnout numbers is a decades-old state law that allows people to register to vote on Election Day. Two other Midwestern states, **IOWA** and **WISCONSIN**, permit same-day registration, and they have high voter-turnout totals as well.



At some point in every U.S. state's history, its leaders have had to answer this question: How should we award our Electoral College votes? Nearly every state has chosen the winner-take-all model: The presidential candidate who wins the statewide popular vote gets all of the state's votes in the Electoral College. **NEBRASKA**, however, is one of two state exceptions. Since 1992, it has instead awarded electors partly by congressional district. Recent legislative efforts in Nebraska to move to a winner-take-all system have failed.



NORTH DAKOTA is the only U.S. state without voter registration. This unique aspect of the state's election system has been in place since 1951. In a one-page summary of how the system works, the North Dakota secretary of state's office notes that voters cast ballots in “relatively small precincts,” thus ensuring that local election boards “know the voters who come to the polls.” Widespread voter fraud, the office adds, has not been a problem in North Dakota.



Missouri may have the reputation of being the nation's bellwether state, but in reality, the distinction belongs to **OHIO**. As the University of **MINNESOTA**'s Eric Ostermeier notes on his *Smart Politics* political news site, Ohioans have backed the winning president in every election since 1964 — the nation's longest “winning streak.” Further, even Ohio's vote margins in the presidential race tend to closely track the national vote — less than a 1-point difference, for example, in the Obama-Romney race of 2012.



SOUTH DAKOTA made electoral history in 1898 when it became the first U.S. state to adopt an initiative and popular referendum process. The idea of allowing citizen-initiated constitutional amendments or statutory changes eventually became a lasting legacy of the Progressive Era. Four other states in the Midwest (**MICHIGAN**, **NEBRASKA**, **NORTH DAKOTA** and **OHIO**) currently allow for citizen-initiated proposals to appear on the ballot. (In **ILLINOIS**, only changes to the legislative article of the state Constitution can be made this way.)



WISCONSIN has the most decentralized system of elections in the country. They are conducted at the municipal, rather than county, level. As a result, municipal clerks administer elections in each of the state's 1,852 cities, towns and villages. But decentralization has not stopped Wisconsin from having a strong statewide system of data collection. In fact, its Web-based system is cited as a model on how to gather election data from local election jurisdictions.

voter-registration records. Thus far, seven states have joined ERIC, although none, yet, in the Midwest.

Voter ID only part of big changes in law

Many of these big changes in state election law and administration have been overshadowed by another policy trend — the decision by some state legislatures to adopt new, stricter voter-identification requirements.

Deemed a form of voter suppression by opponents and voter-fraud protection by proponents, these voter-ID laws have led to several high-profile lawsuits. Most recently, Wisconsin's law was struck down in federal court (see page 1 sidebar article for details).

Today, some form of voter-ID law is now in place in six Midwestern states: Indiana, Kansas, Michigan, North Dakota, Ohio and South Dakota.

Indiana and Kansas have the strictest versions of this legislation, requiring individuals to have a government-issued photo ID (such as a driver's license, passport, state or military ID card) to vote. People without such identification can cast a provisional ballot and, within a few days after the election, must then provide proof of identity in order for the ballot to be counted.

The four other Midwestern states with voter ID have less-restrictive laws in place: the voter can provide another form of identification (utility bill, bank statement, etc.) or sign an affidavit verifying identity and then cast a non-provisional ballot.

Kansas, meanwhile, requires prospective voters to provide proof of citizenship when they register to vote. Arizona is the only other state with such a law on the books.

More bipartisan consensus has formed, though, over new initiatives to expand voter access. For example, Indiana and Kansas (which have among the strictest voter-ID laws in the nation) are among the states that now provide for online voter registration.

Kansas also is one of the six Midwestern states (Iowa, Michigan, Minnesota, Nebraska and South Dakota are the others, according to the Brennan Center for Justice) that have some version of

How to modernize voter registration: Policy recommendations from the Brennan Center for Justice

- ✓ **Provide for electronic registration at state DMVs and other governmental agencies** — Give citizens the choice to be electronically registered to vote at the same time they do business with a government office, whether it is applying for a driver's license or seeking veterans' benefits. The Brennan Center lists Iowa, Kansas, Michigan, Minnesota, Nebraska and South Dakota as the U.S. states with electronic, or automated, registration already in place.
- ✓ **Make registration portable, allowing voters to stay on voter rolls even when they move** — This portability can be achieved by automatically changing addresses or by allowing for Election Day registration. Ohio, for example, allows registered voters to cast ballots on Election Day, even if they neglected to update their registration information. (Ohioans then cast their ballots provisionally until the information is verified.)
- ✓ **Provide a process for information to be corrected or updated online or at the polls** — Iowa, Minnesota and Wisconsin allow for Election Day registration, which gives voters the chance to update information before casting a ballot. Illinois, Indiana, Kansas, Minnesota and Nebraska are among the U.S. states with laws allowing for online voter registration.

CSG joins forces with Department of Defense to improve overseas voting

For decades, U.S. military personnel, overseas citizens and their dependents have faced many barriers when attempting to vote in U.S. elections.

A January 2009 Pew Center on the States survey found that in the 2008 presidential election, 25 states did not provide enough time for U.S. overseas voters to cast ballots and have their votes counted.

That same study found that close to 30 percent of military and overseas ballots were rejected or returned as undeliverable or lost. To address these problems, the U.S. Department of Defense launched the Electronic Absentee System for Elections grant program.

To date, five Midwestern states (Michigan, Minnesota, Ohio, South Dakota and Wisconsin) have received funding to administer pilot programs featuring new U.S. overseas voting services — online voter registration, ballot requests, blank-ballot delivery and ballot tracking, for example. South Dakota Secretary of State Jason Gant credits recent changes in his state for turning “a 60-day process into a transaction that takes less than 30 minutes.”

Additional funds have been used by states to

develop single points of contact in election offices. The resulting data from the grant program are also being used to identify problems and develop policy solutions to improve the system.

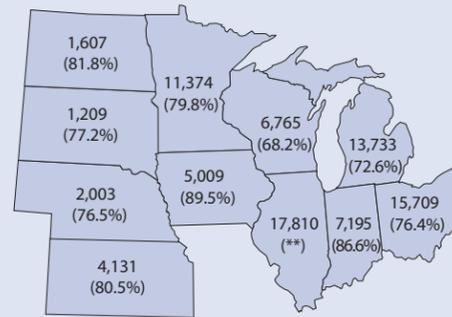
In September 2013, The Council of State Governments established an Overseas Voting Initiative in partnership with the U.S. Department of Defense and the Federal Voting Assistance Program to:

- Provide technical support to two advisory groups that will focus on policies and technologies to improve voting for military personnel and overseas citizens.
- Disseminate policies and other resources tailored for federal and state policymaking audiences.
- Provide in-depth research and evaluations of state and local election practices.

• Deliver support to the Federal Voting Assistance Program in its evaluation of election performance.

Kamanzi Kalisa is serving as director of CSG's Overseas Voting Initiative. He can be reached at kkalisa@csq.org.

Overseas voters in the Midwest: Total # of overseas ballots cast, 2012 (overseas ballots as % of all mailed ballots)*



* Data may not be complete in some states due to differing rates of response among local jurisdictions
 ** Data not available

Source: U.S. Election Assistance Commission

automated voter registration at departments of motor-vehicle offices. These states allow people to register to vote in-person on a screen at the DMV office.

These DMVs can also help states keep voter records accurate and up to date. The Presidential Commission on Election Administration, for example, singles out Michigan for how that state has integrated driver's license information and voter data.

Rep. Simon would like his state to adopt an “opt-out” system as part of its motor-voter law — individuals would be automatically registered to vote at the DMV unless they choose to opt out.

Some states, too, are trying to do more to encourage participation by young people.

Illinois, with the passage of HB 226 in 2013, became the eighth state in the Midwest to allow 17-year-olds to vote in primaries if they will turn 18 by Election Day. Indiana, Iowa, Kansas, Minnesota, Nebraska, North Dakota and Ohio also have state laws or party rules allowing participation by 17-year-olds, according to the Center for Voting and Democracy.

The center also recommends that states allow 16-year-olds to register to vote, which many might then do when getting a driver's license.

People of all ages, meanwhile, are taking advantage of the state laws that now allow for early voting.

“There are very few states where, if you try even a little bit, you can't cast your ballot before Election Day,” Chapin says. In three U.S. states, in fact — Colorado, Oregon and Washington — every eligible voter is mailed a ballot in advance of the election and can then return his or her ballot by mail.

Early voting in some form is nothing new. Most states have long offered the chance for individuals to vote via an absentee ballot, sometimes requiring a person to provide an “excuse” as to why he or she couldn't vote on Election Day.

But many states have since opted for no-excuse absentee balloting and in-person early voting,

and more voters are taking advantage of this opportunity.

In states such as Iowa, Minnesota and South Dakota, early voting begins 40 days or more before the election (see table for list of state-by-state laws). In Nebraska (thanks to this year's passage of LB 565) and South Dakota, state law allows for same-day registration during parts of the early-voting period.

Vote centers in South Dakota, Indiana

South Dakota is also at the forefront of another change in election administration: the opening and use of centralized vote centers.

Secretary of State Jason Gant describes the vote center as a way to put “polling places where people are going, not just where they live.”

“Instead of having to go to a specific site,” he says, “the resident can cast a ballot at any vote center within his or her home county.”

Opened on Election Day, the centers are spread throughout the county — in schools, community centers, churches or other sites. These vote centers are made possible through the use of electronic poll books that allow data to be checked remotely and immediately at different sites across the county.

“Voters have had a positive reaction to vote centers,” Gant says, “and [the centers] have saved money as well.” The savings, he adds, come from reductions in the number of polling locations and in the number of workers needed on Election Day.

Indiana was one of the first states in the country to use vote centers, via a pilot program that began in three counties in 2007. The program's success led the legislature to adopt a statewide vote-center program in 2011.

In both Indiana and South Dakota, local election officials decide whether to employ the vote-center model. ★