

Election Reform

**What's Changed, What Hasn't and Why
2000-2006**

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I am pleased to present the fourth edition of electionline.org's *What's Changed, What Hasn't and Why* – our annual report detailing the state of election reform nationwide.

As 2006 begins, the standard title of the report is especially apt. The Help America Vote Act of 2002 (HAVA) imposed a number of key deadlines that finally arrived January 1; as a result, the existence (or lack thereof) of electoral changes – and the reasons why – are no longer merely an academic question for election officials, advocates and policymakers. Rather, such developments take on additional significance as they could provide the impetus for enforcement litigation or other federal activity in the field of election reform.

Yet all of this activity takes place against a backdrop of electoral problems first identified in the disputed presidential election of 2000. Consequently, in addition to looking at the changes since our last edition of *What's Changed* immediately before the 2004 election, we also examine how America's election system in January 2006 compares to that of November 2000. The idea is to put change into the proper context so we can get a better sense of the problems and opportunities that may arise in the next few years.

The issue of election reform has matured rapidly in the past five years. Two years ago, few people had even heard of voter-verified paper audit trails; now, states are deciding whether to use them in recounts. In many states, the debate over whether voter ID should be required has evolved into whether voters should be provided IDs free of charge. In those states and others, fears about a lack of federal funding for HAVA mandates have subsided, leaving new concerns about state legislatures' ability (and willingness) to make funds available to maintain federally-funded improvements.

Most significantly, the center of gravity for reform has shifted to the states. As Congress moves on to other issues, state capitals are the places where the election reform "action" is – with all of the local color and political maneuvering such a shift entails.

And watching it all, the electorate – better-informed about the specifics of the electoral process than any time in our history – continues to monitor developments and ask how, if at all, such changes will affect them.

This is a fascinating time for followers of election reform – and we hope this latest report will assist you in understanding *What's Changed, What Hasn't and Why*.

As always, this report is the end product of tremendous focus and effort by skilled and knowledgeable people. I would particularly like to thank:

- My *electionline.org* colleagues Dan Seligson (editor), Sean Greene (research director), M. Mindy Moretti (writer), Suzeth Pimentel (administrative coordinator) and Alyson Freedman and Kat Zambon (researchers);
- Sharon Lawrence, whose research abilities continue to amaze;
- The University of Richmond – especially Professor Dan Palazzolo, for his friendship and continued interest in our work;
- Michael Caudell-Feagan, Lori Grange, Susan Urahn and everyone at The Pew Charitable Trusts for their financial support and continued commitment to our work;
- Our creative design team at 202design, especially Mike Heffner; and
- The four members of the U.S. Election Assistance Commission and all the women and men who serve their communities as election officials, and whose information and insights are essential to *electionline.org* and its mission.

It has been a pleasure preparing this report and on behalf of all of us, I hope you find this report enjoyable and informative. If you have any questions or comments, don't hesitate to contact us at feedback@electionline.org.

Doug Chapin
Director
February 2006

Executive Summary

The beginning of 2006 marked the deadline for states to comply with the Help America Vote Act (HAVA). Enacted four years earlier, the Act marked the culmination of more than a year of study, debate and compromise on Capitol Hill.

Problems in the diverse American system of electoral administration were targeted for change. Those who showed up at the polls believing to be registered but not on precinct rosters were to be given provisional ballots rather than being turned away without having an opportunity to vote. Decentralized rosters of voters were to be unified into one statewide list, allowing counties and agencies to better communicate voter movement and status, guarding against vote fraud and bloated rolls.

States were given cash incentives to replace aging voting machines, including the maligned punch cards and clunky lever systems.

And voters with disabilities were, for the first time, guaranteed by law to have an opportunity to cast an independent and secret ballot in every polling place in the country.

Except, as January 1 approached, changes were not as comprehensive as HAVA's authors had envisioned four years earlier. Nearly half of states missed one or more of HAVA's deadlines, for reasons including New York's late start on voting machine replacements and the construction of a statewide voter registration database, California's snags in certifying machines already purchased by some localities and a host of other reasons.

This report identifies areas of concern in HAVA and election administration and where states stand now that the deadline for compliance has elapsed.

Voting machines:

Concerns about punch cards and lever voting machines have given way to concerns about their replacements. Paperless electronic voting machines, including those deployed statewide in Georgia, Maryland and in parts of Florida were initially considered the logical successors of older voting technology; however, questions about their reliability, security and accuracy grew steadily.

Beginning with Nevada, which first deployed electronic voting machines with attached printers producing voter-verified paper audit trails (VVPATs) in 2004, 25 states now have laws either requiring VVPATs or the use of paper ballot-based voting systems. The VVPATs produce a second, auditable version of the election separate from that maintained in a machine's electronic memory. Their use continues to be mandated across the country.

Of the 25 states with VVPAT or paper ballot rules:

- 16 states require that VVPATs be considered the official guiding record in a recount.
- 12 states count VVPATs after every election to verify the accuracy of electronic voting systems.

The use of hybrid systems – which use an electronic interface to produce a paper ballot – has grown as well over the past year. Groups representing voters with disabilities have objected to some hybrid machines being marketed, particularly those that require a voter to transport a paper ballot to a ballot box.

Voter identification

The issue of whether to require citizens to present ID before voting divided Republicans and Democrats long before the 2000 election. However, lawmakers pushing for stricter verification requirements from voters at polling places got a boost from the passage of HAVA. Under the federal law, all first-time voters who register by mail but do not include a verification of their identity with their registration application must show one of a number of forms of ID at their polling places.

The change in law meant every state had to pass compliance legislation, effectively putting the issue of voter ID on the table, even in places where lawmakers had been steadfastly opposed to adding requirements. That, in turn, led to legislative victories for Republicans, who have been pushing for voter ID rules in Congress and in state houses.

- In 2000, only 11 states required all voters to show ID. In 2006, 22 states require all voters to present ID. Legislation pending in Mississippi and Ohio could increase that number.
- Indiana and Georgia passed the nation's most stringent voter ID rules in 2005, requiring all voters to show a state or federally-issued photo ID before casting ballots. Lawsuits were filed by Democrats and civil liberties organizations in both states, with Georgia's bill being struck down by a federal judge. An appeal is pending.
- A national commission led by former President Jimmy Carter and former Secretary of State James A. Baker in 2005 recommended universal voter ID to the dismay of Democrats and left-leaning commentators and the applause of Republicans and right-leaning editorial pages, perhaps renewing interest in the issue in Congress.

Proposed voter ID rules were not universally successful, though proponents have been determined to get legislation passed. Wisconsin Republicans continue to be stymied in efforts to enact voter ID by a Democratic governor and are seeking to put the question directly to voters, while infighting in Ohio's legislature put plans to enact a photo ID-only bill on hold. A Senate panel in Mississippi advanced a voter ID bill in 2005, a year after bitter debate sunk a similar measure.

Statewide voter registration databases

Creating and maintaining statewide records of registered voters has been the most costly and complex of HAVA's requirements, and as of January 1, the deadline for their creation, more than 20 percent do not yet have compliant voter registration databases.

While HAVA requires that state databases be "single, uniform, official, centralized, interactive, computerized...defined, maintained and administered at the state level," there were substantive differences in approaches around the country. Like many other aspects of federal election reform, the mandate did not direct states on how to accomplish the goal.

- 38 states opted for databases classified as "top down," whereby a unified list is maintained by the state with information supplied by localities.
- Seven states built "bottom-up" lists, whereby local jurisdictions maintain distinct voter lists and submit information to a state compilation database at regular – typically daily – intervals.
- 28 states enlisted private contractors to construct statewide lists.
- 21 states had pre-existing databases or built new systems in-house.
- New York has not started building a database, while North Dakota is exempt as it does not require voter registration.
- Costs have varied greatly. Limited lists of voters – and more limited needs – have led to database costs as little as \$1 million or less in South Dakota and Utah, while comprehensive and multi-functional systems in large states have yielded price tags in the tens of millions of dollars, including Pennsylvania's \$20 million election management system.

Provisional ballots

One of HAVA's most immediate and profound effects on the electoral system was the requirement for provisional, or fail-safe voting, around the country. In 2000, a number of states offered options for voters who believed they were registered. But rules varied widely, and many voters had no legal recourse if left off the list.

Eighteen states had no recourse for voters, most notably Florida, where eligible voters were turned away by the thousands after their names were confused with felons who had lost their voting rights. The federal law required a more uniform approach whereby any person who showed up at a polling place believing to be registered would receive a ballot. If eligibility could be verified, the vote was to be counted; if not, the reason why had to be specified and available to the person who cast the ballot through a Web site or toll-free number.

States had a few different approaches to provisional ballots. In some, only provisional ballots cast in the correct precinct would be eligible to be counted; in others, ballots cast in the voter's jurisdiction were eligible for counting.

- In 27 states, provisional ballots were eligible for counting only if cast in the correct precinct.
- In 17 states, provisional ballots were eligible for counting if cast in the correct jurisdiction.

HAVA-mandated provisional ballots were used for the first time in a federal election in November 2004. That year, 1.9 million provisional ballots were cast nationwide, with more than 1.2 million counted.

Voting Systems: Security Concerns Stymied Widespread Change

The complications faced in replacing voting systems around the country surprised few, particularly those who would be responsible for the change. As early as 2001, election administrators warned Congress, state lawmakers, and anyone else who would listen that updating voting systems would involve far more than unplugging the old units and plugging in the new ones.¹

In the four years since the passage of HAVA, the process of upgrading older voting systems, from punch cards and lever machines to optical scan and electronic voting machines, has been hampered by politics, distrust, cost concerns, and accusations of bribery and betrayal. With the deadline now passed, more than a third of states have been unable to decide on or certify a voting system to satisfy the requirement that each polling place have one machine available for people with disabilities allowing them to cast an independent and secret ballot.²

Old machines scrapped

Most punch-card and lever voting machines did end up junked, but the path there was not quite a beeline for the scrapheap. Electronic machines deployed in Florida, North Carolina, Indiana, Maryland and California have been plagued with certification questions, security concerns, accusations about politically-interested voting machine vendors and most commonly, questions about the reliability and accuracy of their paperless ballots.

In the 30 states that took more than \$300 million in optional federal buy-out money to replace punch-card and lever machines, the process has not been completed across the board. New York officials have yet to issue a request-for-proposals to vendors or agree on comprehensive guidelines for voting-system standards.

The Empire State is hardly alone.

States missed the mark for a variety of reasons, ranging from concerns over voter-verified paper audit trails (VVPATs) to inaction at numerous levels of government.

In California, “counties have lurched from one voting system to another as the state has written and re-written standards,” stated an article in *The Los Angeles Times*.³ In Ohio, where the state has nearly completed a switch from punch cards to electronic machines with VVPATs, questions about the reliability of machines and a contentious vendor selection process made the state miss its self-imposed November 2004 deadline for implementing new machines, meaning most Ohio voters cast ballots on punch cards in the state’s controversial general election.

A nightmarish scenario for paperless voting – and a case study for paper trail advocates proving why independent verification is necessary – occurred in North Carolina in November 2004. An election to select the state’s agricultural commissioner was in limbo after a paperless touch-screen voting system being used in Carteret County was mis-programmed to store far fewer votes than cast. According to a spokesman for Unilect, the company which manufactured the voting system, poll workers ignored messages on a machine stating that it could not accept any more votes.

It was too late to stop the fallout.

The race, decided initially by 2,300 votes, was plagued by more than 4,400 lost votes on the Unilect system. In Pennsylvania, incorrectly programmed machines by the same company yielded a 7 percent error rate.⁴

The paper trail chase

Delays in voting machine implementation can largely be attributed to concerns over the security of electronic voting machines. While a handful of states acted immediately to replace older voting technologies – Georgia, Maryland and Florida being the best examples – a number of others, including jurisdictions in California and most of Ohio, Connecticut and New York, delayed replacements because of concerns about the new voting systems.

Concerned computer science professors started the paper trail movement, demanding that electronic voting systems have a means to independently audit paperless votes. Beginning in early 2003, less than three months after the passage of HAVA, Stanford University Professor David Dill began amassing signatures from his colleagues in academia voicing concerns about paperless electronic voting. The petition drive caught on, securing Dill a place on a task force of citizens and election experts in California convened by then-Secretary of State Kevin Shelley (D).⁵

While Dill focused some of his efforts on a new organization, *VerifiedVoting.org*, Shelley pursued the nation's most significant requirement for VVPATs with electronic voting machines. In November, the secretary, who eventually left office after being accused of mismanaging HAVA funds, issued guidance requiring that, "all touch-screen voting systems used in California, regardless of when they were purchased, must have a VVPAT that can be used by all voters, including the visually impaired, to verify that their preferences are accurately recorded."⁶

At the same time, other organizations challenged the integrity and political neutrality of the companies making voting systems. *BlackBoxVoting.org* and its founder, Bev Harris, an investigative journalist, have conducted audits of voting systems, sought "source codes," or operating systems for voting machines and pressed hard for "consumer protection" in elections.⁷

The fall and rise of paper

Vocal opponents of paperless voting, relentless criticism of leading voting-machine companies and well-publicized snafus like those in Pennsylvania and North Carolina, became influential in the voting machine procurement decisions in the past year and a half.

The need for VVPAT was unheard of when Florida, Maryland and Georgia first implemented their electronic voting machines in 2003. Following the lead of California, Nevada and Ohio, 25 states nationwide have laws on the books requiring the use of paper trails or only use paper-based ballots. More are expected to adopt similar requirements in coming months.

What to do with the paper records once an election is over, however, is a more recent source of controversy.

Of the 25 states that have paper-ballot rules, 16 require that the VVPAT be considered the official record of the vote in the case of any recount. Two states – Nevada and Idaho – while requiring the use of VVPATs, have rules mandating that electronic ballots and not paper audit trails be used as the guiding tally in a recount.⁸

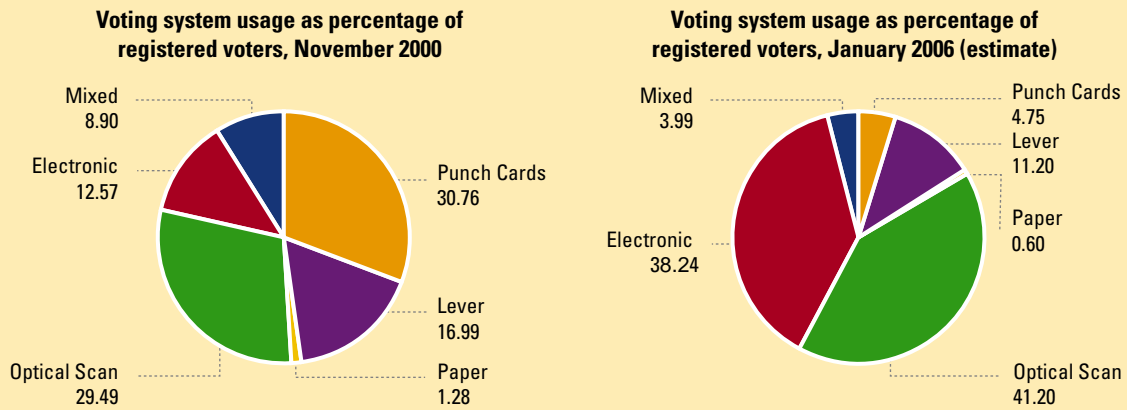
Twelve states use paper trails for post-election audits to verify the accuracy of electronic voting machines.

For paper-trail advocates, using paper in recounts is common sense. The paper representation of the ballot was, ideally, examined before the vote was cast.

"The idea is astonishing that you would go to all the trouble of a paper trail then use it for nothing," said California state Sen. Debra Bowen, D-Redondo Beach, in an August 2005 article on the subject.⁹

A number of election officials, however, have opposed the use of paper trails. Local election officials in California urged Gov. Arnold Schwarzenegger (R) to oppose legislation requiring paper trails to be used for manual audits and recounts because tallying them would be "onerous and time consuming."¹⁰

Voting Equipment: Then and Now



Notes:
 1. Data from 2000 was provided by Election Data Services. Data from 2006 is an estimate based on electionline.org research and information gathered from surveys of state election officials, state election Web sites and news stories. At press time, a number of states were undecided on replacement voting equipment. As a result, the percentage of voters using optical scan and direct-recording electronic machines will substantially increase when all voting system purchases have been finalized and implemented in states such as New York, Connecticut and others.

In contrast to optical-scan ballots or punch cards, which are designed to be machine counted by the thousands, VVPATs are made to be read by individual voters at polling places. Most must be tallied the old-fashioned way, by hand.

According to Larry Lomax, registrar of voters in Clark County, Nev., which is mandated to count 1 percent of paper trails to ensure the accuracy of electronic voting machines, one 318-foot long tape, which contained 64 votes from the November 2004 presidential election took four hours to complete – or four minutes per ballot.¹¹ As of yet, no county or state has faced a full recount using paper trails, but if the Clark County experience is typical, manual recounts could take weeks, not days, to complete.

The move to hybrids

To meet the concerns of voters who might doubt the accuracy and integrity of paperless electronic voting systems as well as election officials who are loathe to hand count paper audit trails, manufacturers have created machines that use an electronic interface to create a paper ballot.

Systems such as the ES&S AutoMARK allow the flexibility of e-voting – multiple languages, audio prompts, the use of sip-puff tubes, larger font sizes

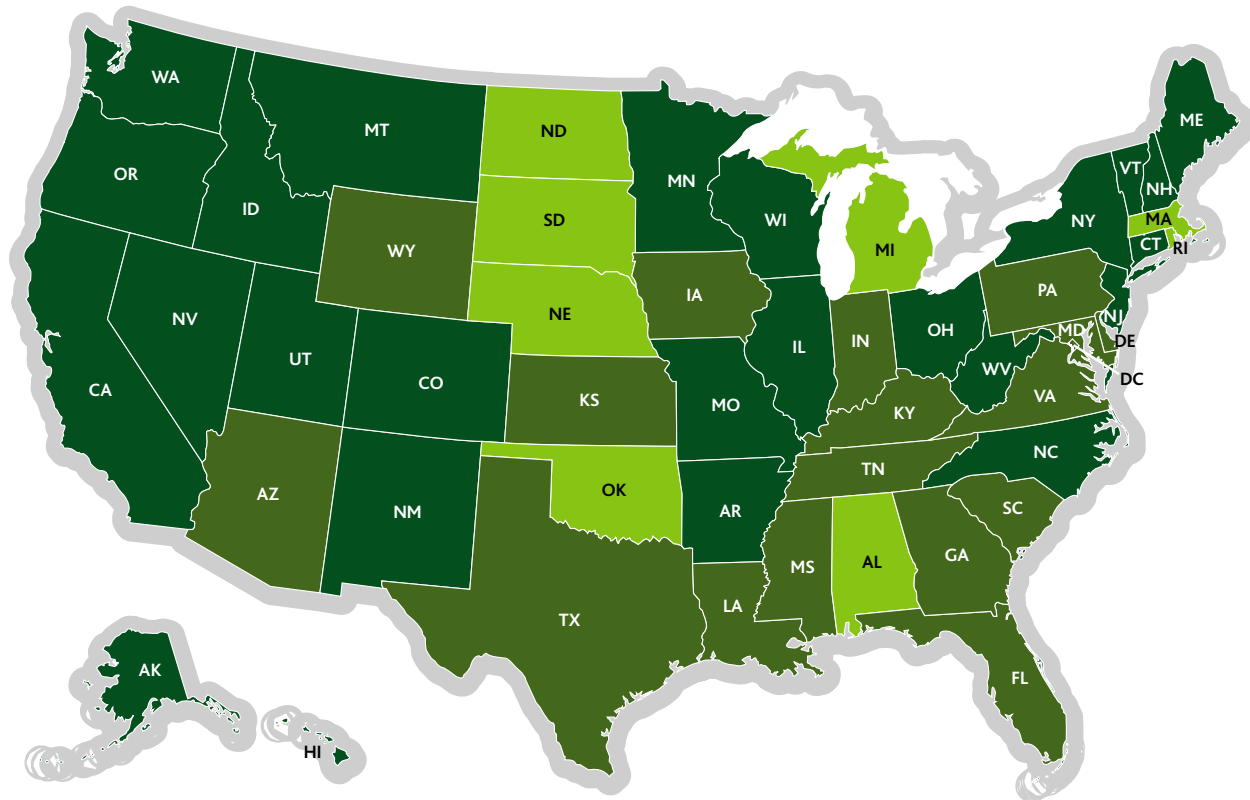
and unlimited ballot size – with the easy counting features of optical-scan ballots. Separate vote totals maintained on paper are unnecessary, as the machine uses a printer to create a paper ballot.¹²

But some groups representing voters with disabilities say hybrid systems are not a panacea, seamlessly meshing security concerns with accessibility.

In a letter to Ohio Secretary of State Kenneth Blackwell (R), the American Association of People with Disabilities offered a not-so-subtle hint that the AutoMARK – which some Ohio counties considered purchasing to comply with requirements for accessible machines – would violate HAVA as well as the Americans with Disabilities Act and spur a lawsuit.

“The voter must carry the marked ballot and insert it into the in-precinct tabulator,” the letter stated. “Individuals who cannot handle paper ... must rely on a non-disabled person... to insert the marked ballot into the in-precinct tabulator. On prototype models of the AutoMARK, for instance, a voter who uses a mouth stick will be able to use the touchscreen but will not be able to handle the paper when it’s ejected. It is your responsibility as chief election officer to ensure that Ohio’s election system complies with federal law. We strongly encourage you to reconsider your directive in a timely manner to avoid major contentious action.”¹³

Voter-Verified Paper Audit Trails, 2006



This map details state requirements concerning the use of paper ballots or voter-verified paper audit trails (VVPATs) with direct-recording electronic (DRE) voting machines.

- VVPAT required by state law, administrative rule or paper ballot required.** (25 states)
- No DRE voting systems, no VVPAT requirements.** (8 states)
- DRE voting systems in place, no VVPAT requirements.** (18 states)

Notes:

Maine has a VVPAT requirement but has an exception for accessible voting machines.

Mississippi does not have a VVPAT requirement, but in all counties where DREs will be used, they will be equipped with VVPATs.

In Montana, state law mandates that voting systems use paper ballots that can be manually counted. However, DRE voting machines without a VVPAT can be used if the federal government and the secretary of state have not certified any machines with a VVPAT and “the system records votes in a manner that will allow the votes to be printed and manually counted or audited if necessary.” Currently, Montana has no DRE machines in place.

Voter Identification

Prior to the passage of the Help America Vote Act (HAVA) in 2002, rules requiring voter identification at polling places were not popular around the country.

Before 2002, only 11 states required all voters to show some form of verification before they cast ballots at polling places. Two others required some to show ID, either if they lived in counties without electronic signature capture or if poll workers did not recognize voters.¹⁴

In those that did not require ID, legislatures often fought pitched battles over the issue, with Republicans largely supporting more stringent voter ID rules as necessary anti-fraud measures and Democrats just as consistently opposing them, arguing they would suppress voter turnout while failing to address the problem of fraud.

The same held true on Capitol Hill in 2001 and 2002. Republican lawmakers, most notably Sen. Kit Bond, R-Mo., and Sen. Mitch McConnell, R-Ky., sought universal nationwide voter ID requirements. Sen. Chris Dodd, D-Conn., along with Sen. Charles Schumer, D-N.Y. and other Democrats, led the charge against it.

The result was a compromise in which Democrats accepted a limited voter ID requirement in exchange for Republican support of other components of federal election reform legislation, including the first significant financial investment by the federal government in state election administration and rules mandating provisional voting.

HAVA specifies that first-time voters who register by mail and do not present identification with their registration application present one of a number of forms of verification at polling places.

New federal rules required action in state legislatures. States that never had partisan squabbles over voter ID had to put the issue on the agenda. In others, where both parties fought over voter ID requirements for years, Republicans and Democrats had to agree to pass legislation making their states HAVA-compliant.

But something else happened along the way. The passage of the federal law not only forced voter ID on to the legislative agenda in capitols from Sacramento to Boston, it also shifted the balance on the issue to the GOP.

Battles are more often than not being won by voter ID supporters. The number of states that now require all voters to show identification has doubled in three years, from 11 to 22.¹⁵

HAVA set the agenda

Certainly, the debate over voter identification predated HAVA and the 2000 presidential election, which brought election administration issues to the attention of Congress and the American public. In many state legislatures, efforts to pass voter ID bills were practically an annual rite – as were successful efforts by Democratic lawmakers and governors to vote down and/or veto them.

HAVA, however, changed the equation. In every state, compliance legislation had to be enacted to allow the states that previously had no voter ID requirements to conform with the federal requirements.

Lawmakers pushing for voter ID rules argued that HAVA's mandates, which required only a small percentage of those at polling places to present verification, were narrowly tailored and therefore unfair.

Going beyond the mandate

Lawmakers in a few states, notably Indiana and Georgia, enacted provisions that could mark a new wrinkle in the voter ID debate. Rather than allow a broad array of verification, including utility bills, non-government issued identification cards with photos, bank statements and other forms with the voter's name pre-printed, lawmakers in both states enacted the most stringent polling place rules to-date in 2005.

The bills passed in both states require that voters present federal or state-issued photo ID. Enrolled Act 483, passed on party lines in Indiana in April 2005 with

the strong support of Secretary of State Todd Rokita (R). It provides for free IDs to anyone over 18 who does not already have one and allows those without an ID to cast a provisional ballot, which will only be counted if the voter can present a valid ID within six days of the election.¹⁶

State Democrats and the Indiana branch of the ACLU filed lawsuits within weeks of enactment. Dan Tokaji, an election law expert at The Ohio State University, said the Indiana bill would not serve its stated purpose of curbing fraud.

“While posing as an anti-fraud measure, the Indiana bill is really a naked attempt to disenfranchise voters, and ought to be struck down under the Equal Protection Clause. The Supreme Court hasn’t ruled on the constitutionality of such measures before, but the logic of *Harper v. Virginia* should apply,” Tokaji wrote. “That case struck down Virginia’s poll tax on the ground that it imposed a burden on poor voters. In much the same way, the Indiana bill imposes a special burden on particular groups of voters – including seniors, people with disabilities, and those who are poor – with precious little evidence that its strict photo ID requirement is needed to curb fraud.”¹⁷

In the lawsuit, the Democratic Party argues that voters who have to stand in line to get an ID are subject to a de facto poll tax which would deter or “arbitrarily burden and/or disenfranchise certain registered and qualified voters associated with the Democratic Party in violation of the 14th Amendment.”¹⁸

The case is still pending.

Georgia’s bill, also requiring photo ID, has been blocked by a federal judge and could conceivably end up before the U.S. Supreme Court. While state law requires all voters to show federal or state-issued ID before voting, it does not allow for free identification to voters and it requires those who cast provisional ballots to present an acceptable form of ID within 48 hours of the election.¹⁹

The absence of a “free ID” provision has civil rights advocates, Democrats and even some at the U.S. Department of Justice, which eventually pre-cleared the rule anyway, concerned.

Four members of the five-person team at the Justice Department charged with deciding whether to pre-clear the proposed rule contended that the cost of and the difficulty in obtaining state-issued identification in Georgia could disenfranchise some voters. Fewer than 60 of the state’s 159 counties have Department of Motor Vehicle (DMV) offices, and only DMVs have the authority to issue proper state ID for use at polling places. Further, the state requires a \$20 fee. Atlanta does not have a single DMV office, forcing those in need of ID to travel as far as nine miles to find the nearest office.²⁰

A federal judge agreed with critics. The law was struck down by a federal appeals court in October – just before the November 8 elections.²¹ State officials have appealed and a court date is set for March 1. In the meantime, Gov. Sonny Perdue (R) signed new voter ID legislation allowing for free IDs.

Voter ID rules still in flux

Not all efforts to enact voter ID have succeeded. A photo-ID only bill (H.B. 3) passed the Ohio House on partisan lines, but was significantly amended in the Senate to allow voters to use a much broader list of documents to verify their identities.²² At press time, the bill was pending action by the House, where Republican members expressed disappointment with the Senate’s changes.

In Wisconsin, a Republican-backed voter ID bill (A.B. 63) was vetoed by Democratic Gov. Jim Doyle in spring 2005, two years after a similar bill was axed by the executive.²³ Undeterred, a group of Senate Republicans made yet another attempt, introducing S.B. 355 in September. A month later, the General Assembly passed a constitutional amendment that would put the question to voters – and away from Doyle’s veto stamp.²⁴

A senate committee in Mississippi started 2006 by advancing a voter ID bill similar to a measure that passed the body a year earlier but died in the House.

National perspective could be changing

Voter ID bills have not gone away, and the traditional divisions of Right vs. Left and Republican vs. Democrat remain firmly in place in the states.

Former President Jimmy Carter, however, tried to chip away at the wall between the two sides when he, along with a majority of members of the Commission on Federal Election Reform, endorsed a plan that would require a uniform system of voter ID across the country using the REAL ID card, a type of ID mandated by Congress in 2005. IDs, the commission argued, should be free of charge and widely available.

There was dissent on the commission, including from former Democratic Senate Minority Leader Tom Daschle. There was also plenty of public outcry, particularly from the Left.

The New York Times savaged the proposal in a September editorial, stating the commission's plan "is worse than no reform at all."

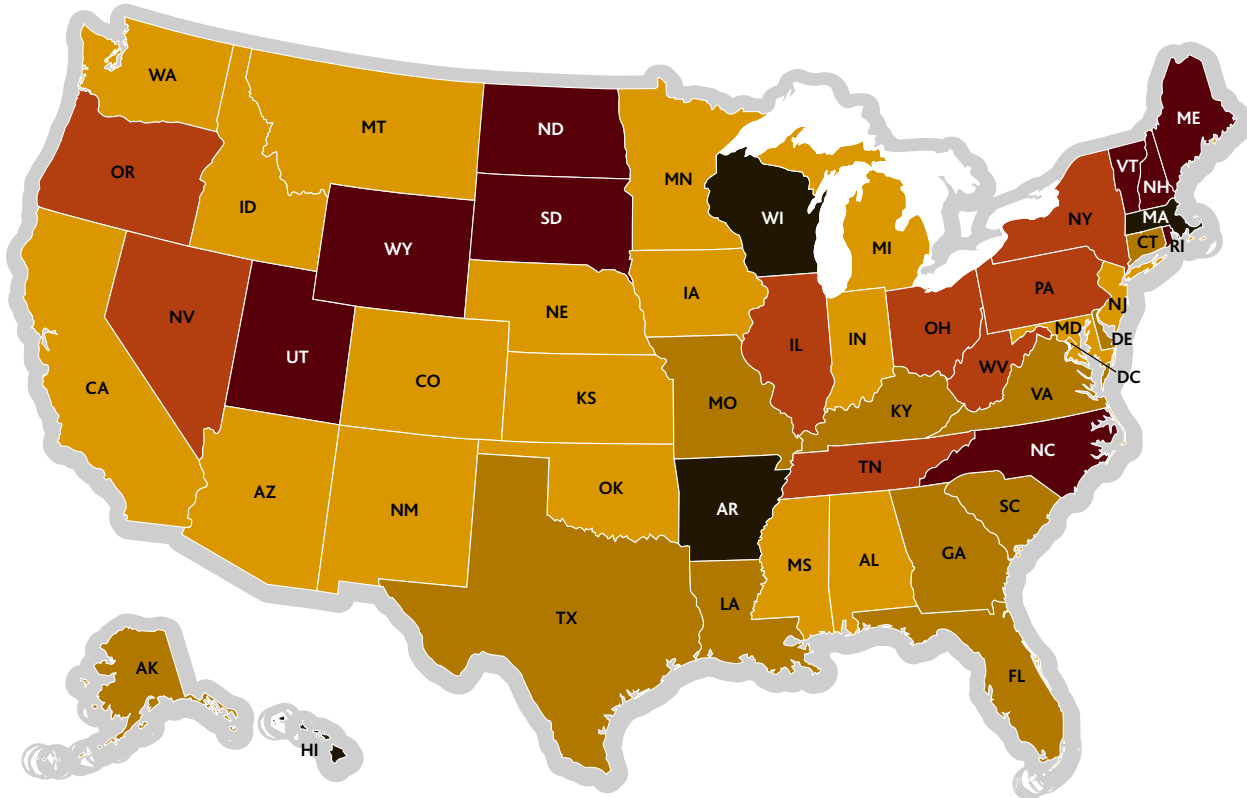
"The bombshell recommendation is for the states to require voters to have drivers' licenses or a government-issued photo ID," the editorial states. "That would not be a great burden for people who have drivers' licenses,

but it would be for those who don't, and they are disproportionately poor, elderly or members of minorities. These voters would have to get special photo IDs and keep them updated. If they didn't have the IDs, their right to vote would be taken away. The commission recommends that the cards be free. But election administration is notoriously underfinanced, and it is not hard to imagine that states would charge for them. Georgia is already charging \$20 and more for each of its state voter cards."²⁵

The proposal had its supporters as well. The editors of *The San Diego Union-Tribune* called the voter ID plan "bold."

"With photo identification required to vote, not only would that mean citizens would need to register only once in their lifetime, no matter how often or where they moved, but it also would reduce the chance of voter fraud. And it has the potential to add more than 50 million unregistered Americans to the voter rolls," the paper stated. "The early criticism from some Democrats that the free voter ID card would somehow mark a return to the racist days of poll taxes is uninformed baloney."²⁶

State Voter Verification Requirements, 2000



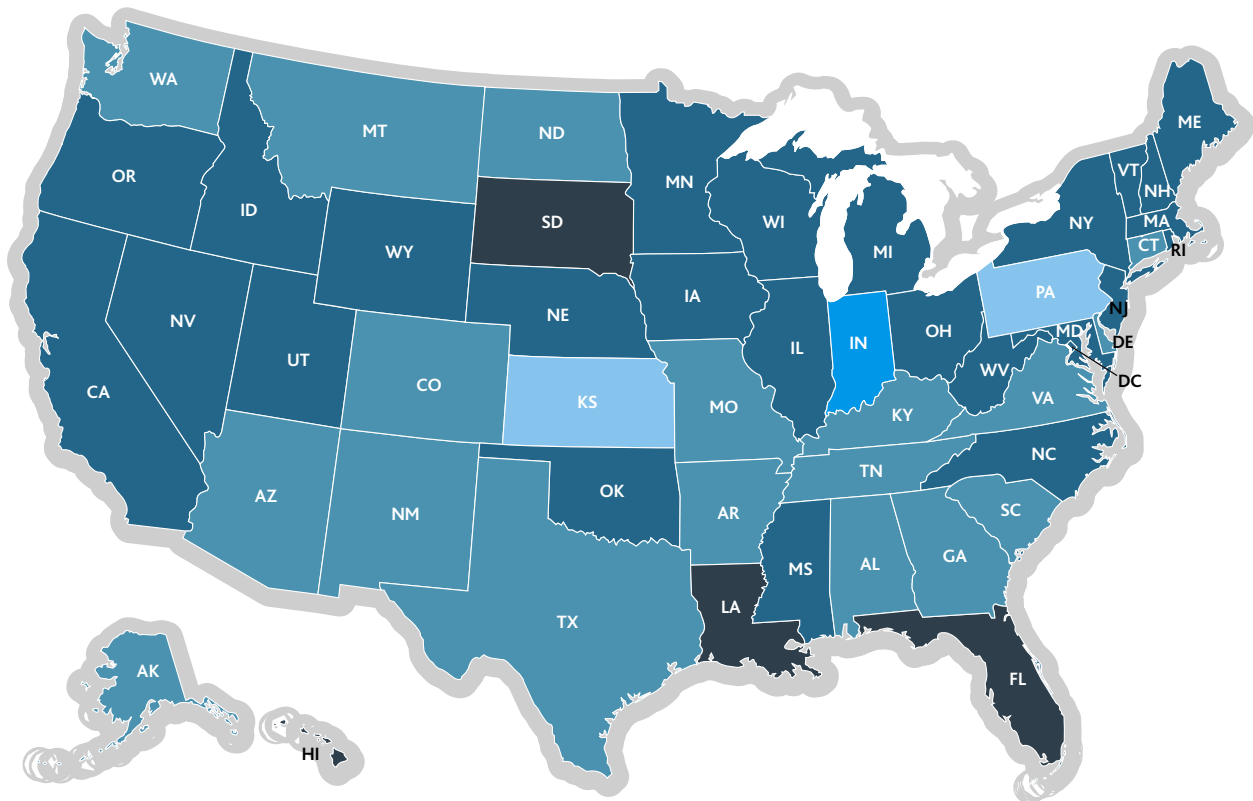
This map provides a snapshot of what each state requires of the voter at the polls. A state might require identification at different steps in the voting process: at registration, at the polling place or in the case of a challenge. A state might also have requirements for absentee voters, election-day registrants and first-time voters who registered by mail.

- ID Required:** A voter must provide some form of documentary proof of eligibility and/or identity in order to vote. The forms of acceptable ID vary widely, including shopper's cards, credit cards, leases, and utility bills. States have various safeguards for voters who lack ID. (11 states)
- Signature match:** A voter's signature provided at the polls is compared to either 1) a signature on file with the election official or 2) a signature on a piece of identification provided by the voter. (9 states)
- Signature:** A voter must sign the poll book in order to vote. (18 states)
- ID Optional:** A voter may be asked for identification. State law either 1) allows a poll worker the option to request documentary proof or 2) allows localities to establish their own rules. (4 states)
- Name:** A voter must state his or her name in order to vote. (9 states)

First-time voter requirements: Arkansas, Illinois, Louisiana, Michigan, Missouri, Tennessee, Virginia and West Virginia require voters who register by mail to vote in person the first time they vote. There are exceptions in federal law.

Combination Requirements: Delaware, Florida, and South Carolina have dual requirements: 1) that the voter present ID and 2) that the signature on the ID match the signature provided.

State Voter Verification Requirements, 2006



- Minimum HAVA requirements** in place. Verification required of first-time voters who register by mail and did not provide verification with their registration application. (27 states)
- Required for all voters**, photo and non-photo verification accepted. (17 states)
- Required of all first-time voters.** (2 states)
- State or U.S. government-issued photo identification** required of all voters in order to cast a ballot. (1 state)
- Photo identification requested of all voters;** voters without required verification can sign affidavits and cast regular (non-provisional) ballots. (4 states)

Notes:

Arkansas: Verification is requested. A voter who cannot provide verification may still cast a regular ballot. Failure to present identification is, however, noted by poll workers in precinct logs.

Florida: First-time voters who do not have required identification must cast provisional ballots.

Georgia: A law requiring all voters to present government-issued photo identification was struck down by a U.S. Court of Appeals.

Indiana: Voters who cannot show photo identification are allowed to cast provisional ballots.

Tennessee: Voters must provide signature and address at the polls. In counties without computerized lists, the signature is compared to the signature on registration card. In counties with computerized lists, the signature is compared to a signature on identification presented by a voter.

Texas: Voters must present a current state voter registration certificate. Those who cannot show a certificate must show identification. All first-time voters who registered by mail must show identification at polling places.

Statewide Voter Registration Databases

One of the most complex and costly HAVA requirements mandated the development of statewide voter registration databases.

While largely overshadowed by the more visible and easily-understood issues presented by voting machines and voter-verified paper audit trails (VVPATs), the challenges in building effective voter registration databases have stymied progress. As the Jan. 1, 2006 deadline passed, it became apparent that nearly a dozen states would miss the HAVA deadline for statewide voter registration databases.²⁷

The law

Until recently, voter registration lists were kept at the county or other local jurisdiction level in an estimated 80 percent of states. In 2000, 10 states had statewide lists in place, increasing to 15 by 2004. Even these states had to do some tweaking of existing databases to comply with HAVA.²⁸

HAVA, which requires the development of “a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state,” presented a significant shift in voter-list management to nearly every state.²⁹

While the initial deadline was Jan. 1, 2004, more than 40 states took advantage of a waiver allowing an extra two years to complete the task.

Rep. Robert W. Ney, R-Ohio, one of HAVA’s co-sponsors, described the thinking behind the creation of these lists during the congressional debate over the legislation:

“The current system in many states creates inefficiencies and duplications, as voters often move from one jurisdiction to another within a state without notifying the jurisdiction that they used to live in before they

made the move. These statewide systems will make it possible for states to more effectively maintain voter registration information, as they should. States will have more accurate systems to protect voters from being mistakenly removed from the list, while ensuring that costly duplicates that invite voter fraud are quickly removed.”³⁰

The law gave states a requirement – to create a statewide voter list – without any specific direction of how to meet it. Like many other aspects of election reform, the federal government was wary of stepping into an area that had historically been a state responsibility. As a result, the seemingly detailed list of adjectives used to describe statewide database requirements nonetheless led to the development of different systems in every state – sometimes dramatically so.

‘Top-down’ and ‘bottom-up’ databases

With limited initial guidance, a debate emerged over the structure of the databases. Some argued the best approach was “top down,” where a unified database is maintained by the state with information supplied by localities. Nearly 40 states took this approach. Seven states, however, took a “bottom-up” approach whereby local jurisdictions keep their voter lists and submit information to a state compilation of local databases at regular intervals.³¹

The Election Assistance Commission (EAC) weighed in on the issue in April 2005 when it released long-awaited guidance. “While databases hosted on a single, central platform (e.g., mainframe and/or client servers) are most closely akin to the requirements of HAVA, a database which gathers its information from local voter registration databases or servers may also meet the single, uniform list requirement.”³²

However, concerns remain about bottom-up systems. “Frankly, we don’t think the EAC should encourage states to take the bottom up approach. The 24-hour

lag time involved with bottom-up systems doesn't truly achieve the goals of creating single systems with instant access to information for elections officials," said John Lindback, Oregon state election director.³³

Who builds them and how much do they cost?

A majority of states – 28 – signed contracts with vendors to create statewide lists. Twenty-one states had already built or decided to develop databases in-house. Officials in New York, at press time, had yet to decide how a database would be built while North Dakota is exempt because it does not have voter registration.³⁴

Some companies that have built databases are familiar names in the election business – Diebold, ES&S, Hart InterCivic and IBM. Others include Covansys, PCC Technology Group, Aradyme Corp., Accenture, Saber Consulting, MAXIMUS, Quest Information Systems and Unisys.

Not surprisingly, with numerous databases being built around the country, size and costs have varied. In South Dakota and Utah, databases cost less than \$1 million, while in Pennsylvania, the system cost over \$20 million. What states get for their money varies as well. South Dakota's "bottom-up" list created in-house will allow counties to share information from each other's rosters and from state agencies; Pennsylvania's Statewide Uniform Registry of Electors serves as an election management system that will perform a variety of tasks far beyond maintaining a list of the state's registered voters.³⁵

Links to other databases

HAVA also mandates that the chief election official of each state and the official in charge of motor vehicle information enter into an agreement to match data in both the registration and motor vehicle databases. It adds that the voter lists should be coordinated with other state databases. The law doesn't explicitly name other databases but states have linked to social service agencies, criminal justice agencies and vital statistics agencies.

Advocacy groups pushed states to link to as many relevant databases as possible. A 2005 report by the

Century Foundation stated "the database should be connected interactively with as many state agencies as possible to ensure the timely and accurate updating of voter information and the most accurate matching and verification of voter registration information."³⁶

Bumps in the road

As 2005 ended, a number of states reported problems completing their databases.

Problems have dogged states which contracted with Bermuda-based Accenture, the company responsible for building databases in Pennsylvania, Wisconsin, and Wyoming. The company had contracts cancelled in Kansas in March and Colorado in December.

In Kansas, a quick decision to hire ES&S to build the database resulted in an on-time completion. A spokesperson for the Kansas Secretary of State's office said the state and Accenture have an agreement not to discuss the details of the termination.³⁷

Colorado canceled its \$10 million contract in December 2005 leaving the state unable to meet the federal deadline. The secretary of state's office told *The Gazette* that there were problems with accuracy tests. Accenture disagreed with the state's decision. "We do not believe it is in the best interest of the citizens of Colorado. The state's decision will likely delay by many more months the completion of a voter registration system that meets federal requirements," the company said in a statement.³⁸

Wisconsin missed the deadline as well, but Kevin Kennedy, the state's election director, said both the state and Accenture were responsible for the delay and that they were working together to resolve outstanding issues. The state reported problems with local officials having difficulty logging on and learning how to use the system. Wisconsin's decision to use Accenture first came under fire in 2004 for cost and for how the state went about hiring the firm.³⁹

Wyoming missed the deadline as well, but officials say its Accenture database will be completed in early 2006. "We are still working with Accenture to solve the issues...and things seem to be moving along," said Peggy Nighswonger, state elections director.⁴⁰

A number of county election officials in Pennsylvania have voiced displeasure with the state's now completed Accenture-built system. Douglas E. Hill, executive director of the County Commissioners Association of Pennsylvania, testified in March 2005 at a House State Government Committee hearing that the list was flawed. He cited a number of issues, including widespread reports of system slow-downs. "It has failed tests on a real world basis as well, with counties regularly being called by the central office to be asked to end a task because it has bottled up system resources."⁴¹

Missed deadlines and consequences

While state problems with Accenture-built lists caught the most attention nationally, states using other vendors hit snags as well. Nevada's Covansys system missed the January 1 deadline. "The (Covansys) system remains unacceptably burdensome to navigate and operate," Larry Lomax, election chief of Clark County wrote in a letter to Nevada Secretary of State Dean Heller (R).⁴²

California and New York did not have their lists ready by the deadline either. California entered into an agreement with the U.S. Department of Justice (charged with enforcing HAVA provisions), allowing them to have an interim database in place.

New York has no such agreement. Lee Daghlian, a spokesman for the New York State Board of Elections, told the *Poughkeepsie Journal* that enforcement action is a possibility as the state could be up to 18 months late meeting the deadline. "We have to take whatever consequences come from the federal government," Daghlian said.⁴³

In early January 2006, the Justice Department threatened to sue New York due to its lack of progress in developing the database.⁴⁴

Security

Some voter advocacy groups and election observers have expressed concern about database security. Who will have access to them? Are there security risks linking registration lists to other databases?⁴⁵

R. Michael Alvarez, professor of political science at California Institute of Technology, has suggested that

just as voting systems must meet certain standards, databases should as well.

"Electronic and computerized voter registration systems need standards, testing and certification — just like voting equipment. As voter registration files are the backbone of the election administration process, we are running the risk that these electronic databases may not be reliable, secure, or private. At a minimum, a standard set of terminology and procedures with definitions should be adopted to provide some national uniformity in matters relating to voter registration."⁴⁶

More connections in the future

Even with the problems some states have faced implementing the voter lists, with most now in place or to be in place soon, some experts — including a prominent election reform panel chaired by former President Jimmy Carter and former Secretary of State James Baker — say the next step should be interstate operability.

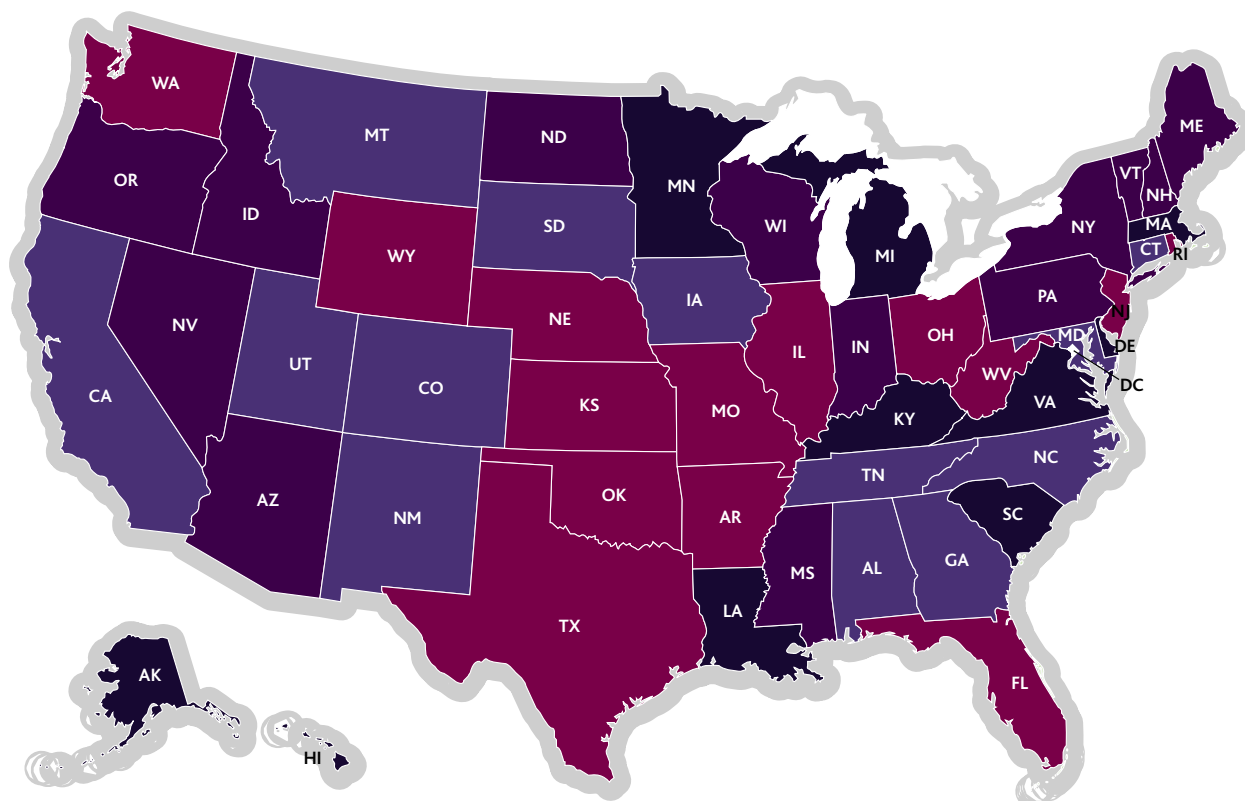
The Commission on Federal Election Reform cited the need for state-to-state information sharing, noting that approximately nine million Americans move to other states or overseas every year. "In order to assure that lists take account of citizens moving from one state to another, voter databases should be made interoperable between states. This would serve to eliminate duplicate registrations, which are a source of potential fraud," the report stated.⁴⁷

The report also suggested the EAC take a larger role in making this possible by providing uniform guidelines on certain aspects of the databases.

In December 2005, four states — Kansas, Missouri, Iowa and Nebraska — examined the benefits of interstate collaboration on voter registration issues. The states signed an agreement to form a task force focusing on interstate cooperation to improve election administration.

"Eventually, the states hope to develop a system to cross-check voter registration information to provide for cleaner and more accurate voter lists," a press release announcing the agreement stated.⁴⁸

Statewide Voter Registration Databases, 2000

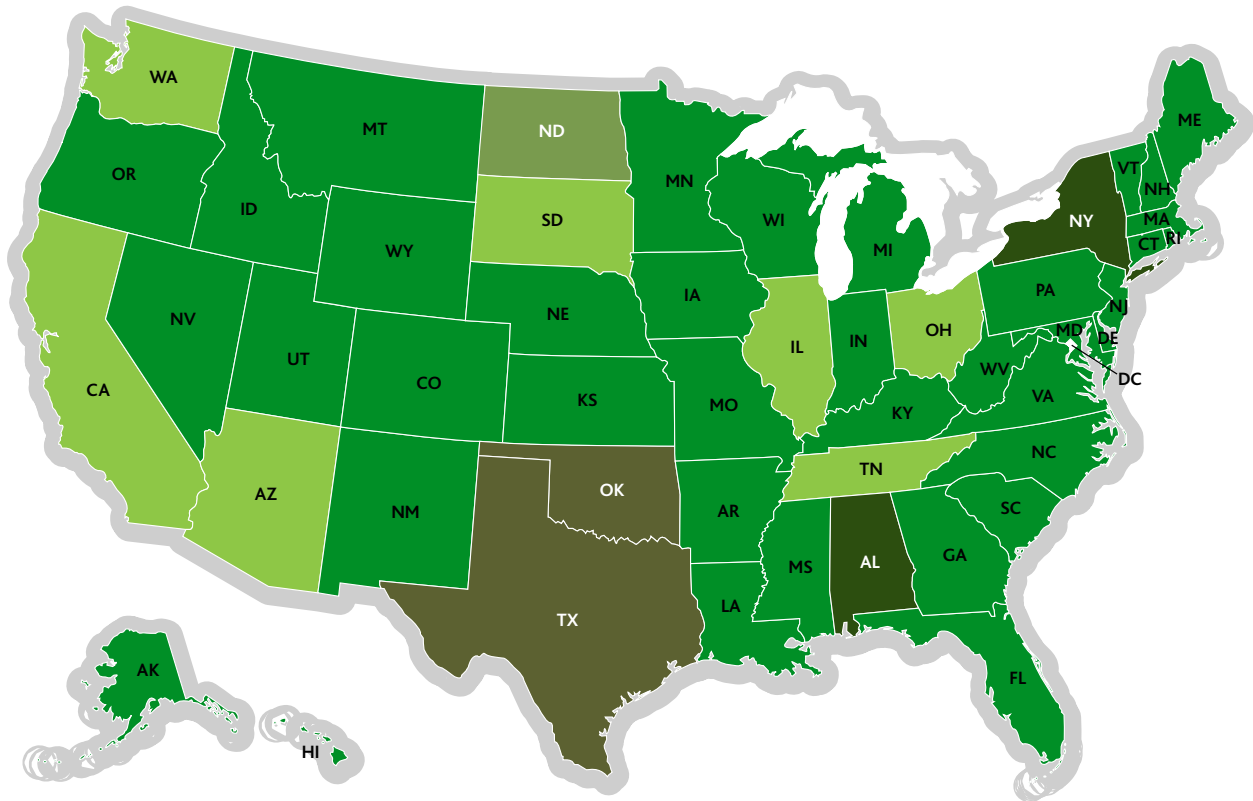


- Unified database.** State and local governments share one database. Responsibility for making additions, deletions or changes may lie either with local or state election authorities or they may share responsibility. (10 states)
- Compilation database.** The statewide database is a compilation of local lists. In contrast to the accessible compilation database, localities do not have access to the full statewide list. Localities have sole authority to make additions, deletions or changes to voter records. (14 states)
- Accessible compilation database.** The statewide database is a compilation of local lists. All localities can access and query the entire list, distinguishing the system from a compilation list. Localities have sole authority for making additions, deletions or changes to the list. In some states, some of the localities use the state database to maintain their own voter records. (13 states)
- No database.** The state does not maintain a database of voter records. The state may pass along registration information to the local election authorities. (13 states)

Note:
The District of Columbia is not included in this survey since it is a single jurisdiction.

Statewide Voter Registration Databases, 2006

Top Down vs. Bottom Up



Top down: The state possesses or will possess a single, unified, interactive system with data entered by local jurisdictions. (38 states)

Bottom up: Localities maintain their own lists and send information to the state list at regular intervals for record comparison. (7 states)

Pending: State is still in the process of deciding how to construct its database. (2 states)

Hybrid: The state database has characteristics of top-down and bottom-up systems. (2 states)

No voter registration: State is exempt from HAVA database requirements. (1 state)

Notes:

The District of Columbia is not included in this survey since it is a single jurisdiction.

Nevada will eventually have a top-down database. However, currently the state has a bottom-up database until its new database is complete.

Arizona will create a top-down database after signing a contract with IBM.

Statewide Voter Registration Database Contracts/Developers

(as of January 2006)

State	Database Contracts/Developers	State	Database Contracts/Developers
Alabama	Contract with Diebold Election Systems canceled in September 2005. Bids re-submitted by Diebold, ES&S and SysCon	Mississippi	Saber Consulting
Alaska	In place prior to passage of HAVA	Missouri	MAXIMUS
Arizona	In-house	Montana	Saber Consulting
Arkansas	ES&S	Nebraska	ES&S
California	In-house	Nevada	Covansys Corporation and PCC Technology Group
Colorado	Contract with Accenture canceled in December 2005	New Hampshire	Covansys Corporation and PCC Technology Group
Connecticut	PCC Technology Group	New Jersey	Covansys Corporation and PCC Technology Group
DC	In place prior to passage of HAVA	New Mexico	ES&S
Delaware	In place prior to passage of HAVA	New York	Pending
Florida	IBM	North Carolina	In-house
Georgia	In place prior to passage of HAVA	North Dakota	Exempt - state does not register voters
Hawaii	In place prior to passage of HAVA	Ohio	In-house
Idaho	Covansys Corporation and PCC Technology Group	Oklahoma	In place prior to passage of HAVA
Illinois	Catalyst Consulting	Oregon	Saber Consulting
Indiana	Quest Information Services	Pennsylvania	Accenture
Iowa	Saber Consulting	Rhode Island	Covansys Corporation and PCC Technology Group
Kansas	Contract with Accenture terminated by agreement, March 2005. Contract signed with ES&S, March 2005	South Carolina	In place prior to passage of HAVA
Kentucky	In place prior to passage of HAVA	South Dakota	In-house
Louisiana	In place prior to passage of HAVA	Tennessee	In-house
Maine	Covansys Corporation, PCC Technology Group and Aradyme Corp.	Texas	IBM / Hart InterCivic
Maryland	Saber Consulting	Utah	In-house
Massachusetts	In place prior to passage of HAVA	Vermont	In-house
Michigan	In place prior to passage of HAVA	Virginia	Unisys
Minnesota	Arran Technologies, Inc.	Washington	In-house
		Wisconsin	Accenture
		West Virginia	PCC Technology Group
		Wyoming	Accenture

Legislation

The debacle of the 2000 election in Florida and the subsequent passage of HAVA in 2002 helped keep election reform in the press and on states legislatures' dockets. Legislation concerning the provisions of HAVA was enacted in all states, in addition to bills concerning ex-felons, early and absentee voting.

Enacted in response to the problems identified during the disputed 2000 presidential election, HAVA established a bargain in which Washington agreed to provide an unprecedented infusion of federal funds, \$3.9 billion over three fiscal years (see chart on p. 36), in exchange for state and local implementation of a number of key federal mandates, including:

- Provisional voting;
- Statewide voter registration databases;
- Identification requirements for certain voters;
- Access to the polls for voters with disabilities; and
- Voting technology improvement, particularly in jurisdictions using punch-card and lever machines.

In addition, HAVA created a new federal agency – the U.S. Election Assistance Commission – which was charged with serving both as a clearinghouse of HAVA information as well as a source of guidance on HAVA implementation.

That framework – on top of uncertainty about how it would be implemented on the ground at the state and local levels – defined progress in much of the election reform arena going forward, as described in greater detail elsewhere in this report. And yet, outside of the HAVA framework, there were other issues that rose to the surface.

Felon voting

According to The Sentencing Project, an organization working to expand the rights of prisoners and ex-prisoners, 48 states and the District of Columbia, do not allow prisoners to vote. Only Maine and Vermont allow prisoners to vote. Felons on probation or on parole are disenfranchised in many states, and some even bar them from voting permanently.⁴⁹

Most states have automatic restoration for ex-felons after they have completed their sentences.

Since 2000, at least three states made changes to their ex-felon voting laws. Nevada changed their law governing ex-felon voting rights restoration. The state previously had no provision for the automatic restoration of rights, whereas now they have automatic restoration for first-time felons convicted of non-violent crimes.⁵⁰

Maryland eased their restrictions slightly when their laws were changed from no automatic restoration of rights to an automatic restoration for first-time offenders and a three-year waiting period for those convicted of two or more crimes.⁵¹

In Iowa, a change in rules regarding voting rights restoration came from an executive order rather than the legislature. Gov. Tom Vilsack (D) signed Executive Order 42 on July 4, 2005, restoring voting rights to ex-felons automatically after they have served their sentences.⁵²

“Prior to my executive order, some Iowans who were living, working, and paying taxes in Iowa were denied the right to vote because of their past conviction... Research shows that ex-offenders who vote are less likely to re-offend and the restoration of voting rights is an important aspect of reintegrating offenders in a society so that they become law-abiding and productive citizens,” Vilsack stated.⁵³

The executive order was challenged in court but upheld in October 2005.⁵⁴

Early/absentee voting

Since 2000, rules governing early and absentee voting have changed more frequently than those concerning the voting status of felons who have completed their sentences. While Alabama repealed in-person absentee voting laws in 2001, most other states moved toward more liberal policies.⁵⁵

Lawmakers in Massachusetts and Louisiana have introduced legislation to expand absentee balloting. Massachusetts Secretary of State William Galvin (D) endorsed no-excuse absentee ballots after a bill was filed to be taken up with the state constitutional convention in May.⁵⁶

In Louisiana, some lawmakers were pushing to expand absentee balloting for those displaced by Hurricane Katrina. S.B. 6 would allow voters who registered to vote by mail for the first time to cast an absentee ballot, instead of being required to show up at the polls as current law mandates.⁵⁷

“Over 23,000 citizens of Louisiana registered to vote are some place and in the absence of this bill won’t have an opportunity to vote... It’s an attempt to pro-

vide an opportunity for the people who have suffered the most not to lose their inalienable right to vote,” said Sen. Charles Jones, D-Monroe.⁵⁸

Other senators, however, including Sen. Jay Dardenne (R), countered that allowing first-time voters to cast ballots by mail could lead to voter fraud. The bill failed by a 20 to 16 vote.⁵⁹

However, a bill allowing no-excuse early voting the week prior to election day was passed by lawmakers. At press time, it was awaiting pre-clearance from the U.S. Department of Justice.⁶⁰

South Dakota also made changes to absentee and early voting laws since 2000, and more could be forthcoming. In 2004, lawmakers approved no-excuse and early voting.⁶¹

Both Indiana and North Dakota passed in-person absentee (or early) voting laws for the first time, while Illinois expanded the time-frame to vote early. Florida, Georgia and New Jersey followed many other states in no longer requiring an excuse to vote absentee.

Litigation

The passage of HAVA did not lead to massive litigation, notwithstanding the considerable uncertainty about the specifics of the Act. Indeed, the uncertainty seems to have prevented most HAVA-related litigation (though not all, as documented in other sections of this report) as all concerned largely waited for deadlines to arrive before heading to the courthouse.

That is not to say, however, that courtrooms were quiet for the last five years. In fact, the judiciary was the scene of a number of interesting cases in several key areas.

Felon voting

Voting rights advocates moved several cases through the courts challenging state laws disenfranchising convicted felons.

In *Farrakhan v. Locke*,⁶² plaintiffs claim that Washington State's ex-felon disenfranchisement statute violates Section 2 of the Voting Rights Act (VRA). At particular issue in the case is whether the law operates to disenfranchise a disproportionate number of minority voters. A trial court originally rejected the claim, saying that it was "external factors" and not the statute itself that resulted in the racial disparity in the law's impact. An appeals court disagreed and returned the case to the trial court. Motions and a possible bench trial are scheduled beginning in February 2006;⁶³ *Muntauim v. Coombe* and *Hayden v. Pataki*⁶⁴ both challenge New York's felon disenfranchisement statutes, claiming that the impact of minority voters violates the VRA and the 14th and 15th Amendments to the U.S. Constitution. Trial courts rejected both cases on the grounds that the state was immune from suit, and after unsuccessful appeals, the Supreme Court declined to hear the cases. Both cases are now being re-considered by an appeals panel.⁶⁵

In Florida, eight plaintiffs representing a class of more than 600,000 citizens who have completed felony sentences sued the state in *Johnson v. Bush*, arguing that the state's policy of denying voting rights to felons

absent a grant of executive clemency violates the VRA as well as the 14th and 15th Amendments.⁶⁶ A trial court found for the state, but the 11th Circuit Court of Appeals reversed, finding that not all relevant evidence had been considered. A full panel of the 11th Circuit, however, overruled that decision and found for the state. The U.S. Supreme Court refused to take the case in November 2005.⁶⁷

Dysfunctional election administration

Ex-felon voting was just one of a number of non-HAVA issues getting courts' attention. By 2005, some voters in Ohio were upset enough about the controversy surrounding the state's election system – headed by Secretary of State J. Kenneth Blackwell (R) – that they brought suit.

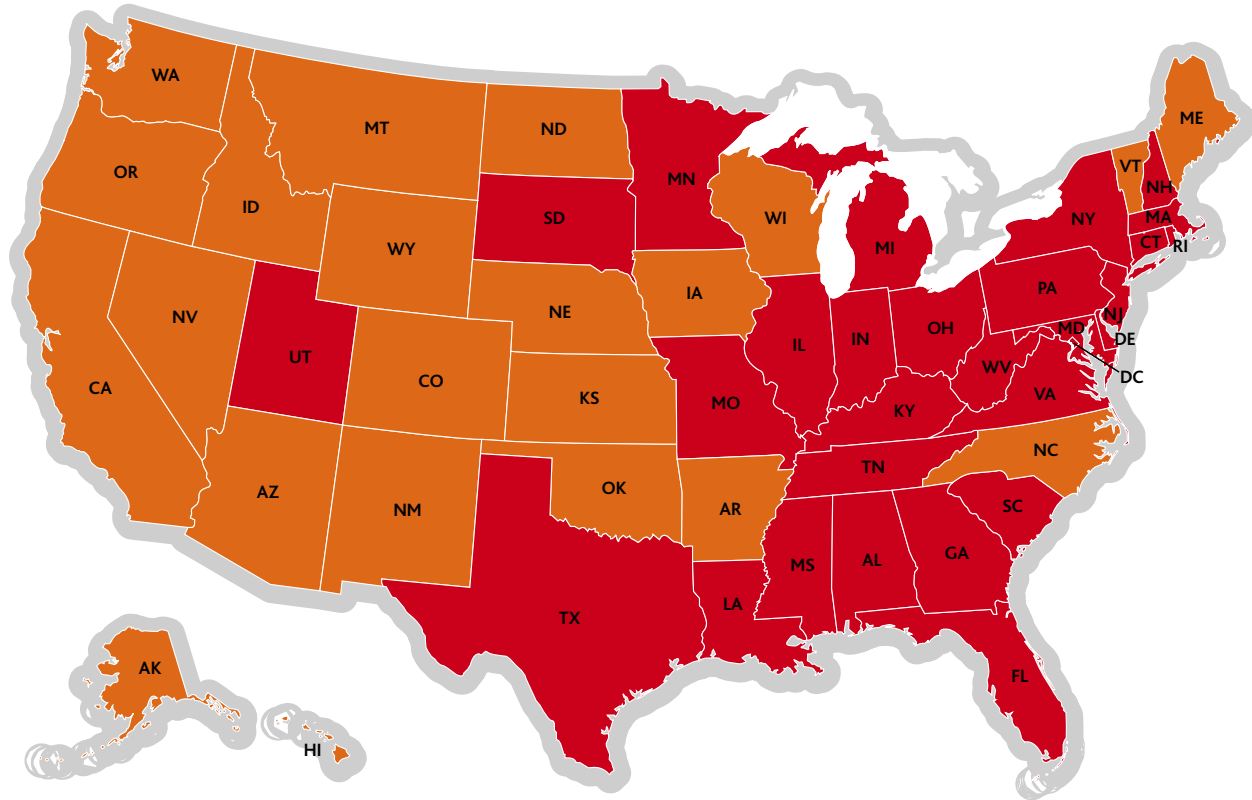
In *League of Women Voters v. Blackwell*,⁶⁸ plaintiffs claim that the 2004 election violated voters' rights to vote and equal representation. Their complaint cited the following problems:

- lack of accommodations for those with disabilities;
- loss of voter registration information;
- lack of proper voting equipment;
- misinformation from poll workers; and
- improper facilities.

The crux of the plaintiffs' arguments is that the state of Ohio has non-uniform standards for conducting voting and does not adequately train workers at the polling places to avoid such occurrences. Plaintiffs are seeking an injunction requiring the state to adopt and enforce uniform standards and processes in future Ohio elections. In December 2005, the court dismissed one count of the case – challenging the state's voter registration database – because the Jan. 1, 2006 deadline had not yet arrived. Further action in the case is pending.⁶⁹



The case is being closely watched by legal observers across the nation to see if courts will be willing to enforce uniformity requirements within states – a right suggested by the U.S. Supreme Court in *Bush v. Gore* but to date not realized.

Absentee Voting By Mail, 2000

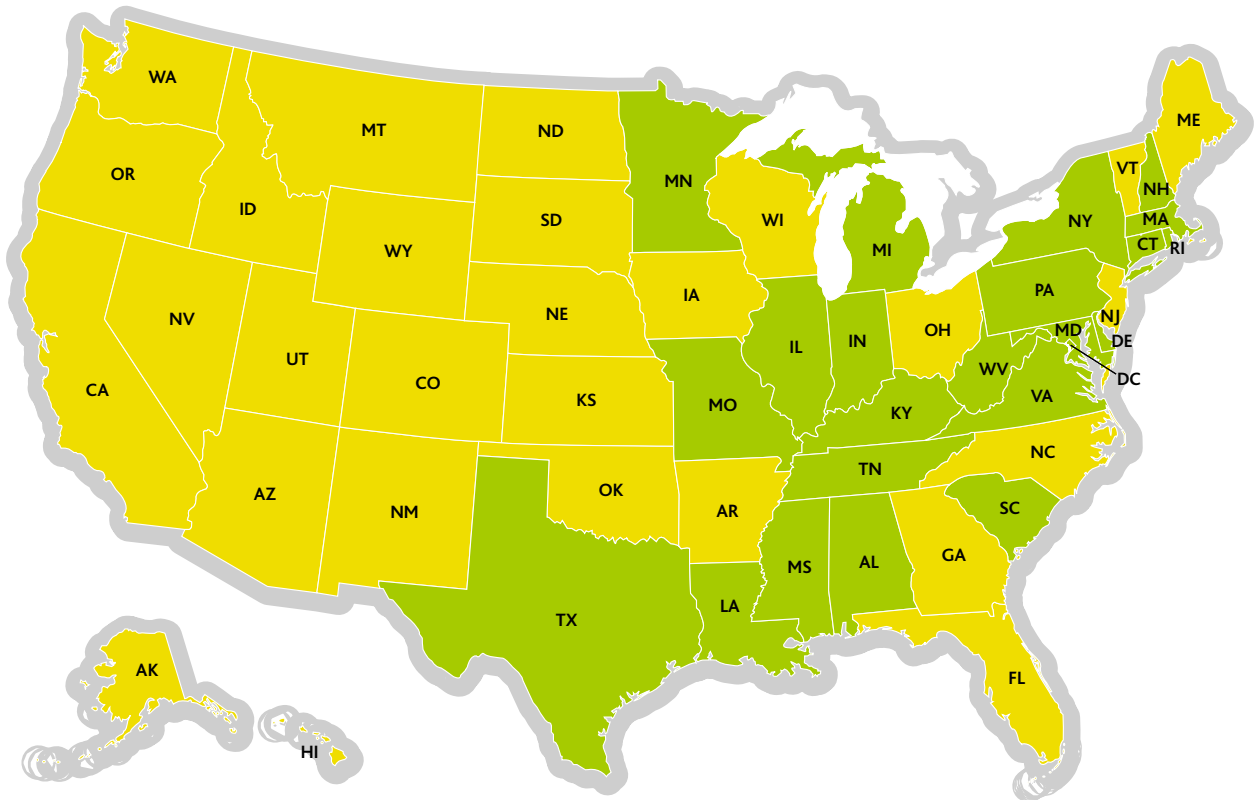


This map provides information about whether states allowed no-excuse absentee voting or required a reason to vote absentee.

Note: In Oregon, all votes are cast by mail.

-  **No-excuse absentee voting by mail** (22 states)
-  **Excuse required to vote absentee by mail** (29 states)

Absentee Voting By Mail, 2006



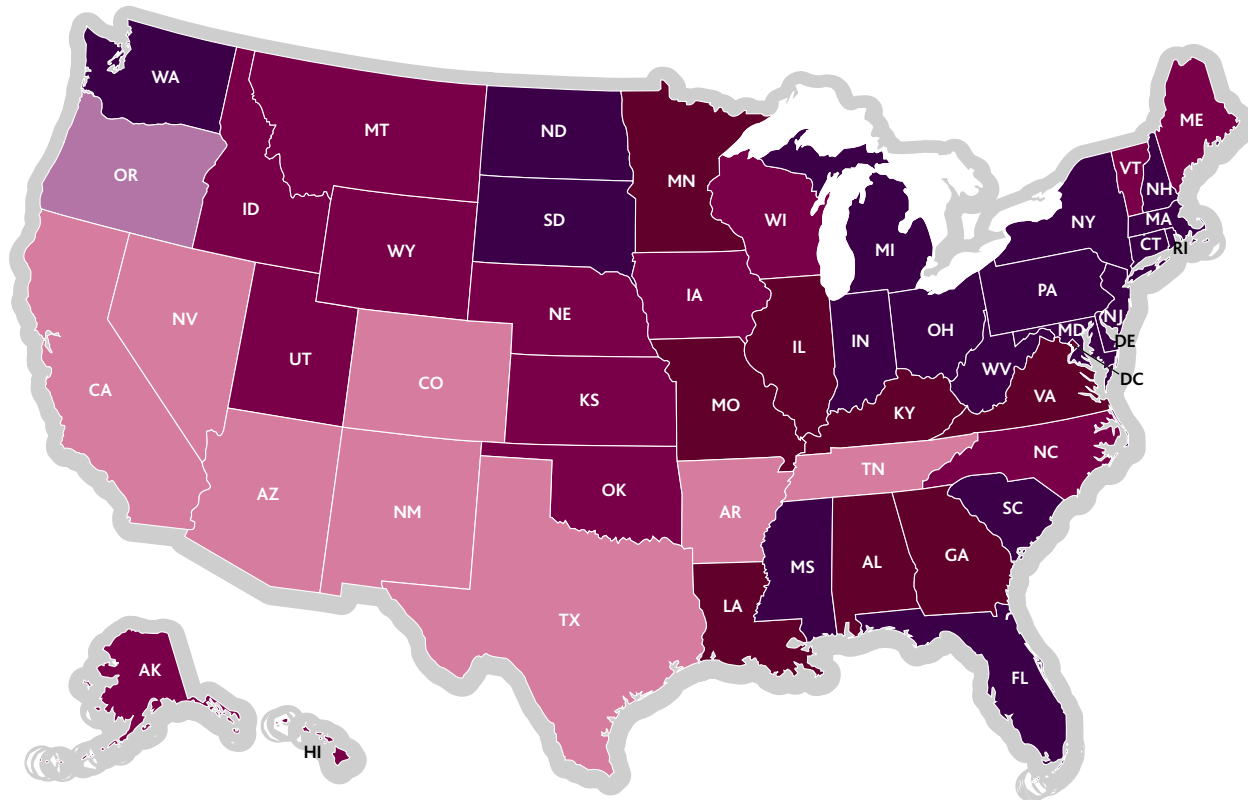
This map provides information about whether states allow no-excuse absentee voting or require a reason to vote absentee.

Note: In Oregon, all votes are cast by mail.

No-excuse absentee voting by mail (28 states)

Excuse required to vote absentee by mail (23 states)

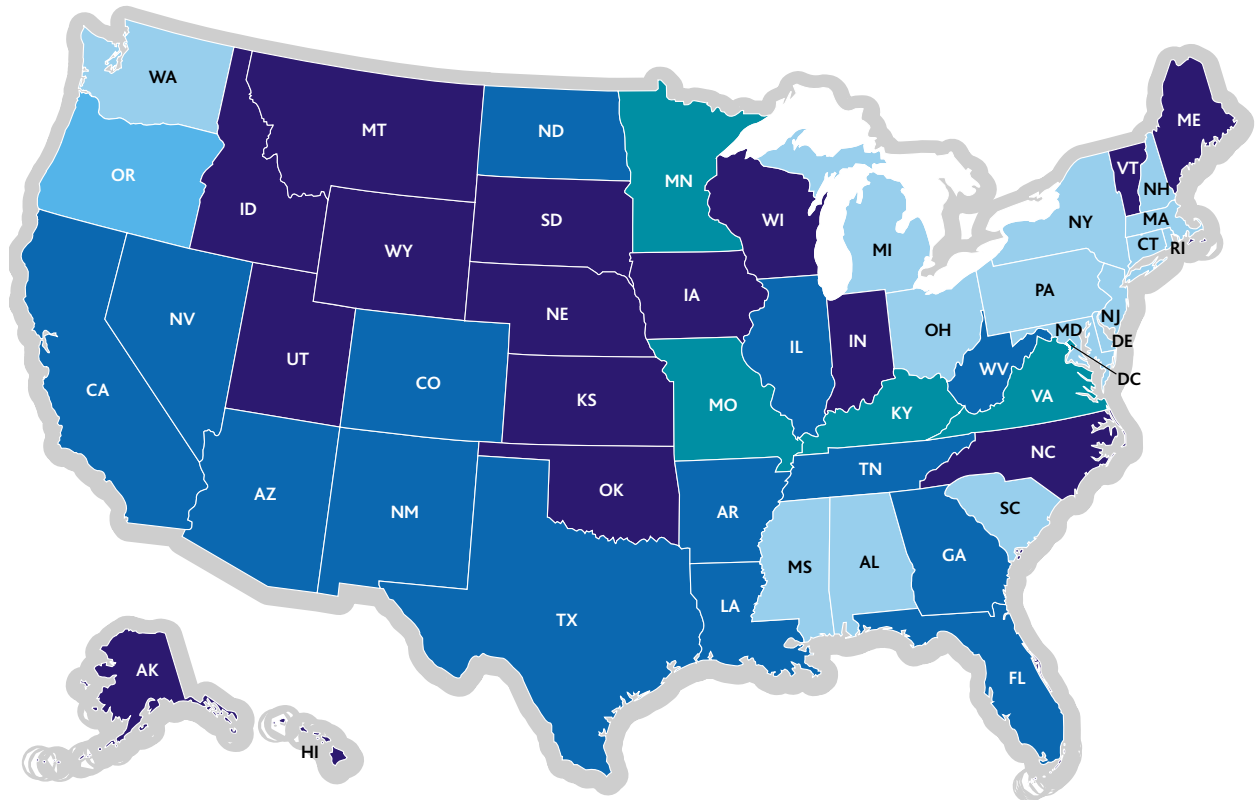
Pre-Election Day In-Person Voting, 2000



This map provides information about whether states allowed voters to cast ballots prior to Election Day in person, via either in-person absentee voting or early voting.

- No-excuse early voting** (8 states)
- No-excuse in-person absentee voting** (14 states)
- Excuse required in-person absentee voting** (9 states)
- No early or in-person absentee voting** (19 states)
- All vote-by-mail** (1 state)

Pre-Election Day In-Person Voting, 2006



This map provides information whether states allow voters to cast ballots prior to Election Day in person, via either in-person absentee voting or early voting.

Note: In the 2005 elections, 30 of 39 Washington counties conducted elections by mail.

- No-excuse early voting** (14 states)
- No-excuse in-person absentee voting** (16 states)
- Excuse required in-person absentee voting** (5 states)
- No early or in-person absentee voting** (15 states)
- All vote-by-mail** (1 state)

Provisional ballots

The Help America Vote Act (HAVA) mandated the use of provisional ballots to allow for voters who show up at the polls and believe they are registered to vote but whose name does not appear on the voter rolls. While noteworthy, offering a fail-safe option to voters was hardly new in most states.

In 2000, 17 states allowed voters to cast provisional ballots similar to HAVA's requirements. A number of other states required voters to sign affidavits as to their voting status and allowed the voters to cast regular ballots. Seven states allowed for election-day registration or in the case of North Dakota, required no voter registration, rendering provisional ballots unnecessary.⁷⁰

But 18 states – most notably Florida, where eligible voters wrongly purged from databases were disenfranchised by the thousands – had no recourse for voters who were registered but failed to appear on precinct rosters.

HAVA's provisional voting mandate sought to make practices around the country more uniform, but not identical. Differences remain in the way states administer and count provisional ballots, but all states – with the exception of those mentioned above – now have provisional ballots available at every federal election.

The mandate made a significant difference for voters in 2004. Nationwide, slightly more than 1.9 million voters cast provisional ballots. Of these, a little over 1.2 million were counted, or approximately 64.5 percent.⁷¹ Exact figures are impossible to discern, but at least a significant number of those who cast provisional ballots in 2004 might have been turned away from polling places in 2000.

For several states where these ballots were used for the first time, the transition was not entirely smooth.

Some Pennsylvania poll workers contended that they did not receive adequate training on how to use the new system while voters complained that some election judges didn't know the difference between provisional ballots and absentee ballots.⁷²

The most contentious debate over provisional voting concerned the eligibility of the ballots and the variety of rules from state to state. In 26 states, provisional ballots are only counted if they are cast in the correct precinct. Eighteen states count provisional ballots if they are cast outside the correct precinct but in the correct jurisdiction. The remaining states either do not have voter registration (North Dakota), were exempt from the mandate because they allow election-day registration, or allow election-day registration but issue provisional ballots to voters who need to show identification but cannot provide it (see map on page 35).

Colorado, Florida, Michigan, Missouri and Ohio, which only count provisional ballots cast in the correct precinct, faced lawsuits over their practices in 2004. Legal action in Ohio was not settled until just 10 days prior to the 2004 election, creating confusion at the polls regarding how to handle the ballots after the election.⁷³

Courts ruled unanimously that states had the right to restrict counting ballots to voters in the proper precinct.

"I think it started off on a bad note from the very beginning," said Michael Vu, elections director for Cuyahoga County, Ohio. "The issue now is going to be did we learn our lessons and are we going to be willing to act on them."⁷⁴

According to a survey conducted by Election Data Services for the EAC in 2004, casting a provisional ballot in the wrong precinct was the second-most common reason for ballots to be rejected. The explanation most often provided was that the person who cast the provisional ballot was not registered to vote.⁷⁵

The survey also found differences in the rates of provisional ballots cast and counted between states that did or did not count ballots cast outside the correct precinct.

"Most notably, jurisdictions that permitted jurisdiction-wide acceptance of provisional ballots reported higher rates of provisional ballots being cast, but also

reported a much higher incidence of provisional ballots being counted, than other jurisdictions,” the findings stated.⁷⁶

Some election experts said they hope states and election officials reduce the number of provisional ballots issued by creating stronger voter registration rolls and dealing with voter eligibility issues prior to Election Day.

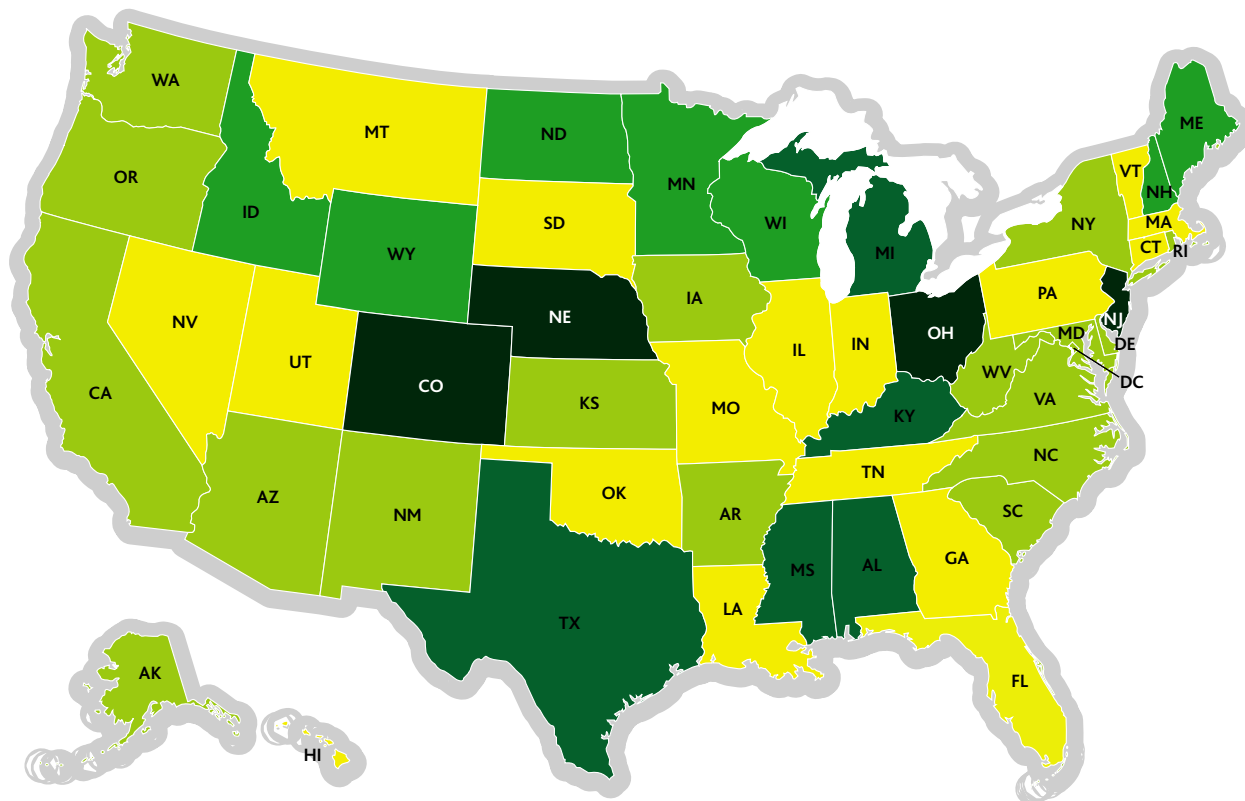
“The solution to this conundrum is to develop a pre-election process for verifying the accuracy of the state’s voter registration list. If it can be determined during October that a voter was wrongly removed from the list, then that voter can be reinstated before Election Day – and that voter can cast a regular rather than provisional ballot, thereby reducing the percent-

age of ballots in need of post-election evaluation,” said Ned Foley, election law professor at The Ohio State University.⁷⁷

Data from the 2004 survey indicates that the number of provisional ballots issued should decrease in coming elections as states complete voter registration databases.

“Those jurisdictions with statewide voter registration databases reported a lower incidence of casting provisional ballots than states without voter registration databases, suggesting that better administration of voter registration rolls might be associated with fewer instances where voters would be required to cast a provisional ballot due to a problem with their voter registration,” the election survey stated.⁷⁸

Provisional Balloting, 2000



- Provisional ballots:** Available for people whose names do not appear on the registration rolls and cannot be confirmed at the site. Ballots are segregated and counted only after a voter's eligibility has been confirmed. (17 states)
- Limited provisional ballots:** Provisional ballots available in select cases. (4 states)
- Affidavit ballots:** Available for people whose names do not appear on the registration rolls and cannot be confirmed at the site. The voter signs an affidavit affirming his/her right to vote. The vote is then counted as a regular ballot. (5 states)
- No provisional ballot system in place** (18 states)
- Unnecessary or not applicable:** Another system in place achieves the goals of provisional voting. (7 states)

Notes:

Colorado offers provisional ballots from a central location rather than at each polling place.

Kentucky checks the validity of affidavit ballots following an election for possible prosecution.

Maine also offers a challenge ballot, which works like an affidavit ballot, despite having Election Day registration. Officials say the system helps avoid double registrations.

Massachusetts offers an "escrow ballot," which allows someone to vote, but the vote will not be counted unless an election is contested.

Michigan has a centralized database available at polling places, but also offers an affidavit ballot.

Nebraska, New Jersey and Ohio have provisional voting only for people who have moved.

North Dakota has no voter registration.

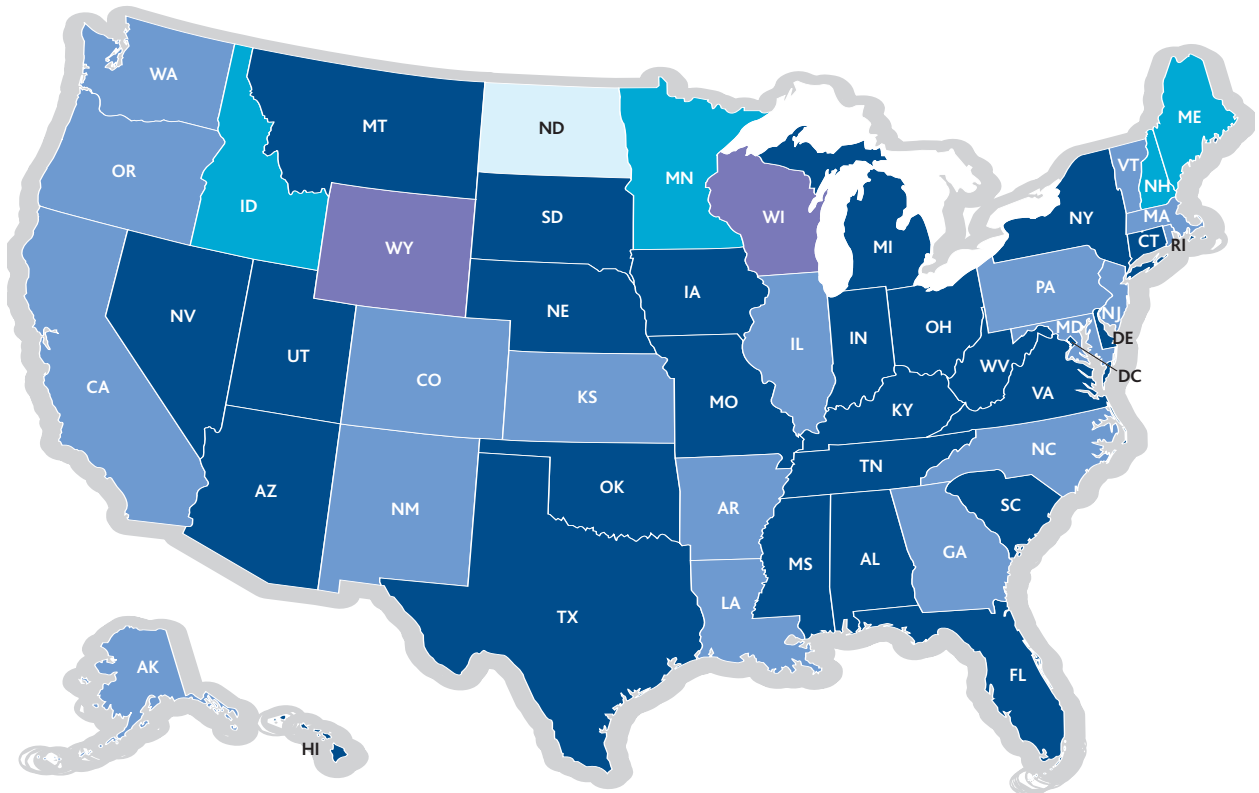
Oklahoma requires voter identification cards. If a voter does not possess a card, he/she does not vote.

Oregon has mail-in voting, but also offers provisional ballots for rare in-person special elections.

Vermont's affidavit ballot is optional by each voting jurisdiction.

Virginia's attorney general can choose to apply one of two statutes that govern provisional ballots.

Provisional Balloting, 2006



This map provides at-a-glance information on state rules determining which provisional ballots would be eligible for verification and counting.

- Eligible for verification if cast in correct precinct.**
(26 states)
- Eligible for verification if cast in correct jurisdiction.**
(18 states)
- Not applicable – election-day registration.** (4 states)
- Not applicable – No voter registration.** (1 state)
- Limited provisional ballots.** States issue provisional ballots only to voters who cannot provide compulsory identification at polling places for election-day registration. (2 states)

HAVA Fund Distribution

(Source: U.S. Election Assistance Commission)

State	<i>HAVA Title II requirements payments processed by EAC as of Dec. 21, 2005</i>				Total
	Section 101 payments	Section 102 payments	FY 2003 funds	FY 2004 funds	
Alabama	\$4,989,605	\$51,076	\$12,835,092	\$23,031,421	\$40,907,194
Alaska	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Arizona	\$5,451,369	\$1,564,188	\$14,523,463	\$26,061,052	\$47,600,072
Arkansas	\$3,593,165	\$2,569,738	\$7,729,205	\$13,869,365	\$27,761,473
California	\$27,340,830	\$57,322,707	\$94,559,169	\$169,677,955	\$348,900,661
Colorado	\$4,860,301	\$2,177,095	\$12,362,309	\$22,183,056	\$41,582,761
Connecticut	\$5,000,000		\$9,919,624	\$17,799,877	\$32,719,501
Delaware	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
D.C.	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Florida	\$14,447,580	\$11,581,377	\$47,416,833	\$85,085,258	\$158,531,048
Georgia	\$7,816,328	\$4,740,448	\$23,170,602	\$41,577,568	\$77,304,946
Hawaii	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Idaho	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Illinois	\$11,129,030	\$33,805,617	\$35,283,025	\$63,312,227	\$143,529,899
Indiana	\$6,230,481	\$9,522,394	\$17,372,175	\$31,172,812	\$64,297,862
Iowa	\$5,000,000		\$8,495,310	\$15,244,073	\$28,739,383
Kansas	\$5,000,000		\$7,661,648	\$13,748,141	\$26,409,789
Kentucky	\$4,699,196	\$469,256	\$11,773,250	\$21,126,042	\$38,067,744
Louisiana	\$4,911,421	\$7,351,684	\$12,549,220	\$22,518,452	\$47,330,777
Maine	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Maryland	\$5,636,731	\$1,637,609	\$15,201,214	\$27,277,216	\$49,752,770
Massachusetts	\$6,590,381	\$1,519,497	\$18,688,102	\$33,534,124	\$60,332,104
Michigan	\$9,207,323	\$6,531,284	\$28,256,578	\$50,703,896	\$94,699,081
Minnesota	\$5,313,786		\$14,020,413	\$25,158,375	\$44,492,574
Mississippi	\$3,673,384	\$1,778,067	\$8,022,516	\$14,395,687	\$27,869,654
Missouri	\$5,875,170	\$11,472,841	\$16,073,033	\$28,841,617	\$62,262,661
Montana	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Nebraska	\$5,000,000		\$4,920,376	\$8,829,173	\$18,749,549
Nevada	\$5,000,000		\$5,785,410	\$10,381,400	\$21,166,810
New Hampshire	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803

State	<i>HAVA Title II requirements payments processed by EAC as of Dec. 21, 2005</i>				Total
	Section 101 payments	Section 102 payments	FY 2003 funds	FY 2004 funds	
New Jersey	\$8,141,208	\$8,695,609	\$24,358,479	\$43,709,107	\$84,904,403
New Mexico	\$5,000,000		\$5,110,126	\$9,169,664	\$19,279,790
New York	\$16,494,325	\$49,603,917	\$54,900,465	\$98,513,965	\$219,512,672
North Carolina	\$7,887,740	\$893,822	\$23,431,708	\$42,046,100	\$74,259,370
North Dakota	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Ohio	\$10,384,931	\$30,667,664	\$32,562,331	\$58,430,186	\$132,045,112
Oklahoma	\$5,000,000		\$9,898,202	\$17,761,436	\$32,659,638
Oregon	\$4,203,776	\$1,822,758	\$9,961,818	\$17,875,589	\$33,863,941
Pennsylvania	\$11,323,168	\$22,916,952	\$35,992,863	\$64,585,966	\$134,818,949
Rhode Island	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
South Carolina	\$4,652,412	\$2,167,518	\$11,602,190	\$20,819,090	\$39,241,210
South Dakota	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Tennessee	\$6,004,507	\$2,473,971	\$16,545,934	\$29,690,196	\$54,714,608
Texas	\$17,206,595	\$6,269,521	\$57,504,778	\$103,187,171	\$184,168,065
Utah	\$3,090,943	\$5,726,844	\$5,892,900	\$10,574,281	\$25,284,968
Vermont	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Virginia	\$7,105,890	\$4,526,569	\$20,572,984	\$36,916,377	\$69,121,820
Washington	\$6,098,449	\$6,799,430	\$16,889,420	\$30,306,551	\$60,093,850
West Virginia	\$2,977,057	\$2,349,474	\$5,476,493	\$9,827,076	\$20,630,100
Wisconsin	\$5,694,036	\$1,308,810	\$15,410,741	\$27,653,194	\$50,066,781
Wyoming	\$5,000,000		\$4,150,000	\$7,446,803	\$16,596,803
Guam	\$1,000,000		\$830,000	\$1,489,361	\$3,319,361
Puerto Rico	\$3,151,144		\$830,000	\$1,489,361	\$5,470,505
Virgin Islands	\$1,000,000		\$830,000	\$1,489,361	\$3,319,361
American Samoa	\$1,000,000		\$830,000	\$1,489,361	\$3,319,361
Total	\$349,182,262	\$300,317,738	\$830,000,000	\$1,489,360,619	\$2,968,860,619

Source: U.S. Election Assistance Commission

Notes: Section 101 money was for improved "election administration."

Section 102 money was for states to replace punch-card and lever voting machines.

Title II funds "are to be used primarily to meet the mandatory standards set forth in HAVA Title III (voting systems standards, provisional voting and voting information requirements, computerized statewide voter registration list requirements and requirements for voters who register by mail)."



Alabama

2000

2006

Voting systems	Optical scan, DRE, lever and hand-counted paper ballots	Optical scan
Voter ID	No identification requirement in place	Required of all voters. Photo ID not required
Provisional voting	Affidavit	Eligible for verification if cast in correct precinct
Statewide database	Accessible compilation database	Assessing options for constructing a HAVA-compliant system
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	In-person absentee voting. Excuse required	No. In-person absentee voting repealed in 2001
Voting rights restoration of individuals convicted of felonies	Not automatically restored	Not automatically restored

Alabama joined a host of states around the country that missed the HAVA deadline for creating statewide voter registration databases.⁷⁹

By June 2006, a combination of the old and new systems could be in place in the state, with state officials anticipating full compliance in time for November's general election.⁸⁰

In May 2005, Texas-based Diebold was awarded the contract to build the state's list, but negotiations stalled. Secretary of

State Nancy Worley (D) issued a new request for proposals in August, spurring three bids from Texas-based Diebold, Nebraska-based ES&S and Alabama-based SysCon.⁸¹

"It's just a messed-up situation, to be candid," said Rep. Neal Morrison, D-Cullman, who sits on the Contract Review Committee.⁸²



Alaska

2000

2006

Voting systems	Optical scan and hand-counted paper ballots	Optical scan, hand-counted paper ballots and DRE with VVPAT
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	In place	Eligible for verification if cast in correct jurisdiction
Statewide database	Unified database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In person absentee voting. No excuse required	Yes. In person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Alaska was ahead of the curve when the HAVA was passed in 2002. Four years earlier, localities using punch cards completed the switch to optical scan.⁸³

As of January 2005, 151 precincts used hand-counted paper ballots and 288 precincts used optical scan. The effort to replace hand-counted ballots in many remote localities is ongoing.⁸⁴

By the first federal election in 2006, however, every precinct will also be equipped with a DRE, a Diebold AccuVote TSx with a VVPAT, in accordance with HAVA and state law.

The touch-screen machines were initially purchased to be used in a pilot election program in 2004, but the state decided to wait to test them until the passage of H.B. 459, a bill requiring all DRE machines to be equipped with a VVPAT.⁸⁵

Laura Glaiser, the director of the Alaska Division of Elections recommended Diebold machines because of previous experience. The Texas-based company produced the state's voter registration database. Glaiser said she wanted the machines and the database "to interface."⁸⁶



Arizona

2000

2006

	2000	2006
Voting systems	Punch cards and optical scan	Optical scan and DRE
Voter ID	No identification requirement in place	Required of all voters. Photo ID not required. If the voter does not have ID, he or she will be eligible to cast a provisional ballot
Provisional voting	In place	In place. Eligible for verification if cast in correct precinct
Statewide database	No	In place
VVPAT requirement	N/A	Legislation passed, not yet enacted
VVPATs and recounts	N/A	Standards under development
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. Early voting. No excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	If convicted of two or more felony offenses, an individual's right to vote is not automatically restored	If convicted of two or more felony offenses, an individual's right to vote is not automatically restored

After a two-year debate, Arizona voters will have to show identification to cast ballots at the polling place starting this September.

The battle began in 2003 when Gov. Janet Napolitano (D) vetoed a Republican-backed bill that would have mandated voter ID at the polls, claiming it would deter voters. "In Arizona, we want people to vote," she said during her announcement.⁸⁷

However, in 2004, voters approved Proposition 200, which mandated voters show either a photo ID or two forms of verification that list their residence. In April 2005, Napolitano vetoed another voter ID bill that supporters said clarified Proposition 200, stating the bill violated HAVA. The legislation would have prohibited voters from receiving a provisional ballot if they could not produce ID.⁸⁸

The veto provoked a strong response from Secretary of State Jan Brewer (R). "I told the governor that this bill was not in violation of federal law, yet instead of working toward implanting the will of over one million voters, she chose to play legal games," Brewer said.⁸⁹

In August 2005, Brewer proposed rules to address the issue of voters who could not show ID at the polls. "Any voter without identification at the polls may receive a 'conditional' provisional ballot that will ultimately not be counted until sufficient ID is provided," the proposed policy said.⁹⁰ Napolitano supported the rule and it was approved by the Justice Department in October 2005.

Kevin Tyne, deputy secretary of state, said voters will have three days after a primary election and five days after a general election to bring their ID to an election office. Election officials are being given some options and hope to set up satellite locations to make it easier for voters to produce ID after an election.⁹¹

In other election developments, Arizona became one of the first states to use online voter registration. In July 2002, the state's "EZ Voter" system debuted, which allows voters to register through the motor vehicle division service Web site. In September 2004, 44,472 people registered through EZ Vote.⁹²



Arkansas

2000

2006

Voting systems	Optical scan, DRE, lever, punch card and hand-counted paper ballots	Optical scan and DRE with VVPAT
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	In place	Eligible for verification if cast in correct precinct
Statewide database	Compilation database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. Early voting. No excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

While the state met the Jan. 1, 2006 deadline to complete a statewide voter registration database, some of Arkansas' 75 counties still have to select the voting system or systems they want: optical scan or touch screens.

By the May 2006 elections, there will be one accessible DRE voting machine per polling place, and the 13 counties using

punch card, lever, and hand-counted paper ballots will have updated to HAVA-compliant machines.⁹³

The state will require the use of VVPATs beginning this year, limiting purchasing decisions for localities to those systems that have attached printers.



California

2000

2006

Voting systems	Optical scan, DRE and Datavote punch card	Optical scan and DRE with VVPAT
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	In place	Eligible for verification if cast in correct jurisdiction
Statewide database	Accessible compilation database	Interim compliance. Registration system being updated as part of an interim agreement entered into with the U.S. Department of Justice
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. Early voting. No excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

As home to Silicon Valley and one of the nation's highest concentrations of high-tech industry, California's reluctance to embrace electronic voting could be considered paradoxical.

The Golden State used a blend of old-fashioned punch cards, optical-scan systems and some of the nation's first electronic voting machines when voters cast ballots in the 2000 election. Consequently, the state was positioned to be one of the largest and richest markets for the makers of touch-screen voting machines, particularly after 2002 when California voters approved Proposition 41, which authorized nearly \$200 million for upgrading voting machines statewide.⁹⁴

California did indeed become a key market for touch-screen machines but not without changing the way much of the rest of the country — including politicians, voters and interest groups — came to view them as potential replacements for older voting technology.

In 2003, concerns over the reliability and security of paperless touch-screen voting made California the epicenter of what would become a national debate over e-voting.⁹⁵ Computer scientists began to publicize their doubts about the security and reliability of paperless voting technology. Such doubts found a

California continues on next page

California, continued from previous page

receptive audience, not only among activists, but in the top levels of state government. In November of that year, then-Secretary of State Kevin Shelley (D) mandated the use of voter verifiable paper audit trails (VVPATs) with electronic voting machines.⁹⁶

In a separate decision, in April 2004, Shelley de-certified Diebold Election Systems' AccuVote TSx, the leading edge product of the nation's largest and best-known voting machine company, following numerous reports of problems during the state's 2004 primary.⁹⁷

Attempts to re-certify the system — this time including a VVPAT — ran aground in 2005 when numerous units froze during testing.⁹⁸

California is also joining the debate in other states about how exactly to handle VVPATs. In neighboring Nevada, VVPATs used with a statewide system of touch-screen machines were used for mandatory audits of a small percentage of votes, but not for the purpose of recounting votes in the case of a close election.

In October 2005, California decided to go beyond Nevada's limited VVPAT-counting rules and require the use of VVPATs both for manual audits of vote tallies and as the official record of the ballot for recounts. Gov. Arnold Schwarzenegger (R) signed S.B. 370 over the objections of California's local election officials, who argued a manual count of paper versions of electronic ballots would be "onerous and time consuming," prone to mechanical problems as well as "unwise."⁹⁹



Colorado

2000

2006

Voting systems	Optical scan, DRE, punch card and hand-counted paper ballots	Optical scan, DRE and hand-counted paper ballots
Voter ID	No identification requirement in place	Required of all voters. Photo ID not required
Provisional voting	Provisional ballot in select cases	Eligible for verification if cast in correct jurisdiction
Statewide database	Not in place	Incomplete. Contract with vendor canceled
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. Early voting. No excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

In the years since the November 2000 election, Colorado has seen its policies and policymakers elevated to national status.

Colorado instituted a number of HAVA-inspired changes including abolishing punch cards and requiring identification of all voters at polling places. It also followed the lead of Nevada, California and more than 20 other states in requiring the use of VVPATs.¹⁰⁰

But it was also the source of innovations as well. In 2003, after lawmakers enacted legislation (S.B. 153) allowing consolidated polling locations,¹⁰¹ Larimer County created the nation's first "vote centers," consolidating more than 140 polling precincts into 31 super precincts, where voters from any part of the Rhode Island-sized jurisdiction could find their ballots or cast one provisionally.¹⁰² The county saved money, required fewer poll workers and gained national recognition from the League of Women Voters and other groups.¹⁰³

Facing similar shortages of funds for voting machines and workers for precincts, counties around the country have explored the Larimer County idea, though it has yet to be implemented outside the state.

Also, Colorado's top election official has proven to be popular beyond the state's borders. President George W. Bush appointed former Secretary of State Donetta Davidson (R) to fill a vacant slot on the four-member U.S. Election Assistance Commission in August where she now advises states on implementing HAVA.¹⁰⁴

At the close of 2005, Colorado joined other states missing the HAVA deadline to create a statewide voter registration database, canceling its contract with Accenture.



Connecticut

2000

2006

Voting systems	Lever	Lever
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

In 2000, the Nutmeg State – like its neighbor, New York – had a statewide fleet of lever voting machines. For decades, Connecticut voters have pulled levers behind closed curtains, using a system first introduced to America in 1892.¹⁰⁵

When voters return to the polls in 2006, they will likely still be voting the same way.

Since the passage of HAVA, Connecticut officials have indicated their reluctance to give up on levers, mulling over tweaks to the 30-year-old machines which could allow them to produce paper records.¹⁰⁶

Those plans were complicated in September 2005 when the EAC issued an advisory opinion stating that Connecticut’s plan to allow localities to continue to use lever machines would likely violate HAVA.¹⁰⁷

The EAC opinion stated that lever machines pose “significant barriers which make compliance [with HAVA requirements] ... difficult and unlikely.” The barriers include an absence of a paper record, or in the case of modified systems, limited paper records that would not allow “a permanent, manually auditable record for use in a recount.” Further, the EAC wrote, the machines have an error rate that exceeds the HAVA standard of one per 500,000 votes cast, are not capable of meeting standards for voters with disabilities and cannot easily accommodate voters who speak languages other than English.¹⁰⁸

The opinion caught Connecticut’s top election officials by surprise.

“We did not know four months before this deadline that the EAC would make such a stunning decision,” Secretary of State Susan Bysiewicz (D) said in a statement. “The EAC has had three years to act and says this for the first time four months before the deadline.”¹⁰⁹

In response, state Attorney General Richard Blumenthal (D) wrote the U.S. Department of Justice urging the rejection of the opinion put forth by the EAC.

“As I hope you will agree, the EAC’s general conclusion that lever voting machines cannot comply with HAVA’s voting system standards is erroneous, or at the very least greatly overstated,” Blumenthal wrote. “The EAC...could not reasonably conclude that Connecticut’s lever voting technology does not meet HAVA standards and must be replaced. Moreover, in light of the timing of this advisory opinion, Connecticut’s significant efforts to comply with HAVA, the disclosure of those efforts to the EAC and the EAC’s apparent approval thereof, it would be manifestly unfair to require the replacement of nearly all of the state’s voting equipment before January 1, 2006.”¹¹⁰

At press time, the Justice Department had not responded, leaving Connecticut to act on what one state official called a “worst-case scenario.”

In early January 2006, the troubles continued as Bysiewicz canceled the bidding process for electronic voting machines after she said prospective contractors failed to meet state requirements.¹¹¹



Delaware

2000

2006

Voting systems	DRE	DRE
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	Unified database	In place
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Felons convicted of certain crimes may never have their voting rights restored. Other offenders have their voting rights restored five years after completion of the sentence	Felons convicted of certain crimes may never have their voting rights restored. Other offenders have their voting rights restored five years after completion of the sentence

Few states were as close to meeting the yet-to-be-imagined requirements of HAVA in 2000 as Delaware, which replaced lever machines in 1996, had a statewide voter registration database in place since the early 1990s and already required every voter to produce identification prior to voting at a polling place.¹¹²

The state still had to meet some requirements, however, including meeting the Jan. 1, 2006 deadline for accessible voting machines (the state's full-face ballot systems do not meet HAVA's accessibility requirements) in each polling place and

for provisional voting. To that end, the legislature approved a provisional voting bill in 2003.

The first widespread use of provisional ballots in the November 2004 election yielded noteworthy results: the state counted fewer provisional ballots than anywhere else in the country. While 384 people requested provisional ballots – a number in line with other less-populous states including Vermont, Wyoming, South Dakota and Hawaii – election officials counted only 24. Delaware's 6 percent counting rate for provisional ballots was lower than anywhere else in the country.¹¹³



District of Columbia

2000

2006

Voting systems	Optical scan	Optical scan and DRE
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	In place	Eligible for verification if cast in correct precinct
Statewide database	Unified database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	In-person absentee voting. Excuse required	In-person absentee voting. Excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

The District became the first jurisdiction in the country to offer voters a choice in voting technology, employing both optical scan machines and one DRE machine per polling place beginning in 2004. Although the DRE machines were purchased for disabled voters, they are available for use by any voter.

There were some problems with the dual system during the September 2004 primary, including a three-hour delay in reporting election results.¹¹⁴ No such delays were reported after the November general election.

As in other states, District voters have faced long lines at polling places and city officials are contemplating expanding early voting as a way to alleviate those problems.¹¹⁵ Currently, in-person absentee voting is permitted with an excuse but Del. Eleanor Holmes Norton (D) is urging the Council of the District of Columbia to review the city's election laws to allow for a lengthier early voting process which could include mail-in ballots.



Florida

2000

2006

Voting systems	Optical scan, punch card, lever (one county) and hand-counted paper ballots	Optical scan and DRE
Voter ID	Required of all voters. Photo ID requested. Affidavit in lieu of ID permitted	Required of all voters. Photo ID with signature required or must cast a provisional ballot
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	Compilation database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	No excuse required
Pre-election day in-person voting	Optional for counties	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	No automatic restoration	No automatic restoration

The first two years after the disastrous 2000 election in the Sunshine State were devoted to fixing the glaring errors that plagued that vote. New machines replaced punch cards, provisional ballots were introduced to prevent eligible voters from being turned away at polls and vote-counting standards eliminated post-election vagueness during recounts.

In recent years, however, Florida leaders at the state and local level have found themselves challenged yet again – for changes they have failed to make.

In 2002, the state began using two types of voting systems, paperless DRE machines and optical-scan systems. Since that time, the growing opposition to the use of paperless systems that originated on the West Coast spread to Florida as well. In one well-documented instance, Teresa LaPore (D), Palm Beach County’s election supervisor during the 2000 vote and the administrator responsible for the infamous “butterfly ballot,” was ousted by Arthur Anderson (R), an opponent who took the incumbent to task for allowing the use of electronic machines without VVPATs.¹¹⁶

Introducing VVPATs in the Sunshine State will take more than campaign promises, however. The state has yet to certify a voting system that employs VVPATs¹¹⁷ and previous top election officials have shown a reluctance to do so.¹¹⁸

To allay concerns over the lack of paper with electronic voting – including a lawsuit filed by U.S. Rep. Robert Wexler, D-Palm Beach, over the inability to conduct a manual recount¹¹⁹ – Secretary of State Glenda Hood (R) issued recount standards for electronic systems less than a month before the November 2004 election that included ballot images of under-votes as evidence that machines did not lose or otherwise alter a voter’s choice.¹²⁰ The recount standards were dismissed by Hood’s political opponents as a “naked power grab.”

The rule, said state Democrats led by Wexler, “simply recheck(s) the voting machine’s arithmetic.”¹²¹

Another fight was shaping up at the end of 2005 as well. As many as 18 counties could miss the deadline for having at least one accessible machine available per polling place as they wait for the certification of the ES&S AutoMARK voting system, a hybrid that uses a touch-screen interface to produce a paper optical-scan ballot.

Florida faced other legal challenges as well over its continuing ban on ex-felon voting. The state is one of three to permanently disenfranchise all ex-felons, along with Kentucky and Virginia.¹²² The U.S. Supreme Court, however, upheld Florida’s ban in November 2005, when it refused to hear a case that could have had implications far beyond the Sunshine State’s borders. An estimated one in 10 black men of voting age in Florida is disenfranchised because of the law.¹²³



Georgia

2000

2006

Voting systems	Optical scan, punch card, lever and hand-counted paper ballots	DRE
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	No	Eligible for verification if cast in correct jurisdiction. A voter must cast a ballot in the correct county but if it is found that they were in the wrong polling place (but in the right county) the ballot will be duplicated and all races which were applicable to the voter will be counted
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	No excuse required
Pre-election day in-person voting	No	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Georgia substantially met many of the requirements of HAVA long before the January 2006 deadline, but compliance did not mean an absence of controversy.

The 2002 introduction of DRE machines to voters statewide was met with protests by many voting advocates because of Diebold's connections to the Republican Party.¹²⁴ However, a study released by the Caltech-MIT Voting Technology Project in 2004 showed that the touch-screen voting machines dramatically reduced the number of undervotes.¹²⁵ The study also concluded that the DRE machines did a better job of tallying the votes accurately in counties with "disadvantaged populations—counties with larger African-American populations, rural counties, low-income counties and counties whose residents were less likely to have completed high school."¹²⁶

In addition to the hullabaloo surrounding the DRE machines, Georgia is currently embroiled in a controversy about the state's voter identification laws. The legislature passed a bill requiring that each voter present a state-issued ID.¹²⁷ The acceptable IDs each carry a fee to obtain and are only available in a limited number of locations.

Further fueling the controversy were papers leaked by the U.S. Department of Justice, in which state Rep. Sue Burmeister, R-Augusta, chief sponsor of the voter ID bill, told the department that if black people in her district "are not paid to vote, they don't go to the polls" and that if fewer black people vote as a result of the new law, it's only because it would end such fraud.¹²⁸

Several black state lawmakers demanded that Burmeister resign her House leadership position and apologize. Burmeister initially did not dispute the comments, but has since denied making the statements to the Justice Department.¹²⁹

Another option has been the "Licensing on Wheels" bus touring the state with the stated purpose of making it easier for people to obtain a photo ID. However, reports have indicated that in its first three months, the bus issued a total of 471 photo IDs and had broken down on several occasions. While critics called the bus a failure, Heather Hedrick, a spokesperson for Gov. Sonny Perdue (R), disagreed. "Four-hundred seventy-one IDs in three months suggests that the vast, overwhelming majority of people who want to vote in Georgia already have valid IDs," she said.¹³⁰

In late January 2006, the legislature passed and Perdue signed a bill mandating photo verification while offering free state-issued ID in all 159 counties. Perdue said the new version of the voter ID bill would "[close] the mouths of plaintiffs in this effort."¹³²



Hawaii

2000

2006

Voting systems	Optical scan	Optical scan and DRE with VVPAT
Voter ID	Required of all voters. Photo ID requested	Required of all voters. Photo ID requested
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	Unified database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Like many states, Hawaii has dealt with voting machine controversy since the 2000 election. In 2004, the state signed a contract with Hart InterCivic to supply electronic voting machines to comply with the HAVA mandate of one machine accessible to voters with disabilities per polling place. During the November 2004 election, 27,470 voters cast ballots on the company's eSlate machines.¹³³

However, the contract with Hart was invalidated after a challenge by another voting system vendor, ES&S. A hearings officer from the state Department of Commerce and Consumer Affairs said Hart did not have the required three full calendar years of experience with electronic voting.¹³⁴

Then in July 2005, Gov. Linda Lingle (R) signed a law requiring electronic voting machines to have VVPATs.

The state will seek bids for such machines early this year (past HAVA's Jan. 1, 2006 deadline for one accessible voting machine per polling place) for the 2006 primary and general elections. And some observers have even said this timeline is too aggressive.

"That's crazy. It's already too late right now. They won't have enough time for public input," said one resident who observed the 2004 vote.¹³⁵



Idaho

2000

2006

Voting systems	Optical scan, punch card and hand-counted paper ballots	Optical scan, punch card, hand-counted paper ballots and hybrid system
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	N/A – election-day registration	N/A – election-day registration
Statewide database	No	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Electronic ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Idaho continues on next page

Idaho, continued from previous page

The voting experience has changed little for Idaho voters since the 2000 election.

The state has had election-day registration in place since 1994 (and therefore did not need to implement HAVA's provisional voting mandate) and allows no-excuse absentee voting and early voting.

And while punch-card voting will be junked in most jurisdictions nationwide in 2006, Idaho will still use the technology. In 14 counties, over half of the state's registered voters will still be punching out chad next year. The state did not receive the

specific federal funds earmarked to replace the machines, so it therefore it does not have to get rid of them.

Tim Hurst, chief deputy secretary of state, said he expects punch-card technology to be gone in two to four years, but has confidence in the machines for now.

"Punch cards have proven to be reliable with the procedures and practices being used in Idaho. We have not experienced the same problems that other, larger states have had," Hurst said.¹³⁶



Illinois

2000

2006

Voting systems	Optical scan and punch card	Optical scan, DRE and hybrid system
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	No	Eligible for verification if cast in correct jurisdiction
Statewide database	Compilation database	Incomplete
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	No rules yet established
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. Excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Illinois was among several states that encountered difficulty when implementing HAVA's provisional ballot requirement in 2004.

In the primary election, provisional ballots were only counted if cast in the correct precinct.

Before the general election, however, the State Board of Elections sent a memo to local jurisdictions saying if a voter is properly registered but casts a provisional ballot in the wrong precinct, the ballot should be counted for the federal races and for any state or local races that the ballots had in common.¹³⁷

With seemingly contradictory directives, whether or not a provisional ballot counted if cast outside the correct precinct depended entirely on an individual's precinct.

"The impact was evident in two of the state's largest jurisdictions: In Cook County, which followed the recommendation, more than half the provisional ballots cast were validated; in DuPage County, which didn't, the number was closer to one in four," a news report stated.¹³⁸

Although several bills have been introduced to make state law conform to the memo put out by the State Board of Elections, none of them have yet to pass.¹³⁹

Several other pieces of election reform legislation passed last year, including bills allowing early voting and shortening the deadline to register to vote by two weeks.¹⁴⁰



Indiana

2000

2006

	2000	2006
Voting systems	Optical scan, DRE, punch card and lever	Optical scan and DRE
Voter ID	No identification requirement in place	Photo ID required of all voters casting ballot in person. Exceptions for certain confined voters and voters casting absentee ballots by mail
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	No	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	Yes. In person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored	Automatically restored

Indiana went well beyond the requirements of HAVA when it passed legislation in 2005 to require photo ID from all voters at every election.

Under the law, most voters must show a photo ID issued by the federal or state government, such as a military ID or driver's license. People who do not have the necessary verification and cannot afford to pay for a state-issued ID will be issued one for free.¹⁴¹

The vote in the Indiana Legislature divided along party lines, with Democrats accusing Republicans of trying to suppress voting during elections and Republicans arguing that the legislation would prevent voter fraud.¹⁴²

"I want everyone in this state to have the right to vote — one time," said Sen. Victor Heinold, R-Valparaiso.¹⁴³

State Democrats argued that the only documented cases of voter fraud in Indiana involved absentee ballots — something not addressed in the law.

"We should do all we can to make it easier to vote, not make it more restrictive and intimidating," said Sen. Larry E. Lutz, D-Evansville.¹⁴⁴

Shortly after the passage of the legislation, the Indiana Civil Liberties Union and the Indiana Democratic Party each filed a federal lawsuit arguing that the law is prejudiced against the poor, minorities, people with disabilities and the elderly.¹⁴⁵

Despite the political opposition to the law, as well as the lawsuits, a poll conducted by *The Indianapolis Star* shortly before passage of the legislation showed that 75 percent of the residents surveyed favored requiring voters to show a government-issued photo ID.¹⁴⁶

The first major election in Indiana since the law took effect will be the primary election in May.



Iowa

2000

2006

Voting systems	Optical scan, DRE, lever and hand-counted paper ballots	Optical scan, DRE and hand-counted paper ballots. Hand-counted paper ballots are used only for elections in sparsely populated jurisdictions, especially when all offices will be filled by write-in votes
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	In place	Eligible for verification if cast in correct precinct
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	No excuse required. Iowa law requires a voter to have a reason for requesting an absentee ballot. Voters are not required to report the reason in order to receive an absentee ballot	No excuse required. Iowa law requires a voter to have a reason for requesting an absentee ballot. Voters are not required to report the reason in order to receive an absentee ballot
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Not automatic. Must obtain pardon from governor	Automatically restored.

Iowa's Gov. Tom Vilsack (D) ignited controversy when he signed an executive order on July 4, 2005 automatically restoring voting rights to ex-felons who have served their sentence.¹⁴⁷

Republicans asserted that Vilsack signed the order for strictly political reasons, whereas Democrats argued that automatically restoring a ex-felons' right to vote brought Iowa in line with the 45 other states that do so.¹⁴⁸

Prior to the Vilsack order, ex-felons wanting to vote in Iowa had to wade through a six-month process that included an appeal to the governor's office, the State Division of Criminal Investigation and the parole board. As a result of the executive order, an estimated 80,000 felons became eligible to vote.¹⁴⁹



Kansas

2000

2006

Voting systems	Optical scan, DRE and hand-counted paper ballots	Optical scan, DRE and hand-counted paper ballots
Voter ID	No identification requirement in place	Required of all first-time voters. Photo ID not required
Provisional voting	In place	In place. Eligible for verification if cast in correct jurisdiction
Statewide database	Compilation database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

In February 2005, Kansas canceled its \$11.7 million contract with Accenture to create a statewide database.¹⁵⁰ The following month, the state announced a contract with ES&S to implement the required voter database.

In addition to being a central voter database, the new system — dubbed the Election Voter Information System, or ELVIS — will also enable the state to standardize many election forms and procedures such as petition and candidate tracking, polling place instructions, contact information and poll worker tracking.¹⁵¹



Kentucky

2000

2006

Voting systems	Optical scan, DRE and lever	DRE and optical scan
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	Affidavit	In place. Eligible for verification if cast in correct precinct
Statewide database	Unified database	In place
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. Excuse required	Yes. In-person absentee voting. Excuse required
Voting rights restoration of individuals convicted of felonies	Not automatically restored	Not automatically restored

While some Kentucky county clerks expressed concern that HAVA's provisional ballot mandate would increase the possibility of voter fraud and delay the results, there were few, if any, reported problems with provisional ballots during the 2004 election.¹⁵²

Only 1,492 provisional ballots were cast during the November 2004 election and Kentucky elections officials credit the state's long-time statewide voter registration database for keeping confusion and potential voter fraud to a minimum.¹⁵³

Kentucky continues to be one of only a handful of states that does not automatically restore the voting rights of ex-felons.



Louisiana

2000

2006

Voting systems	DRE and lever	DRE
Voter ID	Required of all voters. Photo ID requested. Voter may sign an affidavit	Required of all voters. Photo ID requested. Voter may sign an affidavit
Provisional voting	No	Eligible for verification if cast in correct precinct/ correct congressional district for parish with split congressional districts
Statewide database	Unified database	In place
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. Excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

While Louisiana joined every other state in the country striving to meet the January 1 deadline to comply with HAVA, the devastation of Hurricane Katrina challenged election officials with more daunting tasks – finding hundreds of thousands of misplaced voters, replacing destroyed voting machines and figuring out how to hold elections in an area still trying to restore power, sewage and other basic needs.

According to Secretary of State Al Ater's (D) office, more than 525,000 voters have been potentially displaced, some of whom might never return to the area. Four parishes lost a total of 1,700 voting machines at an estimated value of \$2.3 million. Ater requested \$2 million in aid from the Federal Emergency Management Agency (FEMA), but has reported receiving no aid to date.¹⁵⁴

February elections in New Orleans have been canceled and rescheduled for April.¹⁵⁵ The job of rebuilding affected parts of the state will include moving precincts and finding new poll workers.

As for the rest of the state, paperless electronic voting machines will be implemented in time for the 2006 deadline and an improved statewide database in place before the 2006 election will comply with the voter list portion of HAVA.

The duties of the state's top election official have been one of the most significant changes since 2000. In 2004, Louisiana's Elections Division became part of the Secretary of State's office. The elected position of commissioner of elections was

Louisiana continues on next page

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eliminated, and the secretary assumed the duty as the “chief election official,” a position required to be held by one person under HAVA.¹⁵⁶

Ater said in December he wants to make more changes to the office. He announced he would not seek re-election to the

office in 2006 – he was appointed after the death of Secretary of State Fox McKeithen (R) in July 2005. Ater said he withdrew his name because he did not want his decisions in the wake of Hurricane Katrina to appear politically motivated. “Everybody would have been cynical or skeptical why I made certain decisions,” Ater told *The Advocate*.¹⁵⁷



Maine

2000

2006

	2000	2006
Voting systems	Optical scan and hand-counted paper ballots	Optical scan and hand-counted paper ballots
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	N/A – election-day registration	N/A – election-day registration
Statewide database	No	In place
VVPAT requirement	N/A	Partial. Not required for accessible voting machines
VVPATs and recounts	N/A	Rules under development
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Incarcerated felons allowed to vote	Incarcerated felons allowed to vote

Paper ballots have long been a mainstay of Maine elections, with a blend of old-fashioned hand-counted paper ballots and optical-scan systems. With the HAVA requirement for accessible machines, however, Maine made some changes, leaving the state’s requirement for paper somewhat confusing.

According to Julie Flynn, deputy secretary of state, VVPATs are supposed to be a consideration in the purchase of electronic voting machines. However, the state’s oversight committee decided meeting the HAVA accessibility requirement would be more important, crafting an exemption to the state’s paper ballot rule for accessible voting systems.¹⁵⁸

An RFP issued to voting-machine vendors in December called for accessible systems of any sort – with or without VVPATs. The somewhat contradictory statute requires that a voting machine “must produce or employ permanent paper records of the votes cast that are able to be verified by individual voters before their votes are cast and that provide a manual audit capacity for the machine.” But the same section of the law exempts “accessible voting equipment,” as required by HAVA.¹⁵⁹



Maryland

2000

2006

Voting systems	Optical scan, DRE, punch card and lever	DRE
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	In place	Eligible for verification if cast in correct jurisdiction. A registered voter who casts a provisional ballot outside his or her home precinct will only be eligible to have those votes cast for federal offices for which the voter is eligible to vote
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	No
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	No automatic restoration	A first time offender for theft or infamous crime will have their right to vote automatically restored upon completion of their sentence. An individual who has been convicted of two or more such crimes must complete a three-year waiting period after the completion of their sentence. No restoration for individuals convicted of more than one crime of violence or convicted of buying or selling votes

Like California, Maryland has been the center of intense debate over the use of electronic voting machines.

In 2001, the state passed legislation that required a uniform voting system by 2006. In 2002, Diebold's AccuVote TS system was selected and a \$56 million contract was signed. By 2004, the machines were in place in all jurisdictions except for the City of Baltimore, which received its Diebold machines in October 2005, completing the rollout.¹⁶⁰

As the 2004 election approached, so did the criticism of the security and reliability of the machine and its lack of a VVPAT.

In July 2003, Avi Rubin, a professor of computer science at Johns Hopkins University, and others co-wrote a paper critical of the Diebold machine in use in Maryland, stating, "Our analysis shows that this voting system is far below even the most minimal security standards applicable in other contexts."¹⁶¹ The state then hired two companies, Science Applications International Corporation and RABA Technologies, to analyze the machines.

Critics and proponents of the machines took different meaning from the results of these two reports. "The findings in the SAIC and RABA reports both confirm the accuracy and security of Maryland's voting procedures and our voting systems as they exist today," said Bob Urosevich, president of Diebold Election Systems in a press release.¹⁶²

Rubin saw the RABA report differently. "They took a study that was highly critical of them and claimed victory. I don't understand the continuous need to insist that things are OK," he told *Wired News*.¹⁶³

Organizations such as *Truevotemd.org* sprung up, pushing for VVPATs; however, bills with such requirements were introduced in 2005 but did not pass. Linda Lamone, the state elections director defended the machines and questioned the need for a VVPAT. "I can tell you that the voters overwhelmingly love the equipment. ... We are hearing from some folks who are buying into this paper-trail issue. They don't understand the procedures that we use to ensure that nothing can happen to the voting system," Lamone told *The Washington Post*.¹⁶⁴

Voting machines have not been the only point of contention in Maryland. In early 2005, the legislature passed a bill that would have allowed early voting in Maryland. The bill was vetoed by Gov. Robert Ehrlich (R). The governor said the state had a "rich history" of vote fraud and the bill would only increase its likelihood.¹⁶⁵ Ehrlich cited the same reasons for vetoing a bill that would have allowed no-excuse absentee voting. Voter-advocacy groups have urged the legislature to override these vetoes.

In late October 2005, however, Ehrlich appointed a commission to study various election law issues including early voting, absentee voting and paper trails.¹⁶⁶

In its report, the commission agreed with the governor's vetoes of the early and absentee voting bills. The legislature, though, overrode the vetoes in January 2006.



Massachusetts

2000

2006

Voting systems	Optical scan, lever, punch card and hand-counted paper ballots	Optical scan and hand-counted paper ballots
Voter ID	No identification requirement in place for active voters. Inactive voter must show ID	Required of first-time voters who register by mail and do not provide verification with application as well as inactive voters
Provisional voting	No	In place. Eligible for verification if cast in correct jurisdiction
Statewide database	Unified database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	No
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Massachusetts had a slow start meeting the mandates of HAVA, missing the mark for accessible voting machines. Voting systems allowing people with disabilities to cast secret and independent ballots were tested in three towns in November 2005.¹⁶⁷

Provisional voting, instituted to meet the 2004 deadline, has also become a mainstay in elections.

Some challenges remain, however. Boston and other cities faced criticism from organizations representing Asian-American voters after widespread complaints of a lack of Chinese- and Vietnamese-language translators and voting

materials during the November 2004 federal elections.¹⁶⁸ The U.S. Department of Justice found similar problems and filed a suit against the City of Boston in July 2005 in U.S. District Court for violations of the Voting Rights Act.¹⁶⁹

The suit was settled less than two months later, after the city agreed to court-ordered federal election observers until 2008 and vowed to provide “voting materials in Spanish, Chinese and Vietnamese...necessary assistance to minority-language voters and to train poll workers how to comply with the requirements of federal law, including not interfering with voters’ ballot choices.”¹⁷⁰



Michigan

2000

2006

Voting systems	Optical scan, DRE, lever, punch card and hand-counted paper ballots	Optical scan
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	Affidavit	In place. Eligible for verification if cast in correct precinct
Statewide database	Unified database	In place
VVPAT requirement	N/A	No. Paper ballots only
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

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The most significant change to voting was in the works prior to the implementation of HAVA.

In May 2001, then-Secretary of State Candice S. Miller (R) called on state lawmakers to fund a program to phase-in a uniform statewide voting system.¹⁷¹

“Uniform voting equipment in every precinct would have many advantages, including providing equal protection for every voter,” Miller said at the time.

A little over two years later, Secretary of State Terri Lynn Land (R) announced Michigan would adopt an optical scan voting system.

“This statewide standard will bridge the technology gap that hinders Michigan’s election process,” Land said in a statement. “Bringing every precinct on line with optical scan technology enhances the experience for voters and election workers alike. This upgrade paves the way for further improvements that will make our process more contemporary, efficient, accurate and convenient.”¹⁷²

At the time of the announcement, 65 percent of Michigan’s precincts were already employing optical scan systems.

In addition to being ahead of the curve on voting systems, Michigan also established its own statewide voter database in 1998, widely considered to be a model list nationally.



Minnesota

	2000	2006
Voting systems	Optical scan and hand-counted paper ballots	Optical scan, hand-counted paper ballots and hybrid system
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	N/A – election-day registration	N/A – election-day registration
Statewide database	Unified database	In place
VVPAT requirement	N/A	Yes. Machines must create marked optical-scan ballots
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. Excuse required	Yes. In-person absentee voting. Excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored	Automatically restored

Although Minnesota had a statewide voter registration database in place prior to the passage of HAVA, Secretary of State Mary Kiffmeyer (R) chose to implement a new \$4 million system.¹⁷³

The new system was developed in-house and although there were initial complaints — ranging from the slowness of the system to necessary staff overtime to input information, to log-off problems — it seemed to make it through the 2004 general election and subsequent elections without major problems.¹⁷⁴

Other changes involve the state’s election-day registration process.

A U.S. District judge ruled that poll judges must recognize tribal identification cards as documentation for American Indians living off reservations who register to vote on Election Day.¹⁷⁵ The legislature passed a bill permitting Indians living on reservations to register to vote using tribal identification cards but did not authorize the use of the cards outside reservations. The ruling noted the law appears to violate the equal protection clause of the U.S. Constitution. As many as 32,000 American Indians in Minnesota live off-reservation.¹⁷⁶



Mississippi

2000

2006

Voting systems	Optical scan, DRE, punch card and lever	Optical scan and DRE with VVPAT
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	Affidavit	Eligible for verification if cast in correct precinct
Statewide database	No	Incomplete
VVPAT requirement	N/A	No requirement but 77 of the state's 82 counties using DRE machines will have a VVPAT
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	No automatic restoration of rights of those convicted of certain crimes. They can receive a pardon from the governor	No automatic restoration of rights of those convicted of certain crimes. They can receive a pardon from the governor

In June 2005, Mississippi Secretary of State Eric Clark (D) signed a contract with Diebold Election Systems to purchase AccuVote TSx touch-screen machines in compliance with the HAVA.

“By making a single, statewide purchase, we get the best price per machine: what I call the ‘Wal-Mart effect’ of buying in bulk,” Clark said in a press release announcing the purchase.¹⁷⁷ Mississippi counties are not required to purchase machines under this contract, but as of December 2005, 77 of 82 counties did.¹⁷⁸

Many in the state, however, were dissatisfied that Clark did not also purchase printers so the machines would produce a VVPAT.¹⁷⁹ Clark blamed the choice on funding concerns, but in early August, Clark and Diebold were able to come to an agreement to allow Mississippi counties to purchase printers for half of the previously agreed upon price.¹⁸⁰

“All Mississippians must have confidence that their votes are accurately counted,” Clark said. “These printers will give voters an additional level of comfort as they use the new, more accurate touch-screen machines.”¹⁸¹



Missouri

2000

2006

Voting systems	Optical scan, punch card and hand-counted paper ballots	Optical scan, punch card and hand-counted paper ballots. Punch cards will be replaced in 2006
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	No	In place. Eligible for verification if cast in correct precinct
Statewide database	Compilation database	Incomplete
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Rules still in development
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

With the spotlight firmly fixed on Florida in 2000, Missouri's election problems were quickly forgotten. Accusations of fraudulent voter registrations and ballots, controversies over crowded polling places and a court decision to hold polls open in St. Louis led to comprehensive reform efforts in 2002 – ahead of the passage of the HAVA.¹⁸²

After the initial burst of election reform, however, persistent tension between state and local officials has stymied efforts to replace voting machines and comply with HAVA. Election officials in some jurisdictions expressed sticker shock at replacement costs for punch cards.¹⁸³ The voting system deemed a culprit for problems in South Florida in 2000 has its enthusiasts in

Missouri continues on next page

Missouri, continued from previous page

the Show-Me State, where it has been used without major incident for decades.¹⁸⁴

Local officials in the state say they are caught - any jurisdiction that decides against replacing punch cards will lose some of the \$70 million in federal money earmarked for machine upgrades.¹⁸⁵ However, the future of the punch-card system is in doubt. As the rest of the country phases out the system, necessary maintenance items like replacement parts and printing will become increasingly harder to find. Yet, some election administrators say the federal money will not cover the cost of replacing punch cards, requiring local governments to cover the rest at taxpayer expense.¹⁸⁶

The issue of voter registration has proven equally thorny. In November, the U.S. Department of Justice announced it would sue the state for violations of the National Voter Registration Act (commonly known as Motor Voter). Those include removing voters from registration rolls without mandatory notification as well as failures by a number of jurisdictions to keep accurate polls, evidenced by bloated voter lists around the state.¹⁸⁷

The problem with the rolls should be solved in early 2006, when local lists are replaced by a HAVA-required statewide voter registration database. By that time, the Justice Department could be monitoring compliance with Motor Voter per the lawsuit.

Unless, of course, not every county decides to join the state list.

Boone County clerk Wendy Noren said in early December her jurisdiction would not join the 113 (of 116) currently using the new system. Noren told a newspaper she was concerned about costs and a loss in some features available on her county's "sophisticated, computer-based registration system."¹⁸⁸

Noren said she "wants a written agreement to provide adequate funding, equipment, maintenance, and technical services."¹⁸⁹



Montana

	2000	2006
Voting systems	Optical scan, punch card and hand-counted paper ballots	Optical scan, hand-counted paper ballots and hybrid system
Voter ID	No identification requirement in place	Required of all voters. Photo ID not required
Provisional voting	No	In place. Eligible for verification if cast in correct precinct
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	State law mandates that voting systems use paper ballots that can be manually counted. However, DRE voting machines without a VVPAT can be used if the federal government and the secretary of state have not certified any machines with a VVPAT and "the system records votes in a manner that will allow the votes to be printed and manually counted or audited if necessary"
VVPATs and recounts	N/A	N/A
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored	Automatically restored

The implementation of polling place voter ID rules spurred by HAVA represented the most significant change to Montana elections since 2000.

The first election conducted after its implementation was the 2004 primary. State election officials said only one-tenth of 1 percent of those who voted did not have ID with them.¹⁹⁰

"We knew the number of provisional ballots would be low, but they're coming in even lower than we imagined," Secretary of

State Bob Brown (R) said at the time. "I'm very pleased with the turnout and glad that Montanans adjusted to the new requirements so easily."¹⁹¹

To help those who did not bring ID with them to the polls, the state set up an online voter identification database that elections officials can tap into at the polls.¹⁹² Montana elections officials can now verify voter identification electronically at the polls if a voter happens to forget their ID on Election Day.



Nebraska

2000

2006

Voting systems	Optical scan and hand-counted paper ballots	Optical scan and hybrid system
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	Available in select cases	Eligible for verification in correct precinct
Statewide database	No	In place
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	No automatic restoration	No automatic restoration

Keeping its election business in-state, Nebraska negotiated contracts with Omaha-based ES&S to provide voting machines and to build a statewide voter registration database.

In November 2005, Nebraska Secretary of State John Gale (R) announced that all of Nebraska’s counties had been added to the statewide voter registration database. “The conversion from 93 county systems to a centralized system was a massive undertaking by my office and county election officials, considering there are over 1.1 million registered voters in the state,” Gale said.¹⁹³

Gale announced the state’s voting system contract with ES&S on October 2005. The \$10.9 million deal provides optical scan voting machines and AutoMARK machines, both paper-based

technologies. “A paper-ballot system has a lot of advantages,” he said. “It’s reliable and cost effective, voters find it easy to use, and the ability to conduct accurate recounts is preserved.”¹⁹⁴

One AutoMARK machine is required per polling place, fulfilling the “HAVA requirement that people with disabilities be able to cast an unassisted and private ballot.”¹⁹⁵

However, some disability groups including the American Association of People (AAPD) with Disabilities and the United Spinal Association, do not agree. “The AutoMARK is not accessible for those disabled [voters] who cannot handle paper,” said a letter from the AAPD.¹⁹⁶



Nevada

2000

2006

Voting systems	Optical scan, DRE and punch card	DRE with VVPAT
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	No	Interim compliance
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Electronic ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. Early voting. No excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	No automatic restoration	Automatic restoration for first-time non-violent felons

Nevada continues on next page

Nevada, continued from previous page

In December 2003, Nevada Secretary of State Dean Heller (R) announced that the state would buy DRE machines for all 17 counties. Heller mandated the use of a VVPAT, making Nevada the first in the nation to do so.¹⁹⁷

The state purchased 2,000 electronic voting machines from Sequoia Voting Systems for the 2004 election. Approximately 600 more were recently purchased, the bulk of which will go to Clark County. In 2004 Clark County continued to use its older Sequoia models along with some of the newer machines.¹⁹⁸

However, Clark County Registrar of Voters Larry Lomax (D) said the contract did not provide enough paper-trail equipped machines to accommodate Southern Nevada's rapid influx of new voters. "To address growth in the county by the 2008 elections, we figure we would need another 700 machines," Lomax said, not including the 472 they will be receiving from the state.¹⁹⁹

A pioneering VVPAT state, Nevada's paper trail is not used in recounts.

VVPATs were, however, used in the mandatory post-election 2004 audit, and the state reported that 100 percent of the votes

on the paper record matched that of the electronic record. The process was not an unqualified success, though, as the audit of only one 318 foot spool took a team of four people four hours to complete in Clark County.²⁰⁰ It is also unclear whether other counties performed a manual audit.²⁰¹

While Nevada was ahead of the curve in terms of voting machine compliance, their statewide voter registration database was not ready by the Jan. 1, 2006 deadline.

Lomax sent a letter to Heller in November 2005, stating that he and the other clerks do not believe that the system is ready. "It would be irresponsible on our part to switch to a system that would not allow us to carry out our statutory responsibilities and that would severely diminish our ability to provide even basic election-related services to the residents of our counties."²⁰²

Heller agreed, and Nevada will be using a bottom-up compilation system in 2006 that would be compliant with HAVA in order to let vendor Covansys have the time they need to finish the database.²⁰³



New Hampshire

2000

2006

Voting systems	Optical scan and hand-counted paper ballots	Optical scan and hand-counted paper ballots
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	N/A – election-day registration	N/A – election-day registration
Statewide database	No	In place
VVPAT requirement	Yes. State law says, "no voting machine or device shall be used in any election in this state unless it reads the voter's choice on a paper ballot"	Yes
VVPATs and recounts	All paper ballots	All paper ballots
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Polling-place voting will remain essentially unchanged for many New Hampshire voters, given a state law requiring a ballot to be cast on paper.²⁰⁴ Other aspects of the state's election system, however, have been changed to meet the requirements of the HAVA.

New Hampshire's efforts to comply with the federal law required some tweaking of state law, as well as the creation of a statewide voter registration database. The state allows election-day registration, making provisional voting unnecessary. A \$2.1 million statewide voter registration system was completed in November 2005.²⁰⁵

One outstanding issue – how to balance state law requiring paper ballots with HAVA mandates for machines that allow people with disabilities to cast independent and secret ballots – appears to have been solved. A state official said in December the accessibility requirement will be met with machines that would essentially serve as a "ballot-marking device." Those would include hybrid systems (see p. 11 for more information) that use a touch-screen format, allowing the use of sip/puff tubes, keypads or audio prompts, to cast a paper ballot.²⁰⁶



New Jersey

2000

2006

Voting systems	DRE and lever	DRE
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	Available in select cases	In place. Eligible for verification if cast in correct jurisdiction
Statewide database	Compilation database	Incomplete
VVPAT requirement	N/A	Yes, by 2008
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	Excuse required	No excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored	Automatically restored

The Garden State's election reform efforts were marked by fights over voter ID requirements and accusations of voter fraud.

Though Republican legislators had demanded stricter identification requirements, the state put in place the minimum HAVA requirements for voter ID. The state also implemented no-excuse absentee voting, did away with lever voting machines and is completing a statewide voter registration database with Covansys Corp. and PCC Technology Group.

In September 2005, state Republicans conducted an investigation into potential voter fraud in the state and called on the state's attorney general to remedy what they said were a myriad of voting problems — double registration within the state,

dead people registered, and people registered in New Jersey and other states.²⁰⁷

However, in December 2005, the Brennan Center for Justice at the NYU School of Law and Dr. Michael McDonald, an elections expert at George Mason University, found factual and methodological errors in the report submitted by the Republican Party.

"Our analysis shows that the report substantially overstates the problem of illegitimate votes in New Jersey. In fact, the vast majority of the accusations in the report are simply unwarranted," said Justin Levitt, associate counsel at the Brennan Center.²⁰⁸



New Mexico

2000

2006

Voting systems	Optical scan and DRE	Optical scan, DRE and hybrid system
Voter ID	No identification requirement in place	Required of all voters. Photo ID not required
Provisional voting	In place	Eligible for verification if cast in correct jurisdiction
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	Yes. However, "All voting systems... shall have a voter verifiable and auditable paper trail; provided, however, that voting systems owned or used by a county on the effective date of this 2005 act that do not have a voter verifiable and auditable paper trail may be used until the first occurrence of the following: (1) sufficient federal, state or local funds are available to replace the voting system; or (2) December 31, 2006."
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. Early voting. No excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored	Automatically restored

New Mexico continues on next page

New Mexico, continued from previous page

Prior to HAVA, New Mexico did not require any form of ID from voters. The state now requires voters to present some form of ID every time they visit the polls.

Initially, the state moved to comply with minimum HAVA requirements for voter ID, but after a Republican-led lawsuit, the state now requires ID of all voters, but the identification required ranges from government-issued identification cards to utility bills.²⁰⁹ An attempt to require photo ID for all voters

failed with many who opposed the proposal citing hindrances to American Indian and Hispanic voters.²¹⁰

Although state legislation currently does not require a photo ID, the city of Albuquerque passed an ordinance in 2005 that would require voters to provide photo ID at polling places. The American Civil Liberties Union has asked a federal judge to overturn the ordinance.²¹¹



New York

	2000	2006
Voting systems	Lever	Lever. Certification of new voting systems expected in March 2006
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	In place	Eligible for verification if cast in correct precinct
Statewide database	No	No
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

While other states were moving ahead with purchasing voting machines, approving legislation to comply with HAVA and developing statewide voter registration databases, little happened in New York.

Election reform sluggishness has made the state the first to face action from the Justice Department.

In fact, with the HAVA deadline now passed, New York appears positioned to be the last state in the land to be compliant with the federal law. Problems have been well-documented, frequent and often unresolved.

In 2003, voting advocacy groups including NYPIRG and Common Cause along with several state legislators were critical of the development of the state's HAVA implementation plan, calling it a closed-off and poorly-handled process.²¹²

In 2004, these same groups conducted surveys of county election officials showing the confusion and disparity in their implementation of the state's new HAVA-mandated voter identification rules.²¹³

In 2005, the state became the last to pass HAVA-compliant legislation to finally receive their full amount of federal funds.

Late last year, the State Board of Elections released draft voting system standards, of which Neal Rosenstein, government reform coordinator of NYPIRG, said: "The State Board of Elections has once again failed the voters of New York by passing weak and incomplete regulations for how [lever voting machines] will be replaced."²¹⁴

Inaction on voting machine certification has many county election officials, charged with selecting new machines for their jurisdictions, concerned.

By accepting federal money to specifically replace the state's approximately 20,000 lever voting machines, the old equipment must be gone by the first federal election of 2006 – September in New York. With standards not yet finalized, county officials may have less than eight months to select and implement a new voting system – an unrealistic timetable for even mid-sized jurisdictions.²¹⁵

State election officials said the voter registration database would not be completed until mid-2007.²¹⁶ The Justice Department responded, indicating it might sue the state for non-compliance.



North Carolina

2000

2006

Voting systems	Optical scan, DRE, punch card, lever and hand-counted paper ballot	Optical scan, DRE, hand-counted paper ballot and hybrid systems
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	In place	Eligible for verification if cast in correct jurisdiction
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

In North Carolina's 2004 general election, Carteret County saw 4,438 votes vanish when the county's UniLect machine was only set up to accept roughly 3,000 votes and the election workers apparently did not notice the "Voter Log Full" message on the machine's black box.²¹⁷

Johnnie McLean, deputy director of the State Board of Elections, attributed many mistakes to human error. "If we had problems in the past, they were not magnified like this," McLean said.²¹⁸

Although the board ordered a new statewide vote in the race for agriculture commissioner,²¹⁹ Democratic candidate Britt Cobb, who trailed by 2,300 voters, dropped his challenge, saying he did not want an election decided by affidavit.²²⁰

In the 2004 election, double-counting or undercounting was discovered and corrected in at least five other counties, in addition to Carteret, during the tabulation process.²²¹

The problems prompted the General Assembly to enact new voting equipment standards.²²² The state has certified two elections voting systems from ES&S and Diebold.²²³ Carteret County's Board of Elections recommended that the county purchase optical scan machines.²²⁴

In December 2005, the state was sued by the California-based Electronic Frontier Foundation seeking to block the approval of what they termed unqualified voting machines.²²⁵

The state also faced challenges with provisional ballots. The 2004 election for Guilford County supervisor was not settled until over a year after Election Day after legal disputes over whether provisional ballots cast in the wrong precinct should be counted. Superior Court Judge Henry Hight ruling in the case warned that provisional ballots could bring more trouble in the future. "That's a matter that's going to come back to bite somebody along the line," Judge Hight wrote.²²⁶



North Dakota

2000

2006

Voting systems	Optical scan, punch card and hand-counted paper ballot	Optical scan and hybrid system
Voter ID	No identification requirement in place	Required of all voters. Photo ID not required
Provisional voting	N/A – no voter registration	N/A – no voter registration
Statewide database	N/A – no voter registration	N/A – no voter registration
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	No	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored	Automatically restored

North Dakota continues on next page

North Dakota, continued from previous page

Because of North Dakota’s unique status of not requiring voter registration, the state was allowed to spend much of the run-up to the HAVA deadline working on other election issues instead of building a database.

The state passed a law requiring that all voters show identification with a residential address before voting. Acceptable forms of ID include drivers’ licenses and utility bills dated 30 days prior to an election day.²²⁷

Eligible voters without verification will have two available options to vote. According to Secretary of State Al Jaeger (R), “If an election poll worker knows that the voter is a qualified

elector of the precinct, they can vouch for that person to vote. Or a person without identification can fill out a voter’s affidavit, under oath, certifying their identity and right to vote in that precinct.”²²⁸

The state used a phased-in approach to voting systems, but met the Jan. 1, 2006 deadline with all 53 counties receiving new voting systems provided by ES&S.²²⁹ The AutoMARK voting machines also marketed by ES&S are in place to serve as accessible voting machines.²³⁰

North Dakota also allows overseas voters to cast ballots by e-mail or fax if they forgo their right to a secret ballot.²³¹



Ohio

2000

2006

Voting systems	Optical scan, DRE, punch card and lever	Optical scan and DRE with VVPAT
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	Available in select cases	Eligible for verification if cast in correct precinct
Statewide database	Compilation database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	Excuse required	No excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Although other states have been in the spotlight, no state in the nation has been more central than Ohio in the debate over a number of post-HAVA election reform issues. As a state heavily reliant on punch-card voting equipment, Ohio was faced with the need for wholesale changes. And while a self-imposed deadline of November 2004 was missed, a contentious machine procurement process eventually led to the adoption of optical scan and/or DRE machines with attached VVPATs statewide.

Furthermore, non-technological issues — long lines in inner city polling places, a lawsuit over provisional ballot-counting rules, controversies over rejected voter-registration forms and questions over the performance and neutrality of Secretary of State J. Kenneth Blackwell (R) — dogged the state in 2004.

But major changes were on tap in 2005 in those areas as well.

The statewide election in November lacked the drama of the year before, but it marked a significant event nonetheless, as many counties around the state finally shed punch-card systems in favor of electronic voting systems employing a VVPAT.

The November 2005 ballot also featured two key initiatives: one which would have significantly altered election administration in the state by stripping power from the secretary of state and instead placing it in the hands of a bipartisan, nine-member

elections board as well as another that would have allowed no-excuse absentee voting. Both failed by large margins.²³²

Unlike nearly a dozen other states around the country, Ohio announced in mid-December it would meet the Jan. 1, 2006 deadline for the completion of its statewide voter registration database.²³³

As the new year approached, however, a partisan election-reform bill (H.B.3) had Democrats and Republicans sparring over voter identification. Republican lawmakers argued requiring ID is a necessary deterrent to voter fraud. Democrats countered that fraud has not been an issue in the state and that requiring ID would depress turnout among some segments of the voting population.

The state currently requires the minimum under HAVA. Under H.B.3, all voters at polling places would have to provide ID before casting ballots. The comprehensive bill would also set new limits on political activities on future secretaries of state, increase penalties for voter fraud and alter rules for voter registration, education and provisional ballots.²³⁴

At press time, the bill was stalled in the legislature on an unrelated campaign finance issue and was expected to be taken up again when the legislature reconvened in January.²³⁵



Oklahoma

2000

2006

Voting systems	Optical scan	Optical scan
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Oklahoma had uniform election equipment and other HAVA-required election procedures prior to 2000. The state's voters have been casting ballots counted by optical-scan machines since 1992.

Michael Clingman, secretary of the State Election Board, said the state was well-prepared to comply with the federal bill. "Probably...they would not have passed the Help America Vote Act if all the states had done what Oklahoma did and the state Legislature did about 15 years ago," Clingman said.²³⁶

However, HAVA's requirement to have one accessible voting machine per polling place added a new wrinkle to the state's election process.

Clingman said the state was considering hybrid voting machines including the AutoMARK. According to the state's update of its HAVA plan in November 2005, a decision has yet to be made on any new voting device.²³⁷

The update also describes how the state is upgrading its voter registration database, in place since 1990. The state hired Maxim Consulting to upgrade the database to a modern server system and make it available to all counties.²³⁸



Oregon

2000

2006

Voting systems	Vote by mail – optical scan and punch card	Vote by mail – optical scan. Hybrid system for accessible voting system compliance
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	In place	Eligible for verification if cast in state
Statewide database	No	In place
VVPAT requirement	Yes	Yes
VVPATs and recounts	Recounts traditionally conducted by hand	Paper ballot to be used in recount. All recounts required to be conducted by hand
Absentee voting	Vote by mail	Vote by mail
Pre-election day in-person voting	Vote by mail	Vote by mail
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Oregon's unique statewide vote-by-mail system, in place since 1998, made the state's road to HAVA-compliance different from many others.

Oregon was one of only seven states that did not request a waiver from the Election Assistance Commission (EAC) to

replace voting equipment for the 2004 elections as required by HAVA. "No Oregonian will ever again use a punch-card to cast a ballot in an Oregon election," Secretary of State Bill Bradbury (D) said in a press release.²³⁹

Oregon continues on next page

Oregon, continued from previous page

With the demise of the punch-card machines, all of Oregon's tabulators are now optical-scan machines with the exception of hybrid systems at county offices for voters with disabilities.

The state was also considering other plans to make voting more accessible to people with disabilities, including a vote-by-phone plan. The bill, H.B. 1046, passed the Senate but was still in the House when it adjourned.



Pennsylvania

2000

2006

Voting systems	Optical scan, DRE, punch card, lever and hand-counted paper ballot	Optical scan, DRE, punch card, lever and hand-counted paper ballot
Voter ID	No identification requirement in place	All first-time voters must show ID. Photo ID not required
Provisional voting	No	Eligible for verification if cast in correct jurisdiction
Statewide database	Compilation database	In place
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Despite some kinks in completing its statewide voter registration database, Pennsylvania met the HAVA deadline. Some county officials complained that the \$20 million system — developed by Accenture — created difficulties processing absentee ballots as well as being prone to freeze-ups, but state officials said they were pleased with the system.²⁴¹

Although the database deadline was met, selecting new voting systems has proven more troublesome. Citing problems from the 2004 presidential election, the state denied certification for

the UniLect Patriot machine which experienced problems in Mercer County.²⁴²

Even though the state has certified several machines, officials in a handful of counties, including Allegheny and Bucks, said they are still unsure about which system they will be using. "We all agree. We want a paper trail," Allegheny Councilman John DeFazio, D-Shaler, said. "But we don't know which machine is better."²⁴³



Rhode Island

2000

2006

Voting systems	Optical scan	Optical scan and hybrid system
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	No	Eligible for verification if cast in correct jurisdiction
Statewide database	Compilation database	In place
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

State residents still vote in much the same way they did in November 2000. Voters continue to cast ballots using optical-scan voting technology.

However, Rhode Island officials did implement an important HAVA mandate in 2004 completing a statewide voter registration database.²⁴⁴



South Carolina

2000

2006

Voting systems	Optical scan, DRE and punch card	DRE
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	In place	Eligible for verification if cast in correct precinct
Statewide database	Unified database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

In 2000, punch-card voting machines were used in 10 South Carolina counties. The state also had one of the highest residual voting rates (the number of uncounted, unmarked or spoiled ballots) in the country at 3.4 percent. Research has pointed to punch-card voting machines as having the highest residual voting rate of all voting technologies.²⁴⁵

Accepting federal funds to replace punch cards, the state decided to move to a uniform electronic voting system. Procuring this system turned out to be a challenging process.

In April 2004, the state awarded a voting machine contract to ES&S to supply electronic voting machines. The award was protested by other vendors, questioning the procurement process.²⁴⁶ The contract was invalidated, a new RFP was released and in August 2004, ES&S again was awarded the contract.

Other obstacles faced the voting-system implementation. Sumter County held on to their punch-card voting machines for

the November 2004 election and officials were reluctant to give them up. "We know how to use punch cards. We're very good at it," Sumter County Election Commission member Carol Ann Rogers told *The Associated Press*.²⁴⁷

Some voters said they were troubled by the lack of VVPATs. "A growing body of technical studies and practical experience finds that e-voting is not the best choice, but that if [the state election commission] insists on trusting a computer network, it must produce an auditable paper trail," said Brett Bursey of the South Carolina Progressive Network.²⁴⁸

Other changes to the state's election process will be considered by lawmakers in 2006. Among the items for legislators to consider are allowing early voting, counting provisional ballots no matter where they were cast and letting teens serve in polling places.²⁴⁹



South Dakota

2000

2006

Voting systems	Optical scan, punch card and hand-counted paper ballots	Optical scan, hand-counted paper ballots and hybrid system
Voter ID	No identification requirement in place	Required of all voters. Photo ID requested. If the voter does not have a photo ID they can sign a personal identification affidavit and vote a regular ballot
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	No excuse required
Pre-election day in-person voting	No	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

South Dakota continues on next page

South Dakota, continued from previous page

The past five years in South Dakota have seen changes in how voters cast ballots, what they have to do to before they get a ballot and what machines they cast them on.

Voters can now cast absentee ballots without providing a reason (almost one quarter did in the November 2004 election.)²⁵⁰

Punch-card ballots are no longer used. All counties will be using optical-scan ballots either cast-by-hand or on a hybrid system in time for the June 2006 primary.

A new law requiring voters to show photo identification at the polling place or sign an affidavit swearing to their identity was passed and faced some criticism. Some American Indian groups complained that in the June 2004 primary elections several voters who did not have photo ID were not offered the chance to sign an affidavit and were therefore denied the right to vote.²⁵¹ After this, the state elections board approved a plan to provide clear and uniform signs to be placed at all polling places describing the affidavit option.²⁵²



Tennessee

	2000	2006
Voting systems	Optical scan, DRE, punch card and lever	Optical scan and DRE
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	Yes. Early voting. No excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Not automatically restored	Not automatically restored

Tennessee has faced the same debate over voting systems that has been played out in other states since the passage of HAVA.

In November 2005, the state distributed HAVA funds to counties to purchase new voting machines. About half of the state's counties that use punch card, lever and central-count optical scan machines will replace their systems. Most of the remaining counties will be given money to add one accessible voting machine per polling place.²⁵³

Counties will be implementing precinct-count optical scan machines or electronic machines. Some advocacy groups are critical of plans to allow the purchase of electronic voting systems as the state does not currently mandate a VVPAT.²⁵⁴

And there are some election officials that do not want to see the end of punch cards. "One issue we do agree on, Democrats and Republicans, is that we want to keep our punch cards," Jimmy Hensley, a member of the Lewis County election commission told *The Nashville Scene*.²⁵⁵

In early 2005, the state legislature also proposed legislation to allow counties to establish vote centers, where voters could cast ballots anywhere in their county, not just in their assigned precinct. While the bill was supported by some counties, other rural counties opposed the move, saying it would lead to long drives for some voters as well as confusion about where to vote.²⁵⁶



Texas

2000

2006

Voting systems	Optical scan, DRE, punch card, lever, and hand-counted paper ballot	Optical scan, DRE, hand-counted paper ballot and hybrid system
Voter ID	Voters must present voter registration certificate	Required of first-time voters who register by mail and do not provide verification with application. Other voters must present voter registration certificate. Those who cannot show their certificate must show ID
Provisional voting	Affidavit	Eligible for verification if cast in correct precinct
Statewide database	Compilation database	Interim compliance
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	Yes. Early voting. No excuse required	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

After accepting more than \$6 million dollars in HAVA punch card and lever-machine buyout money, replacing voting systems has been the primary concern in the Lone Star State. While only 14 of the state's counties used punch cards in 2000, those jurisdictions accounted for more than 3.7 million people of voting age, including Harris County, home to Houston and the third most populous county in America.²⁵⁷

With no requirement for VVPATs in place – a paper-trail bill, H.B. 166, died in the House in May 2005 – counties have had a wide variety of voting machines from which to choose.²⁵⁸ While Harris and a number of other Texas counties opted for scrolling wheel DREs produced by in-state manufacturer Hart InterCivic, 13 types of voting systems have been approved for use.²⁵⁹

Despite the absence of a paper-trail requirement, a few counties in the state have adopted machines with paper back-up systems. A growing number of jurisdictions, including Washington and Bowie counties, as well as Salado and El Campo, have opted for hybrid voting systems, including the AutoMARK and the AccuPoll, allowing voters with disabilities to use an electronic interface to cast a paper ballot.²⁶⁰

Press reports from around the state indicate the process of adopting new voting technology is ongoing, despite the Jan. 1, 2006 deadline. While the state's new database also missed the deadline, the state is nonetheless in compliance with federal law.

According to state officials, a voter registration database under development by Hart InterCivic will be completed "by early summer." To comply with HAVA, the state has modified the existing list.²⁶¹



Utah

2000

2006

Voting systems	Optical scan, punch card and hand-counted paper ballots	DREs with VVPAT
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	No	Eligible for verification if cast in correct precinct
Statewide database	Accessible compilation database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Electronic ballot to be used in recount
Absentee voting	No excuse	No excuse
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

Utah continues on next page

Utah, continued from previous page

A combination of optical scan, punch card and hand-counted paper ballots have been replaced with the Diebold AccuVote TSx System with a VVPAT.

Lt. Governor Gary Herbert (R) chose Diebold as Utah's voting machine vendor in May 2005 at the recommendation of the state's voting equipment selection committee.²⁶²

The AccuVote TSx came under fire from the state of California, where Secretary of State Bruce McPherson (R) has refused to certify the machines, purchased by 17 California counties, until Diebold submits its source code to a federal independent testing authority.²⁶³ Officials also reported problems with attached VVPAT printers and freeze-ups in as many as a third of units during state-sponsored tests in October 2005.²⁶⁴

This is worrisome to some Utah activists, including the organization Utah Count Votes.²⁶⁵ Group officials said they hoped that the problems experienced by California would be a deterrent to Utah in their choice of voting machine, but Michael Cragun, director of Utah's elections division, is satisfied with their choice. "The lieutenant governor has made his choice to use the Diebold machines and we plan to continue pursuing that."²⁶⁶

The machine was already used in several Utah cities in the October and November elections. Farmington used the new machines in the October municipal elections, with mostly positive feedback. "Just like anything that's brand-new, things have to be explained," election judge Lloyd Green told *The Associated Press*. "But it's not difficult, heavens no. You just push the one you want."²⁶⁷



Vermont

2000

2006

Voting systems	Optical scan and hand-counted paper ballots	Optical scan, hand-counted paper ballots and vote by phone
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	No	Eligible for verification if cast in correct jurisdiction
Statewide database	No	In place
VVPAT requirement	N/A	Yes - paper ballots required
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Incarcerated felons allowed to vote	Incarcerated felons allowed to vote

Despite a population of just over 620,000 people, Vermont's election administration is divided among 246 local jurisdictions rather than a smaller number of counties.²⁶⁸ According to the state's HAVA plan, the number of municipalities, some of them with only a few residents, made the implementation of a statewide voter registration database a unique challenge. Statewide, 134 towns have fewer than 1,000 voters on registration rolls, and 30 towns have fewer than 300 voters.

State auditor Randy Brock (R) told a newspaper in October 2005 that he was concerned about the accuracy and security of the database under development. Secretary of State Deborah Markowitz (D) said she was confident in the system, and said many of the auditor's concerns were based on the set-up of the system, which was tailored to meet the needs of the large number of local officials who would use it.²⁶⁹

Local election officials in the state have opted to continue to use hand-counted paper ballots despite an influx of \$16 million in HAVA funds. In all, 188 municipalities used hand-counted

ballots in 2000.²⁷⁰ Four years later, only nine of those localities purchased optical-scan machines.

To comply with HAVA's accessibility requirements, the e-voting-free state will instead use a unique vote-by-phone system that election officials say is better tailored to the state's low-population voting jurisdictions. The \$525,000 system will cost millions less than comparable electronic voting systems, Markowitz said, and will allow voters with disabilities to cast votes on designated telephones at polling stations. The system produces a paper ballot from every vote cast and can be monitored.²⁷¹

"This is the most voter- and poll-worker-friendly system we've seen," Markowitz said when she unveiled the system in August. "It will allow us to make voting accessible to all of Vermont's voters and will enable our state to fulfill HAVA's mandates without purchasing expensive equipment that would go unused in many of our communities."²⁷²



Virginia

2000

2006

Voting systems	Optical scan, DRE, lever, punch card and hand-counted paper ballots	Optical scan, DRE, lever, punch card and hand-counted paper ballots. Jurisdictions are replacing punch-card and lever machines
Voter ID	Required of all voters. Photo ID not required	Required of all voters. Photo ID not required
Provisional voting	In place	Eligible for verification if cast in correct precinct
Statewide database	Unified database	In place
VVPAT requirement	N/A	No. Legislation proposed
VVPATs and recounts	N/A	N/A
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. Excuse required	Yes. In-person absentee voting. Excuse required
Voting rights restoration of individuals convicted of felonies	Not automatically restored	Not automatically restored

Electronic voting machines had a number of documented problems in recent years, leading many residents to push for VVPATs for the systems.

The issues of security, accuracy and reliability of e-voting systems were raised by citizens at a Virginia House panel hearing in late August. Donald Wells, a member of Virginia Verified Voting, said that a VVPAT would “provide critical protections for voters... The visual verification of the paper audit trail by the voter . . . will rapidly detect malfunctioning voting machines so that they can be taken off-line.”²⁷³

While many came out in support of VVPAT’s, Jean Jensen, the secretary of the State Board of Elections, has a different view. “People consistently blame the machines, but the problems that they often talk about are really human . . . error,” she said.

“I understand the concerns about electronic voting, but I haven’t seen a [paper backup] system that adds to the efficiency of the voting process.”²⁷⁴

In early January 2006, the legislative panel recommended the use of VVPATs.

Not all Virginia counties chose to buy touch-screen machines, however. Several counties decided to use optical-scan machines. This decision was left up to the counties, though the State Board of Elections must approve the choice.

Virginia’s electoral system, despite disagreements, performed well under the scrutiny of a historically close race for state attorney general in 2005.²⁷⁵



Washington

2000

2006

Voting systems	Optical scan, DRE and punch card	Optical scan and DRE with VVPAT
Voter ID	No identification requirement in place	Required of all voters. Photo ID not required
Provisional voting	In place	Eligible for verification if cast in correct jurisdiction
Statewide database	Compilation database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in manual recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	No	No
Voting rights restoration of individuals convicted of felonies	Automatically restored if convicted after 1984	Automatically restored if convicted after 1984

The gubernatorial election of 2004 had a greater impact on voting in the state of Washington than HAVA’s federally-mandated requirements.

The 2004 election was plagued with problems –provisional ballots, counting controversies, discrepancies with absentee ballots and accusations of ineligible voters casting ballots. King County — the state’s largest— was the center of much of the

controversy. Reports surfaced that the number of ballots counted exceeded the number of voters credited with voting²⁷⁶ and uncounted absentee ballots were discovered months after the election.²⁷⁷

Following the 2004 election and the subsequent recount, the state legislature voted to extend the time available for counting

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ballots and resolving discrepancies before the election is certified.²⁷⁸ Provisional ballots, which aren't supposed to be counted until the close of polls on Election Day, have been redesigned so they are rejected by the counting machines in polling places.

The use of vote-by-mail is steadily growing. The 2005 election saw 30 of the state's 39 counties use the system. The remaining

nine counties — including some of the largest counties like King and Spokane — are contemplating a switch to vote-by-mail.

"We thought it was wonderful," said Casey Earles, elections administrator in Skagit County. "We only had one election to run instead of the two that we did in the past with absentee ballots and day-of voting."²⁷⁹



West Virginia

	2000	2006
Voting systems	Optical scan, DRE, lever, punch card and hand-counted paper ballots	Optical scan, DRE and hand-counted paper ballots
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	In place	Eligible for verification if cast in correct precinct
Statewide database	Compilation database	In place
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	Excuse required	Excuse required
Pre-election day in-person voting	No	Yes. Early voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

In 2004, West Virginia rolled out its statewide voter registration database, making it one of the first states to do so after HAVA's passage. There were some initial complaints about the system from some local election officials, but it has now been in place for nearly two years.²⁸⁰

The state also added no-excuse, in-person early voting as an option for voters.

In 2006, counties will use either touch-screen or optical-scan voting technology, with printers attached to the touch-screen machines. And like many other states that have opted to use VVPATs with their DRE machines, the state will not only audit the electronic voting machines but also use the paper record in the case of a recount.



Wisconsin

	2000	2006
Voting systems	Optical scan, DRE (one jurisdiction) lever, punch card and hand-counted paper ballots	Optical scan, DRE (one jurisdiction), lever and hand-counted paper ballots
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	N/A – election-day registration	Eligible for verification if cast in correct precinct. Given to first-time voters who register by mail and do not provide verification with application and do not provide ID at the polls
Statewide database	No	Incomplete
VVPAT requirement	N/A	Yes
VVPATs and recounts	N/A	Paper ballot to be used in recount
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Automatically restored (must register to vote)	Automatically restored (must register to vote)

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Election officials publicly announced in early September 2005 that the state would not meet the Jan. 1, 2006 HAVA deadline for creating its statewide voter registration database.²⁸¹

Kevin Kennedy, executive director of the state elections board, said the state is experiencing delays with the database because municipal clerks who have used the Accenture-produced system have encountered problems logging on and learning how it works.²⁸²

The delays in implementing the new \$27.5 million database will mean added costs to the state. Added expenses will be paid for with funds that had been set aside for maintenance of the database.²⁸³

Wisconsin has also experienced problems with voter fraud in past elections, and shortly after the November 2004 election, state election officials called for new rules on the activities of

partisan election-day observers.²⁸⁴ Kennedy told a state legislative committee studying possible changes to state elections laws that the 2004 election brought out more observers than ever which “created some real issues.”

The voter fraud issue also emerged in the state’s debate over voter identification. Gov. Jim Doyle (D) on three occasions vetoed bills that would have required all voters to show photo ID at the polls. In response, some Republican members of the Assembly who endorse the idea that voter ID will help prevent voter fraud passed a constitutional amendment requiring it. They said they hope to put the issue to Wisconsin voters.²⁸⁵

Some Democrats are concerned the photo ID requirement will disproportionately affect and disenfranchise minority voters. A study by the Employment and Training Institute at the University of Wisconsin-Milwaukee found that more elderly and blacks lack drivers’ licenses than whites in the state do.²⁸⁶



Wyoming

	2000	2006
Voting systems	Optical scan, DRE, lever and punch card	Optical scan, DRE and hybrid system
Voter ID	No identification requirement in place	Required of first-time voters who register by mail and do not provide verification with application
Provisional voting	N/A – election day registration	Eligible for verification if cast in correct precinct. Given to first-time voters who register by mail and do not provide verification with application and do not provide ID at the polls
Statewide database	Compilation database	Incomplete
VVPAT requirement	N/A	No
VVPATs and recounts	N/A	N/A
Absentee voting	No excuse required	No excuse required
Pre-election day in-person voting	Yes. In-person absentee voting. No excuse required	Yes. In-person absentee voting. No excuse required
Voting rights restoration of individuals convicted of felonies	Not automatically restored	Not automatically restored

The state with the smallest population was relatively quiet on the election reform front following the 2000 election. However, news about Wyoming’s voting process surfaced on several fronts in 2005.

In late September, state officials joined their counterparts in Wisconsin as being among the first to say they would not be able to meet the HAVA Jan. 1, 2006 deadline to complete a statewide voter registration database. The state is working

with Accenture, the database’s creator, to smooth out some problems that have emerged in developing the statewide list. “We’re not ready to plug in something that’s not ready to go,” Deputy Secretary of State Pat Arp told the *Casper Star-Tribune*.²⁸⁷

In late October 2005, the state also entered into contracts with ES&S and Diebold Inc. to provide voting machines for all 23 counties.

Endnotes

- 1 The Election Center and its director, Doug Lewis, were at the forefront of those arguing that machine replacement would be complicated and not entirely effective at mending the ills revealed in the 2000 election. For more, see the organization's July 2001 report: National Task Force on Election Reform. "Although technology upgrades are definitely needed, election administrators know that electoral problems are multi-faceted and equipment is only one component. All vote counting equipment works perfectly in a laboratory setting. To offer viable solutions, reform proposals must address problems and errors associated with 1) *People* (voters, poll workers, election administrators and staff, vendor personnel, candidates, and the media); 2) *Procedures* (vague and conflicting laws and inconsistent policies); and 3) *Technology* (outdated computer systems, voting equipment and tabulation systems)."
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- 18 *Indiana Democratic Party v. Rokita*, Case No. 1:05-cv-0634-SEB-VSS (S.D. Indiana). <http://moritzlaw.osu.edu/electionlaw/docs/indydems/complaint.pdf>
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Methodology

Secondary sources including newspapers, reports by other organizations and state election Web sites were used in collecting information for this report. Data for maps, charts and state-by-state data was collected using state election law, other state election primary sources and from the results of a survey of state election directors and other election officials conducted from November to December 2005.

All sources are listed in the endnotes section.

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

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

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After the November 2000 election brought the shortcomings of the American electoral system to the public's attention, The Pew Charitable Trusts made a grant to the University of Richmond to establish a clearinghouse for election reform information. Serving everyone with an interest in the issue—policymakers, officials, journalists, scholars and concerned citizens—electionline.org provides a centralized source of data and information in the face of decentralized reform efforts.

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