

*electionline.org*

# Briefing



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## The 2006 Election

In the weeks leading up to the 2006 vote, analysts often threw around words like “chaos,” “meltdown” and “catastrophe.”

However, after Election Day, reports used terms including “glitch,” “snafu,” “hiccup” or “headache.”

With the vote now four weeks past, initial post-election evaluations reveal a process that some saw as better than 2004 and others viewed as the catastrophic meltdown predicted in the weeks leading up to the election.

There were plenty of problems, including Denver’s vote center fiasco, thousands of lost votes or non-votes in Sarasota County, Fla., problems accessing voter databases in Montana, polling places with malfunctioning machines, AWOL poll workers in parts of Ohio and Pennsylvania and reports of voter intimidation in a number of cities and counties across the country.

Despite a sometimes bumpy vote, the perfect storm of machine problems, controversial results and a partisan power struggle did not

materialize. In states with close races, such as Virginia, the margin of victory for Senate candidate James Webb exceeded that of Sen. George Allen (R) by a mark greater than any change a recount would have likely yielded since the state does not perform manual counts of ballots.

However, one election has rekindled memories of November 2000 – palm trees, peering election judges, Katherine Harris, butterfly ballots and questionable results.

Florida’s 13th Congressional district, a seat currently held by former secretary of state Harris (R), presented a 21st century update of the butterfly ballot debacle of Palm Beach County six years ago. A confusing ballot design, a faulty voting system or record numbers of disaffected voters contributed to a high number of lost votes in a top or near top-of-the ballot race to represent the district in the U.S. House of Representatives.

In this, the 15th *Electionline Briefing*, “Election 2006 In Review,” we take an early look at what went wrong – and right – in the 2006 midterm election, with particular focus on voting machines, new procedures and preparation. The first general election since the final deadlines of the Help

America Vote Act, this year’s vote saw polling places greatly changed – from new voting machines in an estimated one-third of all precincts to accessible machines, one per polling place nearly nationwide, to new requirements including mandatory voter ID in a number of states.

A careful examination of each of these issues can only come with a more thorough analysis and much more data from states and localities.

At this stage, this report seeks to provide a snapshot of election-day failures, successes and struggles around the country, setting the stage for the next legislative session in the states as well as for the 110th Congress.



# Executive Summary

The 2006 midterm election was one of the most scrutinized in recent memory, with more voters than ever casting ballots on new machines, states facing federal mandates to use statewide voter registration databases, and in some areas, new or updated requirements for identification at polling places.

Success is difficult to measure. The margin of victory in most cases exceeded the margin of error. But there were also serious problems that will require analysis and action before Americans return to the polls.

Voters in a number of states had difficulties at the polls due to equipment delays, long lines, ballot shortages or other issues.

## Voting Systems

A sharp rise in the use of electronic voting systems – and related drop in deployment of punch-card and lever systems – led to concerns before Election Day and problems during it in some states. A number of states used the machines for the first time in a general election – an estimated third of all polling places and problems were plentiful.

Incidents of poll-worker or election official errors were recorded in Texas, Indiana, South Carolina, Pennsylvania, Rhode Island, New Mexico, North Carolina, Massachusetts and elsewhere. The election-day challenges were as varied as the geography, with missing ballots in Boston and New Mexico, machine start-up snafus in Pennsylvania, uncollected ballot activator cards in Washington, D.C. and a lack of trouble-shooting skills by poll workers without sufficient experience on high-tech voting machines.

Machine errors unrelated to poll workers arose as well, the most common complaint being “vote flipping,”

in which machines did not record votes accurately for a variety of reasons. Reports of vote flipping came from all over the country on Election Day, including Georgia, Illinois, Texas, New Jersey, and Ohio.

A high number of non-votes in Sarasota County, Fla. led national organizations to question the performance of touch-screen voting systems used in the election. At press time, a state investigation was underway.

## Voter ID

New stringent, photo ID only rules in Indiana led to “no problems at all,” said Secretary of State Todd Rokita (R). But new voter ID rules, or rules ignored or not followed in other parts of the country, prompted a number of calls to national organizations tracking election problems, with the most common complaint from voters being asked to show ID – photo or otherwise – in defiance of state requirements.

With little new data from the 2006 election on turnout among various segments of the population, Republicans and Democrats will likely continue to argue whether polling place voter ID increases election integrity or decreases voter access.

## Voter Registration

Instances of voters being left off the rolls were reported in a number of states, but hard data is lacking, at least until states reveal numbers of provisional ballots that were cast and counted.

Electronic poll books, linked to statewide voter registration databases, had technical problems in some states, particularly in Colorado, where Denver voters faced long lines when the poll books froze or slowed while attempting to verify voters in the registration database.

# ELECTION 2006: Lessons Learned

Election Day 2006 was perhaps the most-scrutinized in recent history. Yet none of that scrutiny – and list of problems identified here and elsewhere – will matter without an effort to step back and assess what Election Day 2006 can tell us about future elections.

Thus, with scarcely a month of hindsight, here are *electionline.org*'s two biggest “lessons learned” from the 2006 election:

**Lesson #1:** When assessing the success of an election, election returns and the election experience are largely separable. Before, during and after Election Day, questions arose about whether the vote would be considered a success. The answer is complex, and to a large degree, tracks the two major interests underpinning the electoral process.

If, on one hand, success is defined through the societal interest of picking winners, then the answer is yes. With the exception of the ongoing dispute in Katherine Harris' former Congressional district in Sarasota, Fla. (ed. note – you can't make this stuff up) there were few races in which election problems could be seen to have affected the outcome. By that standard – the ability to identify winners and losers and move on with the business of government as a result – then the election was a success.

On the other hand, if success is to be measured through the individual interest of having each voter's voice heard, then the answer must be no. As documented in this *Briefing* and elsewhere, voters in a large majority of states encountered difficulties at the polls due to equipment delays, long lines, ballot shortages or other problems.

For each of those voters – even those who eventually were able to cast their ballots – the process of empowering individuals to register their opinions through the voting process did not work and cannot, therefore, be considered a success.

These interests are not separate, however. While society's interest in picking winners is a powerful short-term focus, the overall legitimacy of those winners requires a sense on the part of individuals that their votes were counted and their voices were heard. This longer-term focus is a key component of success in elections, and will go a long way toward assuring voters that the process works.

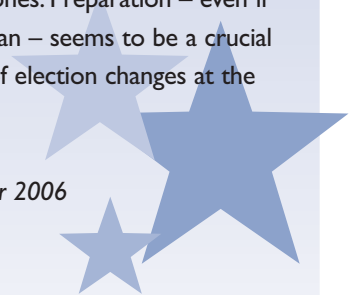
**Lesson #2:** *No matter how you define success, preparation pays.* One of the common threads identified in the run-up to the 2006 election was the importance of time to electoral success; specifically, here at *electionline.org* we wondered if jurisdictions experiencing change close to November would have difficulties on Election Day.

The record was mixed. In some places, last-minute training or new procedures created problems, as in Cook County, Ill., and Denver, while elsewhere, new technology performed mostly without incident, as it did in the 25 jurisdictions in Connecticut using optical-scan machines as a replacement for lever systems.

At this early juncture, the difference appears to be preparation. Connecticut succeeded on Election Day 2006 because it thoroughly (one might even say obsessively) prepared for the change. Jurisdictions that lacked the time, resources or even foresight to conduct the same level of preparation saw the results on Election Day.

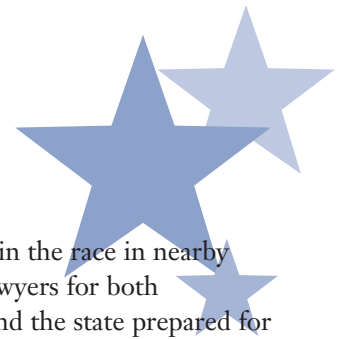
The lesson going forward is that it will no longer be enough to avoid past mistakes or address old problems; the key will be to prevent new ones. Preparation – even if it takes the form of a disaster plan – seems to be a crucial factor in the success or failure of election changes at the state and local level.

—Doug Chapin, director, November 2006



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# States We Watched



In *electionline.org's* 2006 *Election Preview*, 10 states were highlighted as “states to watch” along with three more categorized as those that “just missed the list.” The categorization was not necessarily intended to signal trouble spots. Rather, the states were selected because procedures, hardware or other aspects of the election were sufficiently changed as to warrant extra attention. With the election now over, a review of those states is in order to see what went wrong, what went right and whether pre-election predictions were off the mark.

## Arizona

Education campaigns centered around the new requirements imposed by Proposition 200, which required voters to present identification at the polls, prevented major meltdowns, though it remains to be seen whether the U.S. Election Assistance Commission (EAC) will make changes to the national voter registration form to ask Arizona registrants to submit proof of citizenship in accommodation with the state’s law.

## Colorado

Recently implemented vote centers, electronic poll book crashes and associated long lines contributed to headaches for voters and elections officials in Denver, where some voters waited more than three hours after the polls closed to cast ballots. A judge denied a request by Democrats to keep polls open longer, saying that she lacked the authority to do so. Police officers were called to help sort absentee ballots and 100 city employees answered an emergency call in the middle of Election Day to

work the polls. Denver also faced challenges counting absentee ballots while a central computer system had to be rebooted twice. Douglas County faced a late election night as well, with voters casting ballots as late as 1:30 a.m.

## Connecticut

Voters in 25 towns used recently-implemented optical-scan equipment at the polls, but it was the antiquated lever machines that disenfranchised a few dozen voters in West Hartford after a voter noticed the machine displayed the wrong candidates for state representative. Earlier votes for state representative cast on the machine were voided. Voters and poll workers alike had generally high praise for the optical-scan system, which used paper ballots formatted to bear a strong resemblance to a lever-machine layout. Other tools that aided the switch included training DVDs in Spanish and English at every polling place, instructors at the entrance to polling places eager to help voters grasp the new system and poll workers galore, including more young people than typically observed working at polling places in other parts of the country.

## Florida

A race for the Congressional seat being vacated by Katherine Harris headed for a recount as more than 18,000 Sarasota County voters – one in eight – did not record a vote in the contest. Republican Vern Buchanan led Democrat Christine Jennings by 373 votes at press time. The 14 percent of ballots indicating no vote was significantly higher than

under-votes in the race in nearby counties. Lawyers for both candidates and the state prepared for litigation. Elsewhere, voting was delayed in four Broward County precincts and six Volusia County precincts reported that memory cards for electronic voting machines were not working.

## Indiana

While the state made headlines for having the most stringent voter ID requirement in the nation, most election problems were technical. In Marion County, 200 polling places had late openings while poll workers struggled to start voting systems that they then could not shut down when the polls closed at 6 p.m. because the machines were programmed to close at 8 p.m. Problems with voting machines causing delays for voters prompted a judge to order polls to stay open until 8:40 p.m. in Delaware County.

## Maryland

Most problems centered on absentee ballots in the Old Line State, the use of which surged after Gov. Robert Ehrlich (R) recommended voters use them for the general election rather than electronic voting machines after the tumultuous September primary. The state received 193,000 absentee ballot requests – three times more than in 2002 – and not all voters received them by Nov. 6, the deadline to have them postmarked. A judge ruled that ballots postmarked after the deadline could not be counted regardless of when they were received by voters.

## New York

The Empire State was notable for the lack of changes made in advance of Election Day 2006. Only sporadic problems were reported, including a high-profile young voter having her well-known last name – Clinton – missing from her precinct's registration roster.

## Ohio

Voting machine problems along with confusion about voter ID rules were seen across the state. In Cuyahoga County, a judge ordered 16 polling places to stay open until 9 p.m. though voters cast provisional ballots after 7:30 p.m. as the county was hampered by numerous ballot-counting issues.

## Pennsylvania

Polling places in Lebanon and Lancaster counties were forced to stay open for an extra hour after starting late, though a judge in Lawrence County denied a request for polls to stay open after one in nine machines failed to start properly. Mark Wolosik, Allegheny County elections director, said that 20 machines had to be taken out of service during the day, while a voter took a voting machine out of service in Allentown when he smashed the touch-screen with a paperweight. Common Cause reported that by evening, they had received 2,400 calls from Pennsylvania.

## Washington

There were problems in the state, though the kind only meteorologists could anticipate. More than 10 inches of rain fell in parts of the state, forcing two King County



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polling places to close due to flooding. Elections officials told voters that they could use any county polling place to cast a provisional ballot. Voters attempting to mail ballots in Carnation and Duvall were told to take them to the post office as mail service was cut off by the rain. Postal employees said that the ballots may not go out for a few days but would be postmarked appropriately.

## *The just-missed list...*

### Georgia

Polling places stayed open past closing time in Clayton and DeKalb counties. Isolated incidents were reported in which voters were asked for photo ID despite a judge's decision to void the state's photo-ID only requirement.

### Missouri

Machine problems in St. Louis County were confined to 20 of 450 polling places, but voter ID issues were more widespread. Secretary of State Robin Carnahan (D) accused poll workers in St. Louis County of

requesting unnecessary ID from voters under direction from the county's Board of Elections. A spokeswoman for the secretary said the department was investigating charges that voters were turned away from the polls for failing to show photo ID. Jefferson County election officials photocopied paper ballots when they ran low, then learned that the copies wouldn't feed into the optical scanner, forcing poll workers to count them by hand.

### Montana

The statewide voter registration database faced problems with the launch of Election Day registration. Poll workers allowed those registering to cast provisional ballots while the system was down and polling places in three counties stayed open late. Duane Winslow, Yellowstone County election administrator admitted that he forgot to zero out absentee ballot totals on voting machines when counting ballots on November 7 so Winslow started a recount after midnight that went on until the early morning.

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# VOTING SYSTEMS: The Dog that Barked

The midterm election was a watershed in American history, all politics aside.

With the passage of the Help America Vote Act and its associated 2006 deadline for accessible voting machines in each polling place, as with the widespread replacement of older voting technology – including punch cards and lever voting systems – there were more voters and poll workers using new voting systems than ever before.

According to pre-election estimates, a third of all voters nationwide cast ballots on voting systems that were not in place two years earlier.<sup>1</sup>

The number of counties using lever voting machines plummeted – from 434 in November 2000 to 62 in the 2006 midterm, despite widespread use of levers in New York and Connecticut because of delayed machine-replacement decisions. Similarly, punch-card usage fell from 572 counties in November 2000 to 13 (all in Idaho) during this year's vote.

Those drops coincided with a sharp rise in the use of direct-recording electronic (DRE) voting machines, commonly known as “touch screens” or “electronic voting.” Nationwide, use of DREs quadrupled since 2000, from 309 counties six years ago to 1,142 now.<sup>2</sup> Some states, including Connecticut, which will soon replace all lever machines in the state had jurisdictions using optical-scan systems for the first time.<sup>3</sup>

With so many people using new technology and with an aging corps

of poll workers largely unfamiliar with the systems – save a few hours of training once every one or two years – problems were predicted. And they were plentiful.

Late opening polling places, missing ballot activator cards, vote-swapping, missing ballots, blank ballots, fleeing voters – all were reported across the country at various times. With a number of races won by comfortable margins, however, post-election controversies were at a minimum.

Generally, the midterm election's voting system troubles can be described in three categories: human error, machine error and unknown.

## Man versus Machine

Incidents of human error causing problems with voting systems and ballot casting in general were widespread, though not as chaotic as the forgotten activator cards in Montgomery County, Md. during the September primary, which left more than 200 precincts closed for hours at the beginning of the day.

Voters in a number of states were given the wrong electronic ballot, with the most egregious problems reported in Tarrant County, Tex., where all voters were given the same ballot for nearly eight hours (230 voters) despite some having come from different precincts and having different choices for one local office.<sup>4</sup>

In Marion County, Ind., which includes Indianapolis, poll workers unable to operate DREs led to about one in five precincts handing out paper ballots designed to be

used in emergencies.<sup>5</sup>

Rhode Island election officials had trouble with ballots jamming in optical-scan machines because reports say voters tried to feed too many ballots too quickly. Some voters who did not understand electronic voting systems in South Carolina fled without completing their votes, requiring poll workers to finish the job for them. An oversleeping poll worker kept a poll dark in North Carolina. Poor planning led to too few ballots being available in a significant number of precincts in Boston, leading the Secretary of State to consider stripping power from the city's Election Commission. The same happened in one New Mexico county, requiring the intervention of speeding police cars to expedite the shipment of ballots to a polling place caught short.<sup>6</sup>

*electionline.org* staffers saw human/machine interaction problems as well. In Arizona, an observer saw ballots get stuck in optical-scan voting machines when ballots were not filled out correctly. Poll watchers in Ohio and Pennsylvania witnessed poll workers having a difficult time starting up voting machines in Cleveland and Pittsburgh.<sup>7</sup>

An *electionline.org* observer saw a Washington D.C. poll worker forget to collect a ballot activator card, an act that was undoubtedly repeated – though perhaps not reported – in other precincts around the country.<sup>8</sup>

Then there were the oddball stories, including an Allentown, Penn. man who apparently wanted

to make a critique about the trustworthiness of electronic voting by smashing a \$5,000 voting machine with a paper weight<sup>9</sup> and a squirrel that chewed through an electrical cable in Oklahoma, cutting off power to voting machines at several polling stations.<sup>10</sup>


### Machine versus Man

Poll workers were hardly the only ones causing problems on Election Day. There were a number of machine incidents – some significant – that arose around the country.

According to VotersUnite, a citizen watchdog group that tracked media reports of machine problems during the midterm, hundreds of reports of election-day problems with electronic voting machines should dispel the notion that things went smoothly.

The most frequent problem was vote-flipping, in which voters pushed the screen for one candidate and another lit up, or when a vote for one candidate turned into a different one when a voter reviewed the ballot. The VotersUnite Web site linked to news reports of vote-flipping in a dozen states, including Colorado, Florida, Illinois, Texas, New Jersey and Ohio.<sup>11</sup>

An unscientific survey of vote-flipping press reports reveals more Democrats than Republicans complaining of their votes not being recorded correctly on electronic voting machines, yet voters loyal to both parties complained. Democrats



Hundreds of reports of election-day problems with electronic voting machines should dispel the notion that things went smoothly.

in Illinois, Georgia, Florida and elsewhere said their votes were switched to GOP candidates, while the head of the Republican Party in Pennsylvania said his staff observed voter problems with machine malfunctions throughout the day.<sup>12</sup>

In some instances, election officials said machine calibration was to blame, along with fat fingers, long finger nails or inaccurate touches.<sup>13</sup>

But vote-flipping issues that could not be corrected on the spot persisted, prompting some machines to be taken out of service in Erie and Harborcreek, PA. after poll watchers and lawyers from both parties witnessed the problem.<sup>14</sup>

The prevalence and seriousness of vote-flipping depends upon who is asked, but certainly the widespread nature of the problem could at least force a re-evaluation of election-day procedures such as recalibrating machines, cleaning screens, increasing the distance between candidates on the electronic ballot screen and other issues.

### The Great Unknown

Why did 18,000 Sarasota County citizens have no vote registered in a race to decide the fate of an open seat in the U.S. House? Faulty ballot design? Lack of interest? Annoyance with negative campaigning by both candidates? Machines losing thousands of votes?

At press time, those questions could not be answered and may never be. But what happened in Florida's 13th Congressional district has raised the alarm of people around the country; particularly, the lack of any independent auditability of results after an election in the event of an anomaly.

After polls closed in Florida on Nov. 7, Republican Vern Buchanan held a 373 vote edge over Democrat Christie Jennings – a 0.15 percent difference separating the candidates in a race where nearly 240,000 voters cast ballots. The ballot problems occurred in the district that happened to have former Secretary of State Katherine Harris as its outgoing Congresswoman,



another odd twist in the state that managed to stay off the election fiasco radar for a few years.

In another twist, the problem also might be linked to bad ballot design – just as the “butterfly ballots” of Palm Beach County delivered a number of votes to Pat Buchanan in precincts populated by elderly registered Democrats – not the conservative’s core voters, by his own admission.

One poll worker interviewed after the election said touch-screen machines produced by ES&S were not registering votes for Congress, “prompting [her] to shut two down briefly for inspection...and more than a dozen poll workers said voters complained of missing the race entirely due to how it was displayed on the screen – an issue so serious that Sarasota County elections chief Kathy Dent had pointed it out three days earlier in an e-mail to poll workers handling early voting.”<sup>15</sup>

In all, 14 percent of Sarasota County voters had no vote in the race, a number far higher than the 1 to 5 percent under-vote rate recorded in other counties that share the 13th Congressional district.<sup>16</sup>

State officials along with some locals have said it was “likely the intent of voters” to skip the race, a nasty contest with mudslinging galore. Not likely, said representatives of Common Cause, a national group, and others, including Sarasota voters’ groups

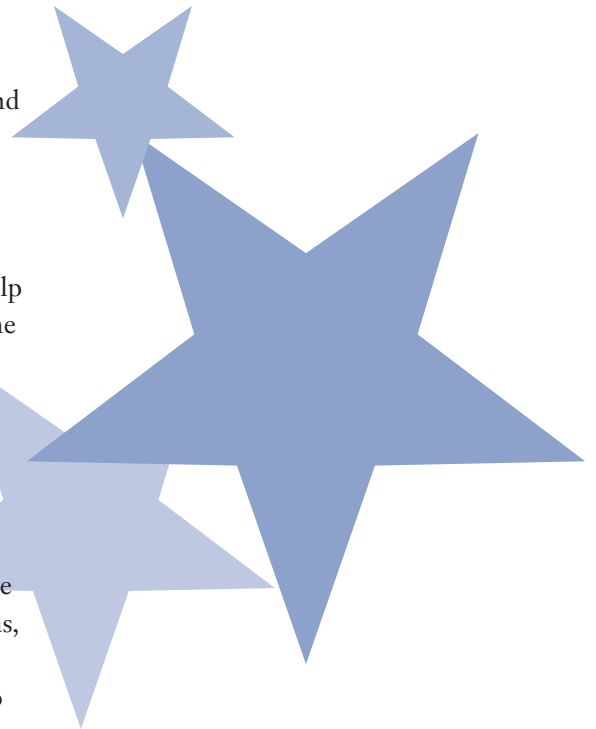
who have called for another election in the district.

A recount was to be conducted during the second week of November, along with an audit that would be “re-creating Election Day” by looking at incident logs on touch-screen machines as well as recounting results. But computer scientists have stated there is no way to look at individual ballots on a touch-screen machine that does not provide a paper trail.<sup>17</sup>

### New Calls for Paper Trails?

The issue of whether to require paper trails nationally could get a push from the Sarasota recount/audit. Many Democrats and some Republicans backed a bill in Congress (H.R. 550) that would mandate voter-verified paper audit trails (VVPATs) with electronic voting as an amendment to the Help America Vote Act. As of August, the bill had 218 sponsors.<sup>18</sup>

A number of state legislatures could take up the issue of VVPATs again, armed with stories of vote-switching and other anomalies and/or malfunctions. While 22 states already require DREs to have paper trails, Florida, Georgia, Texas, Pennsylvania, Maryland and other election “trouble spots” in 2006 do not have requirements in place.<sup>19</sup>



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# VOTER IDENTIFICATION: Some Confusion, No Consensus

Whether voter identification provided a safeguard against fraud or disenfranchised or confused voters and poll workers with new or revised rules depends upon who is asked.

In the midterm election, reports from around the country indicated both, leaving little opportunity for objective analysis of whether voter ID serves its stated purpose of reducing fraud or whether it prevents eligible voters from casting ballots as its opponents allege.

## Navigating Indiana's Photo-ID Only Rule

Indiana required all voters to present a government-issued photo ID for the first time in a general election, prompting concerns that some voters would be left out of the process if they lacked the requisite verification. Secretary of State Todd Rokita (R), among the most vocal supporters of photo ID at polls, said the state saw “no problems at all.”

“I said before the election it would be one of Indiana’s finest hours, and it was,” he said. “We did everything humanly possible to prepare in light of all the changes.”<sup>20</sup>

It is unclear, however, whether the ID rules depressed turnout. Rokita’s expected turnout of 38 percent eligible was not achieved, with the state having fewer voters cast ballots than the national average of 40 percent in midterm elections.<sup>21</sup>

There were some problems reported in the state, however, with one Democratic elected official reporting he was initially stopped by poll workers from voting after he presented his Indiana House of Representatives ID to verify his identity. He was permitted to vote

after giving poll workers the last four digits of his Social Security number.<sup>22</sup>

## Problems Interpreting Law?

In other states, problems arose when poll workers asked for identification when it was not required by state law.

According to Common Cause, a Washington, D.C.-based advocacy group, a hotline established to track problems on Election Day indicated voters either being requested to show ID when it was not required by state law or being asked to show a form of ID such as a photograph or signature when the law allowed a number of other options, were not rare. Preliminary data indicates more than 6 percent of voter complaints to a call-in number were related to voter ID issues.<sup>23</sup>

Other organizations that had similar efforts did not have figures available at press time. But news reports from around the country indicate there were accidental or intentional misinterpretations of state voter ID rules in at least a handful of states.

St. Louis County Election Board Chairman John Diehl Jr. said election workers were instructed to ask voters for certain forms of ID when they checked in at the polls despite a state Supreme Court decision throwing out the state’s recently-enacted photo-ID only rule.

“There is nothing wrong with us asking for a photo or signature ID,” he said.

Secretary of State Robin Carnahan (D) disagreed, contending the county might have confused or intimidated voters asking for ID beyond what is required by state law.

“It’s disturbing that [Diehl] and the St. Louis County Board of Elections

is either unwilling or unable to follow the law regarding voter ID,” a Carnahan spokeswoman said.<sup>24</sup>

Reports from Georgia indicated similar problems with confusion over ID rules. A number of voters said that they thought a court order issued before the election that barred the state from requiring photo ID meant no verification was required at all. However, state law requires that voters produce one of 17 forms of verification before casting a ballot. Part of the confusion could be attributed to a letter sent by state election officials six weeks before the election to nearly 200,000 voters, telling voters they had to bring a photo ID with them to the polls.<sup>25</sup>

Poll workers were confused as well. Some voters said they were asked for photo IDs in the state, with a number of reports of photo IDs being unnecessarily requested at a predominantly black precinct in Decatur.<sup>26</sup>

Some Ohio voters experienced difficulty after shifting voter ID rules in the weeks before the election led to challenges interpreting the requirements by both voters and poll workers on Election Day. Voters reported being unable to cast a regular ballot because the address on their driver’s license did not match the one on file in voter registration records, despite a memo from Secretary of State Kenneth Blackwell (R) that voters should still be allowed to cast a regular ballot despite the difference in addresses.<sup>27</sup>

In Menasha, Wis., voters were being asked to show photo ID at the polls even though it is not required. After a voter complained the practice was stopped five hours into voting.<sup>28</sup>

# VOTER REGISTRATION: List Problems Slowed Voting

Concerns over voting machines and voter identification dominated pre-election coverage this year. But voter registration issues, including statewide voter registration databases, electronic poll books, same-day voter registration and the quality of voter information (both submitted on registration forms and contained in voter databases) were also put to the test, and sometimes failed.

Reports identified trouble in several states with data lacking in many more. A clearer picture could take months to develop as states provide data on the number of provisional ballots cast and counted. At least some of those ballots were likely issued to people properly registered but who did not appear on election-day voter registration lists.

## Voters Not on the Rolls

Instances of registered voters left off rolls were reported in a number of states. However, the episodes appear sporadic rather than systemic.

A voter in Marion County, Ind. who had voted and lived in her town for more than 10 years found herself left off list of registered voters at her polling place on Election Day. She was allowed to vote after being issued a certificate of error.

“The certificate of error might happen once or twice every election. The voter registration board admits them in error and they give it a number and they attempt to fix the error and the voter votes just as they normally would,” said inspector John Hagenmaier.<sup>29</sup>

A voter in Cuyahoga County, Ohio, was also told he was not on the rolls and would have to cast a provisional ballot. He said he did not want to, and checked with the

county board of elections who responded that he was on the inactive voter list. He stated he had voted in the May primary.<sup>30</sup>

Sometimes even when voter information is available, human error can lead to problems. A couple in St. Louis County, Missouri were told they were not on the voter rolls and would have to cast provisional ballots. They refused, went to the board of elections and were told their names were in the poll books, but the poll worker had been looking in the wrong place.<sup>31</sup>

In Nashville, Tenn., officials blamed voters for delays at polling places because some were not properly registered.

Lynn Greer, a Davidson County Election Commission member, stated voters needed to take “personal responsibility” by updating their voter registration information when they move.<sup>32</sup>

Former First Daughter Chelsea Clinton was properly registered to vote in New York, but still had to cast a provisional (or affidavit) ballot. It turned out the poll book with her name in it had been sent to the wrong polling place.<sup>33</sup>

## Same-Day Voter Registration Debuts in Montana

Already in use in six states (Idaho, Maine, Minnesota, New Hampshire, Wisconsin and Wyoming) election-day registration made its debut,



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albeit a slightly bumpy one, in Montana.

The head of Montana’s Democratic Party complained that Secretary of State Brad Johnson (R) did not do enough to prepare election officials for the many hundreds of voters who registered and cast ballots on Election Day.<sup>34</sup>

In several counties, polls remained open more than an hour late to accommodate voters already in line to register and vote before polls closed.<sup>35</sup>

Problems with the statewide database also prevented same-day registration in at least two counties for over an hour. According to state officials, breakdowns started when counties logged off of the statewide system and then could not restore access. Some voters in line at the time cast provisional ballots. A spokesman for Johnson said those votes would be counted.<sup>36</sup>

## Electronic Poll Books

In Denver, a troubled Election Day was caused in part by malfunctioning electronic poll books connected to the county’s voter

database. The computers slowed or froze on several occasions when attempting to verify voters on the database, causing delays, long lines and frustration among voters, some of whom left without voting and others who cast provisional ballots to avoid waiting.<sup>37</sup>

Before he was suspended from his job, Anthony Rainey, the Denver election commission's technology chief, said the glitches were normal.

"There's no perfect software out there. It's brand new software. That's what the problem was. No one else has used it," he said.<sup>38</sup>

Colorado did not have a statewide database in place for the election because of problems with the first vendor they hired to build the list, Bermuda-based Accenture.

During one day of early voting in New Mexico, electronic poll books also slowed voting to a crawl across the state. The secretary of state's office said the computer malfunction was fixed by the afternoon.<sup>39</sup>

A similar incident occurred during early voting in Tarrant County, Tex., when a server that identifies and qualifies voters went down.<sup>40</sup>

### Dead Voters on the Rolls

Reports from New York and Rhode Island before and after Election Day of deceased voters on registration rosters raised concerns about the quality of information on the lists.

In New York, an analysis by the *Poughkeepsie Journal* found 77,000 dead people on the voter rolls with potentially as many as 2,600 politically-active corpses (or those committing fraud on their behalf)

Before he was suspended from his job, Anthony Rainey, the Denver election commission's technology chief, said the glitches were normal.



casting ballots. However, the report stated the numbers were not definitive as the Social Security Administration's death file contains inaccuracies as do the county's records of people who voted.<sup>41</sup> The state's interim database will eventually be replaced.

A similar report in Rhode Island found nearly 5,000 voters on the state's registration list that were also on the federal Social Security Administration's death file. As in New York, the report gave the same caveats about the potential for false matches and incomplete or incorrect information on the federal death list.<sup>42</sup>

### Third-Party Voter Registration Drives

In the months leading up to Election Day, both Florida and Ohio had laws restricting the activity of third-party organizations conducting voter registration drives struck down in court. However, the debate over how best to govern third-party drives has not ended.

Less than a week before the election, four people working for the group ACORN (the Association of Community Organizations for Reform Now), were indicted on charges of submitting false registrations in Kansas City, Mo.

The elections board stated that upward of 15,000 submitted forms were questionable.<sup>4</sup> The temporary workers were fired by ACORN.<sup>3</sup>

"When we caught this misconduct, we reported it to the authorities. Now we want to see these folks prosecuted to the full extent of the law, because they have defrauded our organization, and, worse, detracted from our mission of ensuring that citizens in our community participate in the democratic process," said Claudia Harris, Chairperson of Kansas City ACORN, in a press release.<sup>44</sup>

ACORN also faced criticism over approximately 5,000 voter registration forms submitted in St. Louis. Scott Leindecker, the city's election director, claimed many of the returned cards appeared fraudulent and sent a letter to these 5,000 in late October saying they needed to take additional steps to complete the forms. ACORN and other groups said this letter was a form of voter suppression. Secretary of State Robin Carnahan (D) told the county the letter violated state law and ordered them to send another letter informing these registrants about acceptable forms of identification and polling place locations.<sup>45</sup>

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# SNAPSHOT OF THE STATES: Election Day Incident Reports

## Alabama

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*There were few reported problems in the election, despite concerns over the lack of progress toward creating a compliant statewide database in the wake of a lawsuit by the U.S. Department of Justice for failing to meet Help America Vote Act mandates. The Department had poll monitors in three counties, but only scattered machine and human errors were reported.*

Vote tallying was delayed for several hours in Mobile County because of an increase in write-in votes and poll workers erroneously copying the write-in names in about 20 precincts.<sup>46</sup>

A programming error in a Baldwin voting machine caused Republican County Commissioner Wayne Gruenloh to be listed as a Democrat. Since he was running unopposed, the error did not have an effect on the race.<sup>47</sup>

The U.S. Department of Justice dispatched election monitors to three Alabama counties - Tuscaloosa, Lee and Chambers. As of press time there are no details on their findings.<sup>48</sup>

## Alaska

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Election 2006 was the next step in an ongoing battle over what Democrats state are both deliberate and accidental record keeping errors from the 2004 election. Superior Court Judge Stephanie Joannides acceded to a request by Democrats to order the Elections Division to retain all of the electronic data from the vote.<sup>49</sup> Paper ballots were strongly favored in most precincts during the August primary.<sup>50</sup>

## Arizona

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*There were few reports of problems with the state's off-again, on-again voter identification law. Possible voter intimidation was reported in at least one jurisdiction.*

The Mexican American Legal Defense and Education Fund reported that Hispanic voters were targeted for harassment by three men in south Tucson, one with a clipboard, one with a camcorder and another with a gun in a holster. One of the men said he was taking pictures of voters and asking them to sign a petition protesting Spanish-language election materials.<sup>51</sup>

The state's voter ID law caused few problems on Election Day, according to officials. "There's been no major complaints about the election," said Secretary of State Jan Brewer (R).<sup>52</sup> Advocacy groups spent more time sending voters to the correct polling places than dealing with voter ID confusion, according to reports.<sup>53</sup>

A new law allowed 16- and 17-year-olds to work at the polls and many of them helped older poll workers with new voting technology.<sup>54</sup>

## Arkansas

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*After a problem-riddled primary and early-voting period, anticipated trouble materialized on Election Day in several counties.*

Problems uploading data on election night caused erroneous vote totals and election results to be broadcast in Benton County. When re-tabulated, vote totals rose from 47,134 as first reported to 79,331 the morning of Nov. 9.<sup>55</sup> The revised data was questioned as well, as it showed turnout of more than 100 percent in some precincts. On Nov. 14, a third count was released after a recount of paper ballots and the total once again

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dropped, this time to 48,681. Jim McCarthy, Benton County Election Coordinator, said the problem was human error, not the fault of the ES&S machines.<sup>56</sup> The new results have changed three races for the third time, with two candidates requesting recounts.<sup>57</sup>

Absentee ballots (175 in all) were to be recounted in Carroll County after a challenged ballot form was filed election night by a Republican Party representative, charging that election officials violated election laws by opening the absentee ballots without party officials present. County officials said they publicized the opening time but no party representatives showed up.<sup>58</sup>

In Newton County, some voters went to their early voting polling sites instead of their precincts, and an optical-scan tabulator malfunctioned.<sup>59</sup>

Randy Wooten, a mayoral candidate in Waldenburg, was contemplating filing a complaint as of press time as tallies revealed that he did not receive any votes. Wooten said he voted for himself, as did an estimated eight or nine of his friends.<sup>60</sup>

A complaint was filed with Washington County prosecutors after a voter admitted to voting twice. He alleges that when he voted early statewide races were not on the ballot, so he voted for those races with a provisional ballot on Election Day. It is not clear if the county prosecutor will take action.<sup>61</sup>

## California

*Counties reported scattered problems at the polls on both touch-screen voting machines and optical-scan counters as well as delays in reporting results.*

The city of Montrose reported voting machines produced by Hart InterCivic failing for periods of time on Election Day, leading a number of voters to cast paper ballots. The city called for an independent panel to investigate the county's elections procedures.<sup>62</sup>

More than half of San Francisco's 561 polling places – 356 in all – experienced some problems with 185 incidents involving ES&S Eagle optical-scan vote counters, and 50 involving AutoMark voting machines. It was a 3 percent increase in the equipment problems reported during the June primary.<sup>63</sup>

San Diego County voters and election officials experienced voting machine malfunctions, paper jams and long lines at the polls. In at least one precinct, poll workers were unaware that voters could opt to cast paper ballots, not provisional ballots, instead of using electronic voting machines.<sup>64</sup>

Election results were delayed in Tehama County due to tabulation problems followed by a power outage.<sup>65</sup> Slower than usual results were also reported in San Mateo County.<sup>66</sup>

## Colorado

*Vote centers were used for the first time in a general election in a number of counties. Electronic poll books and voting machines caused problems on Election Day in Denver.*

Alton Dillard, Denver election commission spokesman, said some voters at downtown vote centers waited in line for more than three hours, with the last of them casting ballots at 10:30 p.m., three and a half hours after the state's official closing time. Perhaps taxed by the high turnout, electronic poll books suffered slowdowns throughout the day and needed rebooting by midday, Dillard said. About 100 city employees answered an emergency call to serve as election judges during the day.<sup>67</sup> Denver Mayor John Hickenlooper promised to void parking tickets voters received from waiting in long lines.<sup>68</sup>

Also in Denver, misprinted barcodes on absentee ballots required elections officials to hand-count ballots after machines would not accept them.<sup>69</sup>

The last ballot in Douglas County was cast at 1:30 a.m. Poll workers in Routt County were not

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adequately trained for the new technology and struggled when printers stopped working, according to Kay Weinland, county clerk.<sup>70</sup>

Nancy Doty, Arapahoe County clerk and recorder said that 700 absentee ballots had errors and were rejected by the optical-scan machine. The ballots were copied and re-scanned.<sup>71</sup>

Teak Simonton, Eagle County clerk, said she wants to purchase more electronic voting machines after voters in El Jebel had to wait for more than an hour to cast ballots on Election Day.<sup>72</sup>

### Connecticut

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*As most voters took to new optical-scan voting systems in the Nutmeg State, some voters had problems with the soon-to-be phased out lever machines in West Hartford.*

While voters in 25 towns cast ballots on new optical-scan equipment, 28 voters used a lever machine in West Hartford before one realized that the machine incorrectly listed candidates for state representative in the 18th District. The 28 votes for state representative were nullified.<sup>73</sup>

A voter in Taftville said poll workers discouraged him from using the IVS vote-by-phone system. Gerald Kortfelt, Norwich registrar, said that poll workers only warned voters that the system takes longer to use than casting a ballot at a voting booth.<sup>74</sup>

Poll workers in East Haven and Westbrook complained that while the process of casting a ballot on the optical-scan equipment was easier for voters, it was more labor-intensive for poll workers.<sup>75</sup>

### Delaware

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There was confusion about the write-in vote process for U.S. Senate candidate Christine O'Donnell, mostly in Eastern Sussex County. Some voters mistakenly cast

ballots only in the O'Donnell race, while one voter wrote the candidate's name on the electronic voting machine.<sup>76</sup>

### District of Columbia

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*With the competitive election – the September primary – in the rear-view, the District had a sparsely attended and relatively smooth Election Day.*

Voter turnout was light (around 27 percent) and few problems were reported.<sup>77</sup>

An *electionline.org* observer witnessed some polling place problems that could be attributed to lack of training for poll workers. In one polling place, a voter attempted to leave the polling place with the access card for the touch-screen machine. In that same polling place, when an elderly Latina woman arrived and was given a provisional ballot because she was in the wrong polling place, no one was available to help her in Spanish, nor was she given a Spanish-language ballot, despite the availability of a Spanish-language packet at each polling place.<sup>78</sup>

### Florida

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*The epicenter of voting controversy in 2000 found itself again on the front pages following the 2006 general election when a close U.S. House race raised questions about voting-machine performance in Sarasota County. High numbers of missing ballots and the absence of any independent means to verify machine totals have combined to give the 13th District all the hallmarks of an electoral meltdown. Voters in several other counties faced delays due to problems with voting machines.*

Approximately one in eight Sarasota County voters (more than 18,000) did not register a vote for any candidate in the 13th Congressional District, where, at press time, Republican Vern Buchanan led Democrat Christine Jennings 373 votes. The under-vote rate of more than 14 percent was dramatically higher than

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figures in neighboring counties inside the 13th District. Some of these counties had high rates of under-votes in other races.<sup>70</sup>

A number of groups are concerned that the paperless electronic voting machines lost the votes, while some election officials have said it is possible people either intentionally skipped the race or did not see the race because of poor placement on the electronic ballot. They also posit that the electorate might have been disaffected by an ugly campaign from both sides that might have led voters to choose “none of the above” by omitting the race from their ballots. Voters interviewed after have said otherwise. Lawyers for the Jennings campaign have been collecting sworn affidavits from voters of problems they encountered.<sup>80</sup> At press time, a recount was being completed, while a state audit of the election had been delayed to allow the candidates to get their own experts involved.<sup>81</sup>

In Broward County, voting was delayed in four precincts when ballot cartridges were mixed up. Six Volusia County precincts reported faulty memory cards in voting systems.<sup>82</sup>

The reliance on eight employees of Sequoia Voting Systems to help support Pinellas County’s voting system on Election Day angered some voter advocates. “Very few people understand that ... the mechanics of the elections are being handled by a private entity,” said Warren Stewart, policy director of the national advocacy group VoteTrustUSA. “I think there is going to be a time when people say this is insane.”<sup>83</sup>

A survey of state voters taken before Election Day by Leadership Florida found that 50 percent of voters believe the state does a fair to poor job of “providing dependable election machinery.” Forty-three percent said the state does a good or excellent job.<sup>84</sup> However, an Election Day survey released by the Collins Center for Public Policy found that 76 percent of voters had “excellent” or “good” confidence that their votes were

counted, while 21 percent felt there was a “fair” or “poor” chance their ballots were counted.<sup>85</sup>

## Georgia

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*The status of voter ID laws confused some poll workers while some voters faced delays at polling places.*

A judge ordered a DeKalb County polling place to stay open for an extra hour while a polling place in Clayton County stayed open for an extra half hour after delays earlier in the day. Chris Riggall, secretary of state spokesman, said he heard about isolated incidents in which poll workers had requested a voter’s photo ID, but those were “rare.”<sup>86</sup>

Voters were confused by signs at the polls saying that ID was needed after a court decision blocked enforcement of the state’s photo ID requirement.<sup>87</sup>

A polling place in Morningside had only one machine to check voters in while there were 12 machines to vote on, creating a bottleneck when voters came in.<sup>88</sup>

## Hawai’i

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Two control consoles for Hart InterCivic eSlate voting machines were missing following the election but were found the next day at their designated precincts. In addition to the missing consoles, personnel problems, crumpled ballots and polling places running out of paper ballots were reported throughout the state.<sup>89</sup>

Several polling places on O’ahu did not open on time because building managers were late unlocking the doors to the facilities.<sup>90</sup>

## Idaho

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*In the last state in the country to still use punch-card voting machines, some disabled voters said they were asked to continue using the much-maligned machines in one county while reports of voting problems emerged from several others.*

Bonneville County officials encouraged all voters, including those with disabilities, to use punch-card

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machines instead of accessible ballot-marking devices that were also available. County election director Bobbie Jockumsen said while they had the accessible ballot-marking device, they did not have the tabulation equipment for it and all ballots cast on this system would have to be counted by hand.<sup>91</sup>

Democrats cited problems reported statewide, including long lines, low supplies and broken equipment. Bannock County's optical-scan counters could not read the ink on ballots, Ada County saw a delay in election results due to a computer system crash, five precincts in Madison County ran out of ballot-secrecy envelopes and in the Boise suburb of Meridian, some voters had to wait in line for three hours to cast ballots, while others left without voting. "This is like a Third World country. This is like Miami in 2000," said Democrat Jerry Brady, losing gubernatorial candidate. "We should make this [easier]."<sup>92</sup>

## Illinois

*After a March primary that saw problems with voting machines and poll workers in large jurisdictions including Cook County, more troubles were reported across the state before and during the general election.*

During early voting in Cook County, a number of voters reported touch-screen voting machine screens going blank. Several voters also reported vote flipping, which officials blamed on improper calibration.<sup>93</sup>

Slow tallying of ballots again plagued Cook County, a repeat of counting troubles in the primary. Sluggish electronic transmission of results from polling places to a central location were the culprit and results from more than half the county's precincts had to be hand-delivered. "We did expect to do better, and we can improve," county clerk David Orr said. "There is a problem, and we're going to uncover it."<sup>94</sup>

Nearly 90 of Kane County's 223 precincts did not open on time on Election Day. Election officials

pointed to poll workers having trouble starting the voting machines.<sup>95</sup>

Voters interviewed in Sagamon County said while machines worked well, there were not enough of them, leading to lines in some polling places. County election officials said they may revisit how they distribute the voting devices.<sup>96</sup>

## Indiana

*According to reports, most Hoosier voters navigated new photo ID requirements at the polls, though voting system difficulties presented problems around the state.*

Secretary of State Todd Rokita (R) said that there were "no problems at all" with the state's new photo ID law and only "minor" election problems in some counties.<sup>97</sup>

Charlie Brown, a Democratic state representative was asked for the last four digits of his Social Security number when he presented his Indiana House of Representatives photo ID to cast a ballot on Election Day.<sup>98</sup>

Incorrectly programmed activator cards in 75 Delaware County precincts were fixed by late morning but polls were ordered to stay open until 8:40 p.m.<sup>99</sup>

Poll worker confusion caused two polling places in LaPorte County to stay open late and use provisional ballots, though Robert Behler, county clerk, said only two voters were affected and attributed the problems to human, rather than machine, error.<sup>100</sup>

Marion County's voting machines, produced by ES&S, were not programmed to shut down until 8 p.m., two hours after the polls closed. The programming error delayed ballot counting and could lead to further disciplinary action against the Omaha-based company, which had to repay the state \$753,000 in August for problems related to the May primary election. Dale Brewer, Porter County clerk, reported no equipment problems with the ES&S machines in the primary or general election.<sup>101</sup>

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## Iowa

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*Vote-counting problems with optical-scan machines and a smattering of touch-screen issues troubled some communities.*

In Butler County, optical-scan machines were incorrectly reading votes, notifying voters who cast a straight-party ballot that they were missing votes for all the races.

Problems with optical-scan counters were also reported in Rockwell City and Sherman. The vote count in Pottawattamie County was delayed several hours due to a software-programming error. Fayette County's ES&S iVotronic touch-screen voting machines faced problems that election officials had seen before – if the ballot-activator cartridge is inserted too quickly, the screen freezes.<sup>102</sup>

Absentee ballot results were delayed in Johnson County as a result of human error, the county auditor said. Initially the procedure used for the absentee ballot counting machine led to information being deleted – workers had to rescan the ballots, delaying results for several hours.<sup>103</sup>

## Kansas

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Several polling places in Johnson County experienced problems with DRE machines that required a switch to paper ballots while voting machines needed to be rebooted because they were not accurately reading encoder cards. Brian Newby, the county election commissioner, said a shortage of encoders contributed to the problem and vowed to request more in the future.<sup>104</sup>

## Kentucky

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Long lines were seen statewide, with House Speaker Jody Richards waiting in line for over an hour to vote. Secretary of State Trey Grayson said he believes that the General Assembly will work to fix these issues in their next session.<sup>105</sup>

Tabulation machines and absentee-ballot scanners had problems on election night and write-in ballots had to be counted by hand, delaying vote results in some areas.<sup>106</sup>

A poll worker in Jefferson County was arrested and charged with assault and interfering with an election when he choked a voter. The altercation began when the voter said he did not want to vote in a judicial race because he was not familiar with the candidates.<sup>107</sup>

## Louisiana

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A recount in the Shreveport City Council District B confirmed initial results indicating that the incumbent, Monty Walford, beat challenger Sheva Sims. Sims requested the recount, as she only lost by six votes.<sup>108</sup>

## Maryland

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*Despite a troubled September primary, elections officials said the general election was fairly smooth. A record number of voters requested absentee ballots.*

The Maryland Court of Appeals ruled Nov. 13 that absentee ballots mailed after the Nov. 6 deadline could not be counted, even if that was the date that the voter received the ballot in the mail. David Rocah, ACLU staff attorney said that some voters never received their requested absentee ballots. After Gov. Robert Ehrlich (R) and other politicians recommended that voters cast absentee ballots instead of using electronic voting machines, the state received 193,000 absentee ballot requests, three times as many as they received in 2002.<sup>109</sup>

Marjorie Roher, Montgomery County election board administrative specialist, said more than two dozen contract and temporary employees were hired to analyze 30,000 absentee ballots. The spike in absentee ballot requests caused Baltimore County to run out of three different kinds of ballots, while Prince George's County never received three ballot styles.<sup>110</sup>

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While 72 of Baltimore City's 290 precincts opened late during the primary – some by as many as three hours – only 13 percent of polls opened late for the general election. Machines lacking power cords operated on battery power and some polls had too few voter activation cards.<sup>111</sup>

A power outage in Prince George's County darkened two polling sites, though voting machines ran on back-up battery power and votes were not affected. Emergency ballots were used in Annapolis when a poll worker accidentally used the wrong key card and turned off machines soon after the polls opened at 7 a.m. The machines were restarted by 7:45 a.m.<sup>112</sup>

### Massachusetts

*While elections in some parts of the state faced extra scrutiny from U.S. Department of Justice monitors making sure enough translators were available at polling places, a shortage of ballots in some inner-city precincts forced a scramble on Election Day and could result in a shake-up of Boston's Elections Department.*

“Overwhelming turnout” or poor planning caused some precincts in Hyde Park, Mattapan, Dorchester and Roxbury to run out of ballots, forcing some voters to wait in line for hours or walk away without voting. Police cruisers sped ballots to precincts, and tempers flared. In particular, Secretary of State William Galvin threatened to strip power from the Boston Elections Department for repeated “management failure.”<sup>113</sup>

After a court settlement with the DOJ last year forced Boston to provide Chinese, Vietnamese and Spanish language assistance at the polls, a watchdog group found problems in a number of precincts on Election Day. The Asian American Legal Defense and Education Fund found missing signs at precincts across the city, Chinese-American voters being asked for ID when it was not required, names of candidates

not translated into Chinese or Vietnamese as required and other problems.<sup>114</sup>

A week before the vote, Secretary Galvin reported the state would have accessible voting in only a third of polling places, in violation of the Help America Vote Act's requirement for one accessible machine per polling place.<sup>115</sup> According to John Pare, a spokesman for the National Federation for the Blind, Massachusetts, along with New York, had the highest number of calls from blind voters to a hotline set up by the organization. “This is a huge problem. Blind people have the right to cast an independent and secret ballot. We'll definitely be following up on this issue,” he said.<sup>116</sup>

### Maine

A broken optical scanner in a Waterville precinct revealed a vote total exceeding the number of registered voters by more than 16,000. Ballots had to be re-fed into a machine, delaying results in the state's 25th Senate District until 1:30 a.m.<sup>117</sup>

### Michigan

*Machine troubles in parts of the state, close races and party squabbles over poll watching caused some turbulence in the state on Election Day. Troubles included slow ballot counting, no-show poll workers, double-counted ballots and complaints filed and counter-filed by Republicans and Democrats over election-day observers. Secretary of State Terry Lynn Land (R) nonetheless said the day went smoothly in most of the state.*

Officials say human error led to delayed vote counting in Osceola County after poll workers ran ballots with write-in votes through tabulating machines twice.<sup>118</sup>

A county judge issued a restraining order against Democratic poll watchers after state Republicans said they were handling voting machines and

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impersonating poll workers.<sup>119</sup> Republicans planned to have 2,500 volunteers at more than 2,000 precincts in the state. Organizations including the Advancement Project, MoveOn.org and the NAACP had poll watchers in Detroit and elsewhere in Michigan, largely to police the observers from the other side. Secretary Land entered the mix as well, sending her own lawyers to precincts.<sup>120</sup>

Some precincts ran out of ballots in the state's 32nd Senate District, prompting calls from the losing Democrat for a recount. In one town, humid conditions were blamed for expanding ballots that jammed optical-scan machines. In another, some precincts ran out of ballots, prompting poll workers to make photocopies. The copies could not be scanned by the machines, however, and had to be hand counted.<sup>121</sup>

### Minnesota

Well-intentioned poll workers serving coffee to voters had unintended negative consequences in one Minneapolis polling place when a coffee spill disabled an optical scanner.<sup>122</sup>

With few reported problems around the rest of the state, Secretary of State Mary Kiffmeyer (R) said the election system "just worked wonderfully."<sup>123</sup>

### Mississippi

*New touch-screen voting machines were used for the first time in a general election in 77 of 82 counties, prompting some problems attributed largely to poll-worker inexperience.*

Voters in the southern part of the state were given paper ballots after poll workers could not get touch-screen voting machines working when polling places opened. A spokesman for the Secretary of State's office said polling places had paper ballots for 25 percent of expected voters in anticipation of some glitches during the day.<sup>124</sup>

In 15 counties, voters had to cast two separate ballots – one electronic, one paper – after a filing deadline for candidates in one race was delayed and the new names could not be programmed on to electronic ballots in time. State officials acknowledged the two-ballot election "creates voter confusion."<sup>125</sup>

### Missouri

*A controversy over voter ID that started long before the vote spilled over onto Election Day while long lines taxed voters in parts of the state.*

Secretary of State Robin Carnahan (D) criticized St. Louis County election officials for asking voters for photo or signature ID at the polls. John Diehl, county election board chair said that they have been asking voters for ID at the polls for more than 10 years and that no voter had been turned away for failing to show it. Stacie Temple, a spokesperson for Carnahan said that they were investigating complaints that voters were turned away for lack of ID.<sup>126</sup>

Elections officials in Jefferson County responded to ballot shortages by photocopying paper ballots which could not be fed through an optical-scan device and needed to be counted by hand on Election Day, holding up results until Nov. 8. Wes Wagner defeated incumbent County Clerk Janet McMillian and said that people were disenfranchised as a result of McMillian's failure to prepare adequately. McMillian said she used active voter lists to guide her during her preparations, adding that she should have used inactive voter lists also.<sup>127</sup>

Most machine problems in St. Louis County were confined to 20 or fewer of the county's 450 precincts, John Diehl, elections board chair said, that increased turnout and a lengthy ballot caused long lines. Diehl also said that the biggest difficulty with the voting machines was changing their rolls of paper. Denise Lieberman, Advancement Project attorney said that

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election judges stacked ballots out in the open when scanners stopped working. Diehl said he didn't know about ballots being stacked in the open but said that the Advancement Project's complaints during the day made things more difficult.<sup>128</sup>

Sen. Jim Talent (R) waited for nearly an hour in line in Chesterfield to cast his ballot while his Democratic challenger Claire McCaskill waited for about half an hour to vote in Kirkwood.<sup>129</sup>

## Montana

*The beginning of Election Day voter registration and a tight race for U.S. Senate made for a long election night. A local election official was applauded when he came clean about his counting errors.*

Local and national media lauded Duane Winslow, Yellowstone County election administrator for his honesty when he took full responsibility for a counting error he made after tallying absentee ballots that required him to start over. After counting absentee ballots during the day, Winslow forgot to zero out all of the counters when factoring in ballots cast at the polls, forcing him to begin counting again from scratch after midnight.<sup>130</sup>

The statewide voter registration database encountered problems that kept Missoula and Lake counties from registering new voters for about an hour on November 7 in the state's move to allow election-day registration. Elections officials were instructed to let voters attempting to register cast provisional ballots. Voters in Missoula, Gallatin and Lewis and Clark counties all stayed open late to accommodate voters utilizing same-day registration.<sup>131</sup>

## Nebraska

Voters who cast no-excuse absentee ballots did so in moderate numbers according to some county clerks. In Dodge County, an estimated 8 percent of voters

requested early ballots, a figure almost identical to Saunders and Washington.<sup>132</sup>

Election results came in slower than usual in a mid-term after Secretary of State John Gale ordered all ballot boxes be sealed until the close of polls (8 p.m.) on Election Day. In previous elections, counting had started during the day, raising concerns about the security of unlocked ballot boxes.<sup>133</sup>

## Nevada

*The first state to use voter-verified paper audit trails with their electronic voting systems in 2004, few problems were reported with the machines. And like a number of other Western states – Washington, California and Oregon – many Nevadans cast their ballots on machines or by mail before Nov 7.*

In Washoe County, delays starting up machines were pinned on faulty activator cards. Voting machines at a Reno polling site had trouble printing voter-verified paper audit trails.<sup>134</sup>

Elections deputy Elick Hsu said the vote in Nevada generally went smoothly because, unlike other states, Nevadans have used touch-screen voting machines for several elections.<sup>135</sup>

The state reported slightly more than 300,000 ballots, greater than half the statewide total, were cast before Election Day, either through in-person early voting or absentee voting by mail.<sup>136</sup>

## New Hampshire

One of six states to use a vote-by-phone system for voters with disabilities, the devices received positive reviews from some residents. Blind voter Rose Prescott, who until this election had never voted on her own said, "I was just so excited that I could put that headset on and listen...I don't know what else to say about it. I was excited and happy. And when I left, I went 'yoo-hoo!'"<sup>137</sup>

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## New Jersey

The state Republican Committee stated they received reports from more than 20 voters who discovered votes had already been marked for Democratic candidate Robert Menendez when they went to cast their ballots on electronic voting machines for U.S. Senate. The state attorney general's office and the U.S. Department of Justice could not corroborate these claims.<sup>138</sup>

Officials in Ocean County planned to recheck all electronic voting machines after votes from one machine were counted twice. The officials pointed to a software problem in the Sequoia-built machine.<sup>139</sup>

Montgomery County election results were slightly delayed due to an accidental shut-down of a voting machine in one polling place. Voters were given emergency paper ballots.<sup>140</sup>

## New Mexico

*A mostly smooth debut of statewide paper-based optical-scan ballots ran into problems in a few precincts that experienced ballot shortages.*

Two precincts in Bernalillo County ran out of ballots and two dozen others in the county ran low. The county blamed the secretary of state's office for not sending enough ballots, while the secretary of state's office said the county should have checked the delivery. Two precincts with 2,000 registered voters only received 150 ballots as a zero was left of the ballot order.<sup>141</sup>

Other counties in the state reported a smooth election on the paper-based ballots.<sup>142</sup>

## New York

Tom Santulli, Chemung County executive criticized the state board of elections for delaying certification of HAVA-compliant voting machines. The state recently denied certification because manufacturers failed to meet security standards.<sup>143</sup>

While not required, 89 voters in Westchester County had pre-registered to use accessible voting machines, an increase over the 57 voters who used the ballot-marking devices during the September primary.<sup>144</sup>

When former First Daughter Chelsea Clinton went to the polls in the morning on Election Day, poll workers realized they had the wrong book when they couldn't locate her name in the registration roster. Clinton eventually completed an affidavit ballot.<sup>145</sup>

## North Carolina

The state reported its lowest turnout ever for a midterm election, with approximately 30 percent of the state's eligible voters participating.<sup>146</sup>

One Durham County polling place opened late because it was locked when Election Day was to begin at 6:30 a.m. The county extended the hours of the site for one hour.<sup>147</sup>

## North Dakota

Counties reported a high number of absentee ballots cast.<sup>148</sup>

## Oklahoma

Few voting problems were reported statewide, but one precinct in Garfield County saw an optical scan voting machine break down. With several ballots not counted when they should have been, the county recounted all the ballots to ensure accuracy.<sup>149</sup>

Two other polling places in the state were reported to have delays – one due to a power outage and another because of a late-arriving poll worker.<sup>150</sup>

## Ohio

*One of the most-watched leading up to the election, the state saw improvements in some areas since the May primary, but problems persisted with voting machines and voter identification in a number of jurisdictions.*

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Most Cuyahoga County voters experienced wait times of 25-60 minutes at the polls. Sixteen of the county's 573 polling places were ordered to stay open until 9 p.m., four because of late openings and 12 because of long lines. North Olmsted, Rocky River, Westlake and Independence residents said that voters may have cast ballots without showing ID at their polling places due to the polling place's layout. A Cleveland Heights voter said her polling place did not open until 10:30 a.m.<sup>151</sup>

All 12 voting machines at an East Cleveland precinct crashed as the polls were supposed to open. The machines were not running for more than two hours and poll workers refused to hand out paper ballots until an attorney from Election Protection visited the polling place. Election Protection received 250 reports of problems at the polls in Ohio.<sup>152</sup>

Ballot counting problems in Athens County meant voters must wait until November 28 to learn the final results for the race for State House District 92.<sup>153</sup>

Poll workers requested that Rep. Steve Chabot present additional ID at the polls as his driver's license displayed his business address instead of his home.<sup>154</sup>

Students at Kenyon College waited only a few minutes to vote on one of eight new voting machines this year on campus compared to the hours-long waits to cast ballots on one of two machines during the 2004 election.<sup>155</sup>

## Oregon

*The originator of the vote-by-mail election, the state saw relatively high turnout and few problems, despite some counting delays.*

After predicting a 71 percent registered voter turnout, preliminary reports from the Secretary of State's office indicate that 69 percent of registered voters in Oregon cast a ballot.<sup>156</sup>

About 10 percent of Oregon's vote remained uncounted at midday on Nov. 9 mostly in the state's two most populous counties — Multnomah and Washington. According to state Elections Director John Lindback, the delay was the result of a glitch in one county and a deluge of last-minute ballots.<sup>157</sup>

In Washington County, elections officials said that a ballot 17 inches long rather than the usual 14 inches slowed the machines counting the ballots.<sup>158</sup>

## Pennsylvania

*Late polling place openings, technical difficulties and a paperweight-wielding voter proved problematic for elections officials and voters alike. Common Cause reported that their voter hotline received more calls from Pennsylvania than any other state.*

In Jackson Township, voting machines were inoperable for most of the day, forcing voters to cast paper ballots. County officials kept the polls open an extra hour.<sup>159</sup>

One in nine Lawrence County voting machines failed to start when the polls opened on Election Day from a combination of machine and human error. Officials blamed most of the problems on a regional ES&S contractor. Marlene Gabriel, county election director said all precincts but one had at least one working voting machine by 10 a.m. A judge denied a petition to keep polls open in the county for an extra hour, saying that the increased confusion would outweigh any possible benefit and the county issued nearly 90 percent of its returns by 10 p.m.<sup>160</sup>

In Westmoreland County, officials said programmers entered the wrong dates into some voting machines, causing them to think that the election was already over when they were started on Election Day. Voters either were turned away or waited for paper or provisional ballots to be brought to the polls.<sup>161</sup>

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Common Cause said they received 9,500 calls to their voter hotline by midmorning on Nov. 7 with 1,300 coming from Pennsylvania.<sup>162</sup>

Two Hazleton voters filed HAVA complaint forms with the Pennsylvania Department of State after they said they had trouble casting their ballots on touch-screen machines in Luzerne County.<sup>163</sup>

A voter was arrested at an Allentown polling place after he smashed a touch-screen machine with a paperweight. Poll workers said that he came in peacefully, showed his ID and just snapped, then sat down and waited for police, who arrested him without incident. More than 130 voters had cast ballots on the machine, which is valued at more than \$5,000, before the incident.<sup>164</sup>

## Rhode Island

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The Secretary of State's office began checking its voter rolls after a newspaper reported that 5,000 dead people are registered to vote in that state. Peter Kerwin, a spokesman for Secretary of State Matt Brown said that it was too soon to tell whether any of the voters listed as deceased had cast ballots on Election Day.<sup>165</sup>

Between 16,000 and 17,000 registered voters requested absentee ballots and 14,000 of them were returned. Board of Elections Executive Director Robert Kando said that number was "at the high end of normal."<sup>166</sup>

Voters in the city of Providence — who had three ballots to fill out — experienced problems when they tried to feed the ballots into the optical-scan machines too quickly.<sup>167</sup>

## South Carolina

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*Fleeing voters, a few machine glitches and a poorly-timed failure of the state's election Web site led the reports in the state on Election Day.*

During early voting in Charleston County, a typo on about 5,000 absentee ballots asked voters if they support approving up to \$250 million in county bonds for new highway work, not \$205 million.<sup>168</sup>

A combination of bad batteries and loose connections froze five voting machines that hung up Greenville County's election results in four precincts. About 400 ballots had to be counted by hand.<sup>169</sup>

Some voters who apparently did not understand how the touch-screen voting machines worked ended up walking away without casting their ballots at polling places statewide. Poll workers were able to cast the ballots for voters using a device that allowed the machines to cast the ballots while preventing the workers from seeing the results.<sup>170</sup>

Results from nearly 6,000 absentee ballots and 1,200 more from a precinct in Beaufort County were not tabulated until 3 a.m. on Nov. 8 and were not posted on the county's Web site until nearly 10:30 a.m. "We thought we plugged results into the computer and refreshed the system, but we didn't," said Agnes Garvin, county election director. "Then (Wednesday) morning at 9 a.m., I pulled up the site and said 'Oh Christmas, those are the numbers from last night.'" <sup>171</sup>

Voters in four precincts in Lancaster County got an extra hour to vote because of problems with the electronic machines. The Democratic Party sued, asking the court for an injunction.<sup>172</sup>

Shortly before 8:30 a.m. on Election Day, the state Election Commission's Web site, [www.scvotes.org](http://www.scvotes.org) went down. Commission spokesman Chris Whitmire said at the time that it was not clear why the site went down.<sup>173</sup>

## South Dakota

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*Ballot feeding problems and precincts short on ballots troubled some polling places in a state closely watched by the rest of the country for nationally significant ballot initiatives.*

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Voter turnout in the general election was higher than usual.<sup>174</sup>

According to Secretary of State Chris Nelson (R), the state's hybrid voting – with a touch-screen interface to produce optically-scanned paper ballots – worked well. “As we looked at some of the problems other states were having with their electronic machines, we felt very good about how our system was working,” Nelson said.<sup>175</sup>

As in Oregon, there were some problems feeding 17-inch ballots into counting machines. “When we went from a 14-inch ballot to a 17-inch ballot, we ended up having to fold them for those people that voted absentee in order to get them into the envelopes and those folded ballots created a little bit of a ballot-flow problem for some of our counting machines,” Nelson said.<sup>176</sup>

In one precinct in Brown County, about a dozen voters had to wait for extra ballots to be delivered because precinct workers ran out of them. A sheriff's deputy made the roughly 20-mile round trip with extra ballots to resolve the problem, according to Auditor Maxine Taylor.<sup>177</sup>

## Tennessee

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*The state was plagued with a host of problems during the election, including broken machines, not enough voting machines in some precincts, missing access cards, power outages and late-opening precincts because of technical problems with voting systems. Early voting was popular, perhaps easing at least somewhat the strain at polling places on Election Day.*

In Knox County a machine that stored early voting totals broke and memory chips could not be retrieved. A local company that makes tiny computers to control automated machinery helped remove the chips. The votes were counted and the final results did not change. As the results were finally tallied, Knox County Election Administrator Greg MacKay said, “I'm happy for the first time in days.”<sup>178</sup>

Long lines and limited voting machines had some voters casting their ballots on Nov. 8 instead of Election Day as the last ballot at Cora Howe Elementary School in East Nashville was cast at 12:20 a.m. The Davidson County Election Commission said the polling place had the same number of voting machines as past elections, but that the large number of ballot initiatives slowed the process down.<sup>179</sup>

About a half-dozen Memphis precincts reported power trouble that forced machines to rely on backup batteries, but voting was not affected, said Election Commissioner Richard Holden.<sup>180</sup>

Most of the voting machines were down until noon in Hawkins County according to Peggy Fleenor, county election administrator. The problem resulted after officials ran a program before opening to clear the vote totals to zero. All but three machines were working by the afternoon.<sup>181</sup>

Several access cards used to cast ballots were missing from a polling place in Memphis.<sup>182</sup>

Early voting proved popular throughout the state with more than 867,000 — a 49 percent increase from the same time period in 2002 — people casting a ballot in the two-weeks leading up to the election.<sup>183</sup>

The Tennessee Bureau of Investigation opened a criminal probe into suspected early voting fraud in Shelby County. There were reports that two people voted twice during early voting in Memphis.<sup>184</sup>

## Texas

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*In a state with 254 counties – and election jurisdictions – it would have been optimistic to expect no glitches. And there were widespread problems on Election Day involving machines, pollworkers and ballots.*

In Bexar County, voters complained that electronic voting machines did not record their choices correctly – with some even receiving ballots for the incorrect

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Congressional district. In addition, approximately 420 voters in Medina County lost the opportunity to vote in the U.S. Senate race when it did not appear on their ballots.<sup>185</sup>

In Fort Bend County, machines were delivered to the wrong precinct, and some voters were presented with the wrong ballot.<sup>186</sup>

Election night was difficult in Hill and Comal counties, where election personnel had trouble combining tallies from optical scan ballots with votes from touch-screen machines.<sup>187</sup>

Hidalgo County had issues with election tabulation as well, as vote-tabulation software problems initially put a minor-party candidate ahead of a Congressional incumbent by more than 2,000 votes out of the first 2,200 tabulated.<sup>188</sup>

Lengthy paper ballots were problematic in San Patricio County, where two-page ballots had to be tallied by hand because the scanner was only set up to scan single-page ballots.<sup>189</sup>

## Utah

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*Election Day saw allegations of machine problems and one (albeit anonymous) claim of civil disobedience via double voting.*

One Salt Lake voter said that he had voted multiple times – once during early voting and once on Election Day – to prove that it could be done. He claimed to have made his intention known to several pollworkers on Election Day. The county clerk said she would be reviewing the voter records and would prosecute anyone discovered to have voted twice.<sup>190</sup>

Voters in Utah and Salt Lake Counties encountered delays when the Diebold activator machines would not properly encode voter cards for use in the touch-screen machines.<sup>191</sup>

## Vermont

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The secretary of state's office received a handful of complaints of voters receiving absentee ballots without requesting them, but each of the affected voters either mailed ballots back or cast them at a polling place on Election Day.<sup>192</sup>

## Virginia

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*The Old Dominion State kept the nation in suspense for a few days with its razor-close U.S. Senate race, but Election Day was not nearly as eventful as the days leading up to it.*

The State Board of Elections contacted federal investigators about possible voter suppression after reports that voters had received phone calls warning them to stay away from the polls.<sup>193</sup>

Voting equipment in Alexandria, Falls Church and Charlottesville also came under fire before Election Day because summary screens truncated the names of candidates.<sup>194</sup> Falls Church officials noted that they had complained previously about the problem and were told it could not be fixed.<sup>195</sup>

## Washington

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*While some states faced a proverbial flood of machine problems, Washington faced actual floods as record rainfall drenched the election, causing polling place closures among other problems. Voters didn't let the rain dampen their democratic spirit, however, as Seattle's King County saw high turnout numbers.*

One hundred bags containing as many as 20,000 absentee ballots were left uncounted in King County because election officials were uncertain that ballots weren't added after voting ended. Jim Buck, interim election director said that the bags have never been outside the control of poll workers and recommended opening, verifying and processing the bags of ballots.

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The bags were overstuffed because an unusual amount of absentee ballots were delivered to the polls.<sup>196</sup>

Two polling places were closed in King County due to flooding while others were on flood watch lists. Some polling places used generators to stay open and road closures concerned elections officials and voters alike.<sup>197</sup> Election officials instructed voters that if flood waters kept them from their usual polling place, they could go to any King County location and vote by provisional ballot.<sup>198</sup>

Carnation and Duvall residents were encouraged to turn in absentee ballots to the post office as mail service was cut off due to the weather. The U.S. Postal Service said the ballots may not go out for a few days but will be postmarked with today's date.<sup>199</sup>

### West Virginia

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After a rocky primary election, Election Day in West Virginia went well everywhere except Fayette County. There, tabulation problems – involving both optical scan and touch-screen ballots – forced officials to stop and restart the vote counting on election night. Ultimately, over 100 ballots had to be entered by hand. Officials blamed machine programming and poll-worker error for the discrepancies.<sup>200</sup>

### Wisconsin

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Wisconsin has been one of the states where the national debate over photo ID for voting has occurred, and it might have confused poll workers in the town of Menasha. There, a voter claimed that she had been required to show ID at her precinct – a requirement she later discovered did not exist in state or federal law. The Winnebago County Clerk disputed the claim, saying that many voters show ID as a “courtesy”, but in any event voters were not asked for ID later in the day.<sup>201</sup> Similar complaints came from students at The University of Wisconsin-Eau Claire.<sup>202</sup>

In other news from around the state, a bomb threat briefly closed a Madison precinct, a power failure inconvenienced voters at Sheboygan Falls City Hall, and high turnout forced state officials to rush additional paper ballots to precincts before the polls closed.<sup>203</sup>

### Wyoming

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The future is now in Wyoming, where a new state law permitted election judges as young as 16-years-old to work at polling places.<sup>204</sup>



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## Methodology

Information for this report was derived largely from press reports issued before, during and after Election Day, as well as existing research conducted by *electionline.org*. Field reports from organizations including the National Federation of the Blind, Common Cause and VotersUnite.org were also helpful in compiling state-by-state reports and supplementing press coverage.

In addition, first-person observations from *electionline.org* staffers in states – Connecticut, Arizona, Pennsylvania, Ohio, Maryland and Washington D.C. – were incorporated into the report.

Sources are cited in the endnotes section below. Photographs were reprinted with permission.

The opinions expressed by election officials, lawmakers and other interested parties in this document do not reflect the views of non-partisan, non-advocacy *electionline.org* or the Election Reform Information Project.

All questions concerning research should be directed to Sean Greene, research director, at 202-338-9860.

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