

**NCSL Standing Committee on Elections and Redistricting
DRAFT POLICY BOOK
Policy Week Meeting
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ELECTIONS AND REDISTRICTING

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1 **COMMITTEE: ELECTIONS AND REDISTRICTING**

2 **POLICY: FEDERAL DECENNIAL CENSUS**

3 **TYPE: DIRECTIVE (NEW- Committee Work Product)**

4 The U. S. Constitution requires that a federal decennial census be conducted every ten
5 years. This responsibility is delegated to the U.S. Census Bureau.

6 Since the first census was conducted in 1790, states have relied on federal census data
7 for various purposes. Currently, this data is used to redraw congressional and state
8 legislative district boundaries and to help federal, state, and local governments develop
9 informed, cost-effective policies that promote economic growth, the well-being of
10 individuals and families, and public safety in all communities. The federal government
11 uses formulas based on census data to distribute federal funds to states and localities.
12 In turn, states and localities use census data to distribute funding for vital services such
13 as Medicaid, Medicare, and state highways.

14 In addition to its singular Constitutional requirement to provide data for Congressional
15 reapportionment, P.L. 94-171 requires the Census Bureau to provide states with data
16 specifically for redistricting.

17 NCSL supports a full and complete census count and will work with the U.S. Census
18 Bureau to conduct its decennial census, related research programs, and outreach
19 efforts. NCSL urges Congress to facilitate a full and complete census count by ensuring
20 the U.S. Census Bureau has sufficient resources such as equipment, staff, and
21 funding.

22 NCSL has long partnered with the U.S. Census Bureau to provide state legislators and
23 legislative staff with timely information on census activity, both the decennial census
24 and other census programs, and to provide feedback on their services and research. It
25 is critical that the U.S. Census Bureau continues to seek this valuable feedback from its
26 state partners.

27 To meet its mission, the Census Bureau must:

281. Fulfill the constitutional mandate for the decennial census because of its critical value to
29 the states and to all Americans. It is critical for the Census Bureau to maintain the level
30 of preparedness and planning necessary to conduct each decennial census. To
31 achieve this goal the Census Bureau must maintain adequate staffing to conduct the
32 census, including the testing of all new questions, procedures, and software in the field
33 prior to conducting the census.
342. Meet federally mandated standards for data privacy through disclosure avoidance
35 without compromising data accuracy, particularly in regard to reapportionment for
36 congressional seats and redistricting for congressional and legislative seats.
373. Implement and follow consistent policies that engender trust in the census process to
38 ensure compliance with the mandate to timely and properly account for all people living
39 in the United States as of on Census Day (April 1, 2030) and thus produce an accurate
40 count of the nation's population.
414. Disseminate decennial census data to states according to federally mandated deadlines
42 so that states can meet their mandated deadlines or necessary timelines for
43 redistricting.
445. Provide transparent access to critical annual data including the American Community
45 Survey, the American Housing Survey and the Local Update of Census Address
46 program intercensal population estimates, and other data products.
476. Maintain adequate staffing and resources to administer the Local Update of Census
48 Addresses operation (LUCA) that supports the Census Address List Improvement Act of
49 1994 (PL 103-430) and federal, state, local and tribal collaborative efforts with the U.S.
50 Census Bureau to develop the housing unit and group quarters address list that it will
51 use to conduct the decennial census.
527. Provide comprehensive census outreach and education to states and the general public
53 in ways that are comprehensible to all audiences, including those with limited English-
54 speaking reading or writing proficiency with the goal of accomplishing a complete and
55 demographically accurate census count.

1 **COMMITTEE: ELECTIONS AND REDISTRICTING**

2 **POLICY: ELECTION ADMINISTRATION**

3 **TYPE: DIRECTIVE (NEW – Committee Work Product)**

4 Debate over election policy has intensified and continues to attract national attention.
5 Public confidence in the integrity of our elections is of utmost importance to both state
6 and federal policymakers and is fundamental to our democracy; The Constitution of the
7 United States explicitly grants state legislatures the authority to regulate the time, place,
8 and manner of elections. Even minor changes to federal election laws and policy affect
9 states;

10 As the organization representing state legislatures, National Conference of State
11 Legislatures (NCSL) stands ready to partner with members of Congress and federal
12 officials to develop appropriate federal legislation, regulations or guidance that respect
13 state sovereignty.

14 NCSL recognizes the value of the election security support the Cybersecurity and
15 Infrastructure Security Agency (CISA) provides to states.

16 NCSL recognizes and thanks election officials, staff, poll workers and all other citizens
17 involved in election administration and voting for their tremendous contributions and
18 commitment to administering accurate and fair federal and state elections.

19 In January 2017 the Department of Homeland Security (DHS) designated the systems,
20 facilities and processes that support election administration as a component of United
21 States critical infrastructure. The United States Code defines critical infrastructure as
22 “systems and assets for which “incapacity or destruction ... would have a debilitating
23 impact on security, national economic security, national public health or safety, or any
24 combination” of them (42 U.S.C. §5195c(e)).” This designation has enhanced the
25 collaborative relationship between DHS and the states.

26 Given the designation of election infrastructure as critical infrastructure, and the
27 enhanced need for federal-state collaboration, state legislatures must be equal partners
28 with Congress and CISA to find workable solutions that are amenable to the states

29 when considering any potential election legislation or administrative agency actions.
30 NCSL urges Congress and the Administration to maintain the integrity and capacity of
31 CISA so that election cybersecurity remains strong.

32 NCSL opposes any federal election mandates with insufficient federal funding or that
33 preempt the authority granted to state legislatures by the U.S. Constitution. NCSL urges
34 Congress and the administration to engage in meaningful consultation with states or
35 their national association NCSL for any proposed congressional or agency action.
36 Meaningful consultation must include what the cost to states would be, the feasibility of
37 state implementation and any possible preemption of existing state laws. Meaningful
38 consultation with states or their national association NCSL must occur prior to
39 introduction of any federal bill or regulation impacting state or federal election processes
40 and give states or their national association NCSL sufficient time of at least 21 business
41 days to provide information and respond to Congress or the Administration.

42 **NCSL urges the fiscally responsible congressional appropriation of federal funds**
43 **to supplement the resources already allocated by state and local governments for**
44 **the purposes of:**

- 45• Protecting equal access to the right to vote and insuring against the disenfranchisement
46 of American citizens;
- 47• Facilitating accurate voter registration. If Congress should call for enhanced standards
48 for voter registration states must have access to national databases free-of-charge that
49 inform states of citizenship status, identity verification and death records;
- 50• Protecting data privacy for all individuals. Any federal legislation or proposed rule,
51 standard or guidance must contain appropriate privacy protection and security
52 provisions.
- 53• Ensuring elections are conducted using current technology. As new technologies are
54 introduced and new certified election technology becomes available, states will need
55 federal funding assistance to deploy and maintain them;

56• Enhancing the security of elections. State and local election offices and technologies
57 which are federally designated critical infrastructure, are potential targets for physical
58 and cybersecurity attacks. It is the federal government's responsibility to provide
59 support for state and local election officials and protect against attacks on state
60 systems. This support includes but is not limited to education, vulnerability audits,
61 information sharing, deployment of cybersecurity technologies and any forthcoming
62 strategies and tools that will assist states in preventing and remediating physical and
63 cybersecurity attacks.

1 **COMMITTEE: ELECTIONS AND REDISTRICTING**

2 **POLICY: CONTINUITY OF CONGRESS**

3 **TYPE: DIRECTIVE (NEW – Committee Work Product)**

4 NCSL acknowledges the possibility that a catastrophic national emergency could occur
5 that renders the U.S. Congress, particularly the U.S. House of Representatives, unable
6 to meet its constitutionally mandated quorum to conduct the business of the country.

7 The Federal Emergency Management Agency (FEMA) defines such an event as
8 encompassing any natural or manmade event, including terrorism, that results in
9 extraordinary levels of mass casualties, damage, or disruption severely affecting the
10 population, infrastructure, environment, economy, national morale, and/or government
11 functions. Such incidents often exceed the resources available to federal, state, tribal,
12 local, and private-sector authorities and significantly interrupt governmental operations
13 and emergency services. If such an event occurs, states recognize the need to balance
14 an expeditious special election process with the goal of conducting transparent, fair and
15 accurate elections.

16

17 The Congressional Research Service reports that since September 2002, there have
18 been 113 House vacancies due to death, expulsion or resignation with an average
19 vacancy period of 136 days. Congress passed legislation in 2009 that in “extraordinary
20 circumstances” states must hold a special election to fill House of Representatives
21 vacancies not later than 49 days after the House Speaker announces that a vacancy
22 exists unless a general election is held within 75 days of the Speaker’s announcement.

23 This special elections process does not account for state laws and procedures for
24 conducting special elections and would prove problematic in an actual emergency
25 situation.

26

27 To ensure compliance with federal law, NCSL urges Congress to amend the 2009
28 legislation to permit states the flexibility they need to comply with federal special
29 election requirements to replace vacant House of Representatives seats.

30 NCSL supports congressional consultation with states or NCSL as the national
31 association representing states, territories and the District of Columbia prior to the
32 introduction of any additional continuity of Congress legislation to determine the best
33 timeframe for conducting a special election in a catastrophic national emergency that
34 balances respect for state prerogatives with the need to promptly fill congressional
35 vacancies.

36 NCSL opposes federal legislation that would preempt state laws governing special
37 elections absent appropriate state consultation.

1 **COMMITTEE: ELECTIONS AND REDISTRICTING**

2 **POLICY: VOTER REGISTRATION LIST MAINTENANCE**

3 **TYPE: RESOLUTION (NEW COMMITTEE DRAFT)**

4 **WHEREAS** the maintenance of official eligible voter records in each state is
5 foundational to the conduct of fair, free, and secure elections.

6 **WHEREAS** states hold the principal responsibility for maintenance of these official
7 records.

8 **WHEREAS** no comprehensive 50-state system of voter record maintenance exists
9 today.

10 **WHEREAS** timely upkeep of voter file information is imperative because voter data is
11 not static. Every day, people die, register to vote for the first time, move across state
12 lines, or have other events that impact voter eligibility. Changes such as address
13 updates, deaths or other events occur frequently.

14 **WHEREAS** maintaining accurate and updated voter rolls through effective, thorough,
15 nonpartisan and secure systems is vital to strengthening trust and confidence in the
16 election process.

17 **WHEREAS** voluntary state-led coordination between states and with the federal
18 government can help identify and remove ineligible or deceased voters and update
19 eligible voters' records.

20 **LET IT BE RESOLVED** NCSL urges Congress to assist states, territories and the
21 District of Columbia in ensuring effective voter data maintenance to increase the
22 accuracy of official records and voter confidence in the election process.