



ELECTION REFORM SINCE NOVEMBER 2001

What's Changed, What Hasn't, and Why





A Note From the Director

electionline.org is pleased to bring you this report, the second look at the state of play of election reform in Washington, state capitals, county seats and city halls across America. As the nation's only nonpartisan, non-advocacy source for news, analysis and information on election reform, we are uniquely positioned to tell you how election reform fared across the country in the second year following the November 2000 election controversy.

In our first report released in October 2001, we found that one year after November 2000, "the way Americans vote remains for the most part unchanged . . . despite a continued call for improvement and substantial activity nationwide on election reform." We observed that the obstacle to progress "is not a lack of commitment, but a lack of consensus – a consensus that will emerge, if at all, only as the policy process continues to work."

The process did continue in 2002, as policymakers in Washington and state capitals addressed the issue of election reform. The result – nearly two years after the disputed 2000 presidential vote, election reform has reached the end of its beginning.

Congress' 11th-hour compromise on a \$3.86 billion reform bill promised federal funds and federal requirements for election reform. The compromise will enable states and localities to move beyond the mixed progress they made in 2002, during which some states enacted sweeping reforms, others merely tweaked their laws and still others remained on the sidelines. This record of progress – combined with the promise of an increased federal role in election administration – suggests that election reform will enter a new phase of frenetic activity in 2003 and beyond.

The events of 2002 described in this report reflect the reality that election reform is here to stay as an issue in America. We hope you find this report informative and enjoyable to read – and when you're done, please visit us online at *electionline.org* as we gather news and analysis for the 2003 edition.

Doug Chapin, director
October 2002



Acknowledgments

A report of this size and breadth is impossible without the dedication and skill of talented people. Therefore, I want to recognize the following people for their invaluable contributions to the second edition of “What’s Changed, What Hasn’t, and Why”: *electionline.org* staff Dan Seligson, Aron Goetzl, Ivan Sciupac, Ann Clegg, Matt Courtney, Lillian Teng and Kristin Haworth; *electionline.org* interns Kathryn Neal, Zach Prager, Hughes Bates and Alyson Freedman; and Mike Heffner and Mike Larson of 202design in Washington, D.C.

Of course, *electionline.org* itself would be impossible without the support of The Pew Charitable Trusts and the University of Richmond.

Finally, I want to personally thank the hundreds of people across the country – especially election officials at the state and local level, who have been the foot soldiers in election reform since November 2000 – for giving so generously of their time and knowledge in providing material and insights for this report.

*Doug Chapin, director
October 2002*



Table of Contents

■ Executive Summary and Introduction.....	5
■ Election Reform in Congress.....	11
■ Major Issues in Election Reform	15
■ Election Reform in Courts and Task Forces.....	21
■ Election Reform in the States	25
■ Endnotes and Methodology	87
■ Resources and Advisory Board	93



Executive Summary

Reform Takes Off in Congress and in the States

In early October, Congressional negotiators from the House and Senate approved a blueprint for a \$3.86 billion election reform bill nearly two years in the making. The bill requires provisional voting, voter identification, statewide voter registration databases, a federal commission to oversee voting practices nationwide and machines that identify voter errors. While some state legislatures waited for Congress before diving into election reform at home, a number of significant changes passed in 2002 will alter voting and election administration around the country for millions of voters when they return to the polls this year.

Among the reforms enacted in 2002:

- 11 states passed reforms – including machine and voter registration database upgrades – requiring federal funding to take effect
- 8 states passed provisional voting rules
- 8 states approved statewide voter registration databases
- 4 states approved forms of voter identification
- 11 states approved vote-counting, voter-intent or recount standards
- 9 states altered rules for absentee voters (in some states, that includes the introduction of no-excuse absentee voting)
- 2 states and the District of Columbia approved rules allowing teens to work in polling places
- 13 states did nothing or had idle legislatures

The 2001 edition of this report indicated that voters would return to the polls and find little had changed, despite widespread agreement that much needed to be done. In 2002, voters will notice some changes as states and localities implement election reforms. But, as a Congressional compromise marks the end of the beginning for election reform, this year's modest changes will pale in comparison to the likely deluge of state and local election reforms in 2003 and beyond prompted by the availability of federal funds and the requirements of federal standards.

The findings indicate most states will need to make changes to comply with the new federal election law. Some are well-prepared; others will need to scramble to meet mandates, accept federal funds and distribute those funds to localities for election improvements.

Voters in Florida, Georgia, Maryland, Texas, Washington and elsewhere will cast ballots on newer machines that identify errors. California is set to purchase modern voting equipment after voters approved a \$200 million bond measure for election modernization. Two counties in South Florida – Miami-Dade and Broward – will look to set things right in November after disastrous September primaries.



Introduction

A year ago, the Election Reform Information Project released its first comprehensive look at election reform around the country. *What's Changed, What Hasn't and Why: Election Reform Since November 2000* noted that as voters returned to the polls for the first time since the contested presidential race, “the way America votes remains for the most part unchanged, despite a continued call for improvement and substantial activity nationwide.”

In this, our second annual report on the state of election reform around the country, we find that the calls for improvement have not subsided even as the pace of reform has quickened. With America two weeks away from the first federal election since November 2000, our second look at election reform activity around the country and in Congress reveals a different picture than last year. Elections in the country will change for millions of voters.

Congressional negotiators have approved a blueprint for a sweeping \$3.86 billion election reform bill. While some state legislatures were either idle or hesitant to act in 2002, nearly every state in the country has in the past two years completed an exhaustive look at its election processes and found room for improvement. Most legislatures have passed bills ranging from technical corrections to vote counting and machine testing rules to full-blown overhauls of voting and registration systems. But many are still poised to act, waiting for Congress to start the flow of federal dollars so fixes – both desired and required – are in place by November 2004.

Ready to Act and Waiting for Federal Dollars

If 2001 was the year Congress and state legislatures studied elections, and 2002 was the year to respond accordingly, the late start for federal election reform could cause state legislatures to scramble to meet likely federal mandates and enact the “big ticket” items that state and non-governmental task forces called for. Budget deficits plagued many. Other lawmakers said they would not invest millions into election reform until the federal government anted up funds.¹

That money could soon be on the way. Senate and House leaders reached agreement on a conference report in early October, authorizing a \$3.86 billion, multi-year grant program for election upgrades. Lengthy disputes over identification provisions, enforcement authority and anti-fraud measures prevented any action on the bill before the end of fiscal year 2002. The popular and bipartisan bill, which calls for implementation of statewide voter registration

In May 2001, Gov. Jeb Bush proclaimed his state's election system would be, "not only the envy of the nation, but the envy of the world."



systems, machines that identify voter errors and allow "second-chance" voting and identification procedures, will substantially change elections around the country in time for the next presidential election. Whether those changes can be properly implemented in a short period of time remains an open question.

Changes Around the Country

Some upgrades have been completed, however. For millions of voters, the most obvious change will be new machines. Gone are decades-old punch-card systems, lever machines or paper ballots in Florida, Georgia, the District of Columbia and in parts of California, Texas, Maryland, Louisiana, Minnesota and Washington State. The replacements, sleek color touch screens or optical scanners, will alert voters to potential errors on their ballots and are supposed to collect votes more accurately and calculate results more quickly.

New procedures and safeguards, such as provisional voting, voters' bills of rights, identification requirements and improved database maintenance and purge processes have been enacted in a wider swath of the country, including Colorado, Michigan, Maine, Wyoming, Missouri and South Dakota.²

Since 2000, more than a third of the states have enacted recount procedures to avoid the pictures of election judges peering at punch cards held up to florescent lights in Palm Beach County or established statewide recount procedures to side-step close-race chaos.

In parts of Florida, new procedures and machines contributed to, rather than diminished, election-day chaos.

The Florida Debacle II

It only took a minute for voters, candidates and election administrators to realize things were going horribly wrong in Florida's September 10 primary – one minute after 7 a.m. In the state's two largest counties, Broward and Miami-Dade, polls were supposed to open, high-tech touch-screen machines were supposed to be brightly lit, easy to use, and quietly calculating votes without punch cards, chad or styluses.

Many remained dark. Poll workers stayed home and machines refused to boot up. Janitors forgot to unlock doors to polling places. When the polls finally opened in many places, problems worsened. Democrats received Republican ballots, and Republicans received Democratic ones. Voting equipment froze up, as did poll workers who didn't seem to understand the new machines despite county-run training classes.³

No state put more money or effort into election reform than the Sunshine State since the November 2000 election that became known nationally as the “Florida fiasco.” A task force led to a legislative package. That led to a \$32 million state appropriation and millions more in local funds to purchase thousands of new machines. In May 2001, Gov. Jeb Bush proclaimed his state’s election system would be, “not only the envy of the nation, but the envy of the world.”⁴

By noon on September 10, 2002, it was clear – to Bush and most others watching the state – that Florida was not the envy of anyone. In fact, it was looking more like a two-time loser plagued with an acute case of electoral dysfunction.

‘The Real Substance’ of Reform

What lesson can be learned from the disasters in Miami-Dade and Broward? Doug Lewis, executive director of the Election Center, a Houston-based umbrella organization of state and local election administrators, said it presents a striking example of the limits of pushing through even well-intentioned changes.

“If you look at a policy without implementation, you can have problems on your hands,” Lewis said. “When you look at the problems of election 2000, we remind everyone of what we said from the beginning. It’s not technology, it’s not civil rights. It’s how you do your jobs better. It’s policy, laws, people, training and procedures. That’s where the real substance of this reform has got to come through.”

Civil rights advocates, including the NAACP and People for the American Way, have said that ensuring everyone has the right to vote and have that vote counted is the most important outcome of election reform. And so far, places such as South Florida reveal that the elimination of widespread disenfranchisement, whether by machine, by faulty registration purges or a lack of safeguards for voters, has yet to be achieved.

The blame, they say, is shared.

“It is a sheer travesty of justice that many voters in Florida were disenfranchised for the second time in as many years. Congress bears much of the blame for [not having passed] a federal bill that would institute minimum election standards for voting across the nation,” said NAACP President Kweisi Mfume in a statement just after the Florida primary.

But for the many states that have implemented changes, November presents both a challenge and an opportunity. A challenge for election administrators, voters and systems to handle what has changed in elections, or deal with outdated systems and procedures that still require money and attention from the federal government for upgrades; and an opportunity for those that have made changes to avoid the mistakes of Miami-Dade and Broward and prove that with money, training and rules, elections can be made better.

Election Reform in Congress

CHRONOLOGY

- **November 7, 2000** – Election Day; reports of widespread voter confusion in Florida related to ballot design and voter registration lists
- **December 12, 2000** – Supreme Court opinion in *Bush v. Gore* effectively ends 2000 Presidential election controversy
- **December 15, 2000** – First Congressional legislation in response to 2000 election controversy introduced in lame-duck session of 106th Congress
- **January 3, 2001** – 107th Congress convenes; first election reform legislation introduced, including the Election Reform Act of 2001 (H.R. 263/S. 218), sponsored by Rep. Tom Davis, R-Va. and Sen. Mitch McConnell, R-Ky.
- **March 14, 2001** – Senate Rules Committee (chaired by Sen. McConnell) holds hearing on election reform
- **March 19, 2001** – Sen. Christopher Dodd, D-Conn. and Rep. John Conyers, Jr., D-Mich., introduce Equal Protection of Voting Rights Act of 2001 (S. 565/H.R. 1170)
- **May 24, 2001** – Sen. McConnell and 70 Senate co-sponsors introduce the Bipartisan Federal Election Reform Act of 2001
- **June 6, 2001** – Democrats take control of Senate following decision of Sen. Jim Jeffords, I-Vt., to leave the GOP and vote with Democratic caucus as independent; as a result, Sen. Dodd becomes chair of Rules Committee
- **June 27-28, 2001** – Chairman Dodd convenes Senate Rules Committee for two days of election reform hearings
- **July 23, 2001** – Senate Rules Committee holds field hearing in Atlanta, Ga.

Chronology continues on next page

Congressional negotiators surprised almost everyone on October 4 by announcing that they had reached agreement on a compromise \$3.86 billion, multi-year commitment to election reform which offers states and localities federal funds and federal standards for election reform.

Although the bill, H.R. 3295, had not yet gone to the House and Senate for a final vote when this report went to press, it was expected to receive overwhelming support and President Bush's signature. Civil rights groups expressed concerns with some of the anti-fraud measures in the bill, but their opposition was not seen as harming the bill's chances.

The compromise stunned even the most faithful observers of the Congressional election reform debate, especially since the bill had been believed all but dead.

It was that kind of year for election reform in Congress.

Richard Smolka, editor of *Election Administration Reports*, laughs about how his newsletter's biweekly publication schedule has saved him more than once as Congress debated election reform legislation.

"Things have changed so suddenly in Congress that I was lucky I published every other week," he says. "I can't tell you how many times I wrote something [about election reform] that was wrong three days later – but was right again by the time I went to press."

After confusion about if and when a bill would come to the floor in each chamber, huge majorities for separate versions of H.R. 3295 (362-63 in the House in December 2001 and 99-1 in the Senate in April 2002) led to widespread initial optimism that a bill would be enacted by the summer.

Then, as the whole process slowed to a crawl in a conference committee, pessimism became the order of the day as targeted deadlines passed without an agreement.

With everyone preparing to start the debate anew in the 108th Congress in January 2003 (or even in a post-election lame-duck session of the 107th Congress), Congress' 11th-hour compromise was simply par for the course.

The compromise would, in part:

- provide \$3.86 billion over the next four years for election reform improvements, including \$650 million for buyouts of "antiquated" punch-card and lever machines;
- establish a new federal agency, the Election Assistance Commission;
- impose anti-fraud measures such as voter ID for some voters and citizenship questions on registration applications;

Election Reform in Congress CONTINUED



Recent events suggest that any legislation that directly or indirectly equates election reform with new voting machines risks missing the mark.

- **August 2, 2001** – Rules Committee votes to report S. 565 to full Senate favorably as Committee Republicans boycott markup
- **November 14, 2001** – Rep. Robert Ney, R-Ohio, and Steny Hoyer, D-Md., introduce “Help America Vote Act of 2001” (H.R. 3295)
- **December 5, 2001** - House Judiciary Committee holds hearing on H.R. 3295
- **December 10, 2001** – House Administration Committee reports H.R. 3295 favorably to full House
- **December 12, 2001** – House of Representatives debates H.R. 3295; Democratic attempt to amend bill fails 197-226; bill passes 362-63
- **December 13, 2001** – Sens. Dodd, McConnell, Kit Bond, R-Mo., and Charles Schumer, D-N.Y., announce bipartisan compromise on election reform

- require improved access to the polls and voting machines for voters with disabilities and voters with limited English proficiency;
- mandate that states establish provisional voting by 2004 and statewide voter databases by 2006; and
- fund efforts to encourage greater youth involvement at the polling place.

As everyone affected by or interested in election reform dissects the fine print (one staff negotiator concedes that the compromise legislation is “a hard bill to read”), a few major points are worth noting in the aftermath of Congress’ roller-coaster ride to election reform:

Federal deference to state and local control of elections appears to have been transformed into a growing preference for state coordination of elections.

Following November 2000, there was substantial interest in uniform federal standards for elections. But as noted in our report last year, this quickly subsided as even the most outspoken critics, including former President Jimmy Carter, acknowledged that control of elections belonged at the state and local level.⁵

However, as negotiations in conference continued, it became increasingly clear that Congress would look to states rather than localities to implement federal election reform. This trend is reflected in the text of the final compromise.

For example, the Senate’s preference for competitive grants was scrapped in favor of the House’s preferred population-based block grants. The result is that localities will have to seek their share of funds through the state rather than applying directly to the federal government.

Similarly, the compromise requires statewide voter registration databases – a key component of reform – to be managed and controlled at the state level and matched against other state-level data such as motor vehicle records. When building new databases, most states have shared control with localities. Such an arrangement might not pass muster in the new federal bill.

Even basic structural issues point to a greater role for the states. As a condition of federal funding, states must prepare and certify a state plan for reform. And, as part of the compromise on enforcement – Democrats had sought to allow citizens to file their own lawsuits, which the Republicans opposed – states are required to set up a formal grievance procedure for voters who believe their rights have been violated.

The growing focus on state control could catch several states unprepared. As

Election Reform in Congress CONTINUED

- **February 13-15, 2002** – Senate debates S. 565 (revised to follow Dodd-Bond compromise)
- **February 25-27, 2002** – Senate debates S. 565; controversy develops over voter identification requirement
- **March 1, 2002** – Senate Republicans begin filibuster on election reform; Senate fails to invoke cloture on S. 565
- **March 4, 2002** – Second cloture vote fails; negotiations begin on resolving impasse
- **April 10, 2002** – Debate on S. 565 resumes after compromise reached
- **April 11, 2002** – Senate passes S. 565 by a vote of 99-1; amends H.R. 3295 to match S. 565; requests conference

The compromise stunned even the most faithful observers of the Congressional election reform debate, especially since the bill had been believed all but dead.



- **May 1, 2002** – Senate appoints conferees: Sens. Dodd, McConnell, Bond, Schumer, and Sen. Richard Durbin, D-Ill.

Chronology continues on next page

electionline.org discovered in a September 2002 study, 18 states provide no funding to local election offices, 11 provide no training to local poll workers and five have no statewide standards for voting equipment purchased by local offices.⁶

Now that the federal election reform compromise places most of the ultimate responsibility and authority for reform in states' hands, states with a traditionally laissez-faire approach to relations with local election officials will have their work cut out for them.

The focus on new voting technology as the centerpiece of reform may be too narrow given recent election experiences, such as in Florida.

For all the debate about the details of the federal election reform compromise, the truth is that it is essentially a vehicle for funding – and defining the requirements – of new voting technology. While this might have been an appropriate response to a problem defined by antiquated machines, over-votes and under-votes, recent events suggest that any legislation that directly or indirectly equates election reform with new voting machines risks missing the mark.

Consider Florida. Following its November 2000 embarrassment, the Sunshine State authorized more than \$30 million for local governments to purchase new voting machines. And yet, once the new technology received its first real test in the September 10 primary election, it became apparent that new machines are not always a silver bullet for successful reform.

In Florida's two largest counties (Broward and Miami-Dade), poll workers had difficulty starting, operating and shutting down their state-of-the-art touch-screen voting machines, resulting in delays and chaos at the polls.

In the aftermath, it was revealed that while these two counties had spent over \$40 million to purchase their new machines, they had not followed up with sufficient training of poll workers and had significant difficulty in recruiting enough workers to staff their polls. By contrast, other jurisdictions that had invested in training saw their primaries go much more smoothly.

The lesson that Florida officials and others have drawn from the experience is that training matters. Thus, provisions in the compromise that may have been overlooked in the fanfare over billions of dollars for new equipment – such as funds for training of election officials and poll workers and the "Help America Vote Foundation," which will encourage high school and college students to volunteer as poll workers – might in the long run prove to have more impact than the purchase of new machines.

Election Reform in Congress CONTINUED

- **May 16, 2002** – House appoints conferees: Reps. Ney, Hoyer, and 19 other Representatives from five committees; by voice vote, House instructs conferees to insist on House’s punch-card buyout provision and provision making grants to states by voting age population formula
- **June 19, 2001** – By a vote of 206-210, House rejects motion by Rep. Alcee Hastings, D-Fla., to instruct conferees to reject language in Senate version regarding effective dates for equipment standards and applicability of accessibility provisions
- **July 9, 2002** – By a vote of 410-2, House adopts motion by Rep. James Langevin, D-R.I., instructing conferees to accept Senate’s stricter requirements for accessibility of voting systems for voters with disabilities
- **July 24-26, 2002** – Trying to beat adjournment for August recess, House and Senate staff trade competing proposals but no agreement reached
- **August 2, 2002** – President Bush signs 2002 supplemental appropriations bill (H.R. 4775) containing \$400 million for election reform as part of \$5.1 billion in “contingent emergency” spending; funds can only be spent if President declares emergency by September 1
- **September 1, 2002** – President Bush rejects all contingent emergency spending in H.R. 4775
- **September 19, 2002** – House votes 365-26 to approve motion by Rep. Maxine Waters, D-Calif., instructing House conferees to take all appropriate action to file a conference report on H.R. 3295 by October 1, 2002
- **September 26, 2002** - House votes 385-16 to approve motion by Rep. Eddie Bernice Johnson, D-Tex., instructing House conferees to take all appropriate action to file a conference report on H.R. 3295 by October 1, 2002
- **October 2, 2002** – House votes 410-14 to approve motion by Rep. Carrie Meek, D-Fla., to instruct House conferees to convene public meeting of conference committee and file a conference report by October 4, 2002
- **October 4, 2002** – Conference committee announces \$3.86 billion compromise on H.R. 3295
- **Mid- to late October 2002** – Expected final enactment of H.R. 3295 following Congressional passage and presidential approval

As election reform efforts continue in the wake of the compromise, it will be interesting to see if the focus of election reform remains on the purchase of new machines, or if the lessons of 2000 have been informed by those of 2002.

In the end, the Congressional compromise represents only the end of the beginning for election reform, as states and localities decipher the bill’s requirements and wait for Congress to make good on promises of federal funds.

In early 1942, British Prime Minister Winston Churchill was asked if an Allied victory at El Alamein, Egypt signaled the end of the Second World War. He demurred, saying “Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning.”⁷

So it is with election reform in the wake of the Congressional compromise. After two years of study and fitful progress toward reform, Congress has now officially put the federal government’s stamp on election reform.

As details of federal election reform legislation come to light, the next step for legislators, policymakers and election officials across America will be to start on the under-appreciated but crucial work of implementation.

Much of this examination will occur in the planning process required by the bill, but just as likely it will come through word of mouth and even trial and error. The process could rival summer 2001 – when task forces of every stripe

weighed in on election reform – for intense interest and potential for disagreement.

In Washington, Congress will need to deliver the promised billions of dollars earmarked for election reform. Presently, the nearly \$3.86 billion included in the compromise is still just an authorization. Inside the Beltway, it is an aphorism that “authorization is not appropriation” – meaning that Congress needs to take further action to convert the promised federal funds into checks to be cashed by states in support of their reform plans.

In one sense, the surprising emergence of Congress’ election reform compromise in October 2002, nearly two years after November 2000 put election reform on the national agenda, marks the end of the debate about the federal role in election reform. For states and localities that must do the work of reform, however, it is merely the “end of the beginning” for election reform, which will continue in earnest in 2003 and beyond.



Major Issues in Election Reform 2001-2002

The presidential vote of 2000 opened the eyes of the American public to an issue that previously they had rarely considered – the administration of elections. But as election problems commanded major headlines, that changed – and with it did the attitudes of many state lawmakers who, until that time, had left some or most election responsibility to local officials.

No state wanted to be “another Florida.” Some lawmakers insisted that procedures and practices in their state ensured that Boise could not be Broward, Memphis could not be Miami, or Provo could not be Palm Beach. Nonetheless, election reform debates that started in state capitals in 2001 continue to this day, as almost every state took a look at what could be changed or what would have to be done in preparation for a possible federal overhaul of election mandates.

Over the course of the past two years, those debates evolved from finger-pointing at punch cards and butterfly ballots to much more complex discussions of polling place procedures and registration practices. Machines continue to be a major issue. More and more states have or are seeking to upgrade their aging fleet of voting machines and ballot tabulators.

But as a number of task forces – including the National Commission on Federal Election Reform, the Constitution Project and numerous state panels – have suggested, more changes will be necessary at the polls to restore confidence in the nation’s disparate election systems.

Aside from machines, three major issues emerged during the past two years – all three of which have now been addressed by House and Senate negotiators in their conference agreement released in early October.

Provisional Voting

Provisional voting allows voters who believe they are registered but whose names do not appear on precinct rolls to cast ballots and have their eligibility determined after they leave the polls. In Florida’s 2000 election, voters who were turned away from the polls after their names were mistakenly purged from registration rosters had no such protection.

Congress calls for states to enact some form of provisional voting as a minimum standard in proposed federal legislation. Task forces have called provisional voting essential to ensuring that voters who believe they are registered, and through no fault of their own are lost in a vast state or local bureaucracy, have an opportunity to cast ballots.⁸

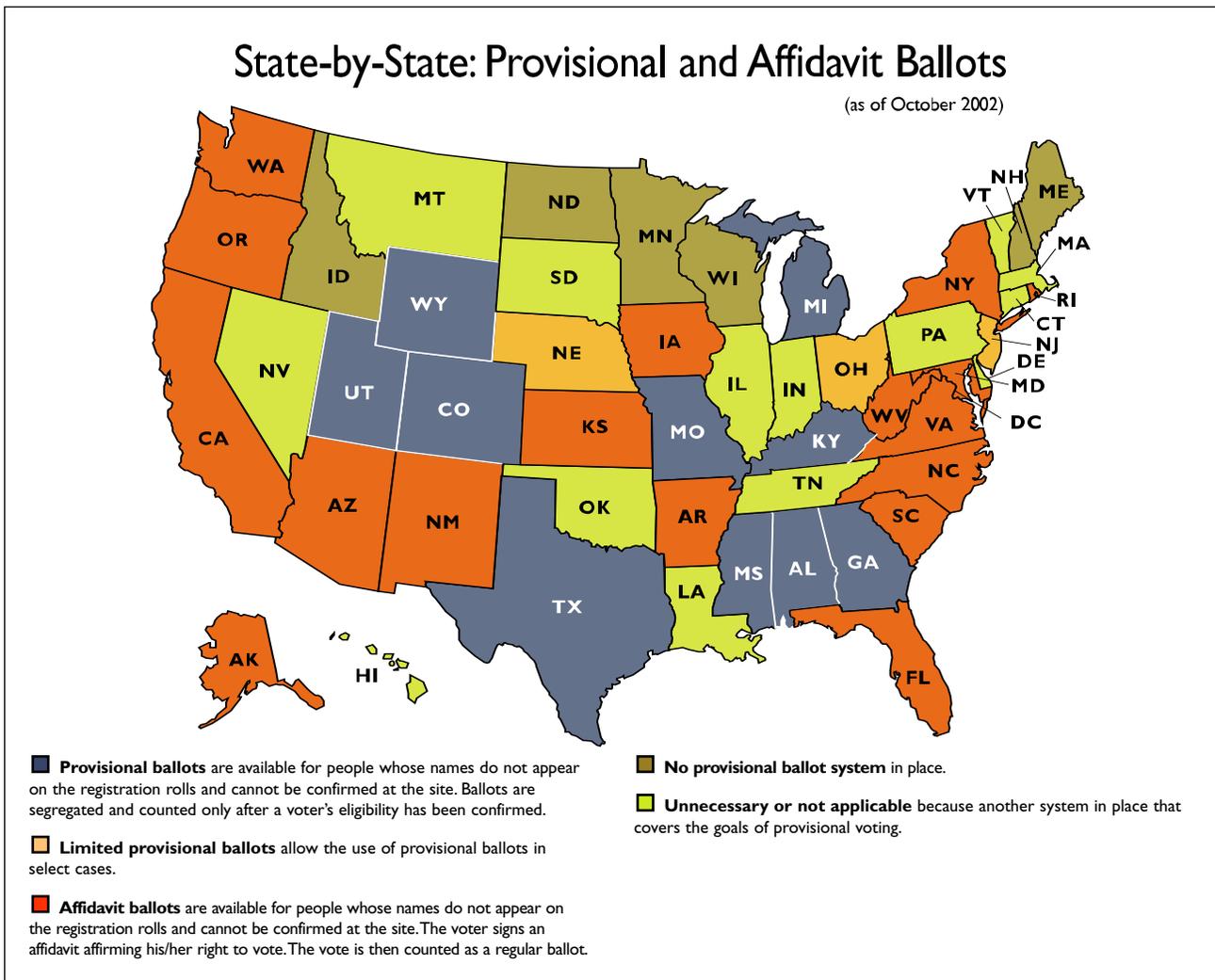
Major Issues in Election Reform 2001-2002 CONTINUED

A study by *electionline.org* and the Constitution Project's election reform initiative conducted in late 2001 found that 22 states would have to change their current practices to comply with proposed federal law.⁹ A number of those either enacted provisional voting or made changes to existing provisional voting rules in 2001 and 2002, including Florida, Indiana, Maryland, Utah, Nebraska, Missouri, Wyoming, Colorado and Nevada.¹⁴

Forms of provisional voting vary around the country in the states that have it.¹¹ In states with provisional ballots, only some allow ballots cast by voters in the wrong precinct to be counted. In a few states and Washington, D.C., voters are notified whether their provisional ballots were counted in the election and made aware of their registration status after an election.

In 2002, eight states enacted provisional balloting or altered provisional ballot voting rules.

MAP PROVISIONAL VOTING

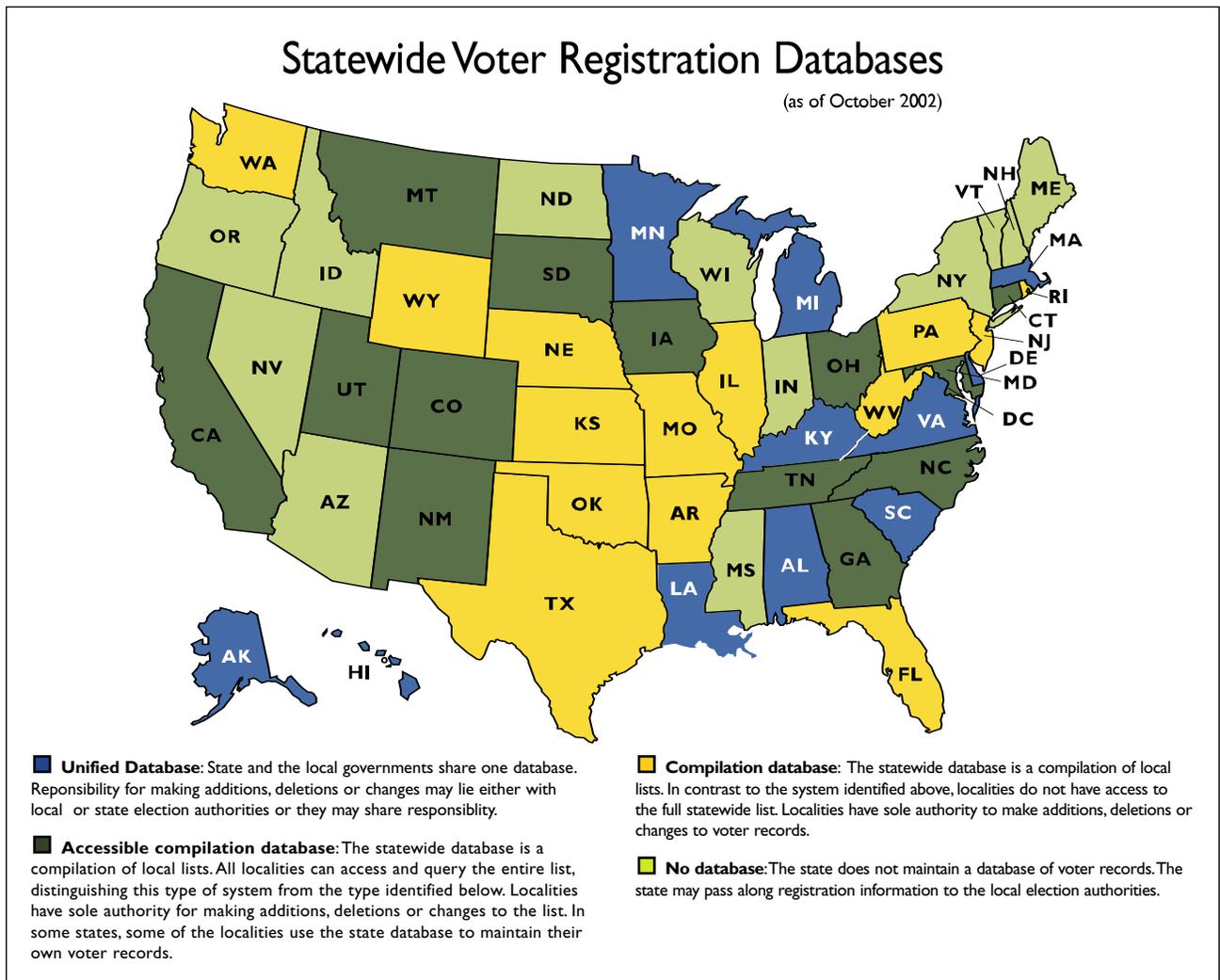


Statewide Voter Registration Databases

Florida’s November 2000 election offered an example of how flawed registration lists can disenfranchise voters. In that state, a government commission found, hundreds of qualified voters were erroneously removed from county registration rolls after a private company purged their names after confusing them with a list of ineligible felons.¹²

A failure to update registration records or remove people who should no longer be on the rolls is a problem vexing a number of states. In most of the country – 40 states in all – registration is handled by localities, with sharing of lists ranging from regular updates to the state to identifying duplicate listings or voters who moved or, in some cases, a static list used only to compile registration data in order to comply with the National Voter Registration Act (NVRA).¹³

MAP
STATEWIDE VOTER REGISTRATION
DATABASES





Major Issues in Election Reform 2001-2002 CONTINUED

One potential solution used by 10 states is an interactive statewide voter registration database offering real-time updates of records, file-sharing between counties and unique identifiers for each voter in the state to guard against both disenfranchisement through accidental purges and fraud. There is widespread agreement on the need for such databases among lawmakers, Congress and task forces. Congress will make it a national requirement. But costs are substantial. New databases can cost states millions of dollars to create and hundreds of thousands of dollars per year to maintain.¹⁴

In 2002, however, a number of states moved ahead, creating study groups to design statewide registration systems and establishing a timeline for their introduction. See the map on previous page.

Voter Identification

Unlike provisional voting and statewide voter registration databases, the issue of how to identify voters at the polls is far from a consensus issue. Republicans, Democrats, civil rights advocates and anti-fraud crusaders disagree bitterly on identification requirements at the polls.

States currently use a variety of methods to identify voters, from a poll worker “Hello” in rural states such as Kansas and North Dakota to a “show or go” policy in South Carolina that only allows ballots to be cast after an identification, such as a driver’s license, registration card or other state-issued ID, is presented.¹⁵

Supporters of voter identification requirements at the polls say the check is no more onerous than requiring ID at airport, video store or library.

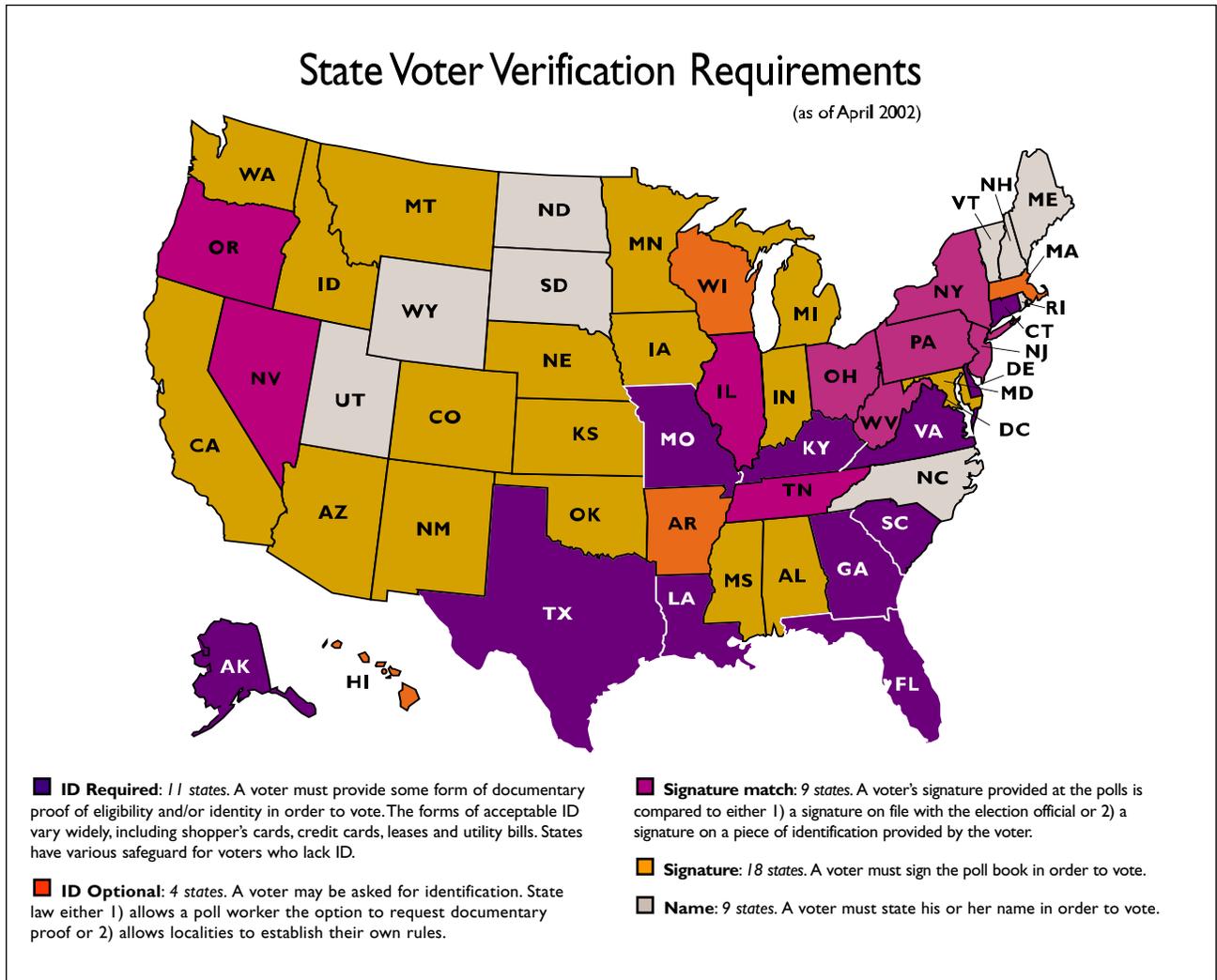
“Why is it acceptable to require photo ID to board an airplane, or buy cigarettes, or alcohol, but it is not acceptable to require some kind of identification to carry out the most important of our civic responsibilities,” said Sen. Christopher “Kit” Bond, R-Mo., on the floor of the Senate earlier this year. “We have a responsibility to ensure that all legally cast votes are counted and an equal responsibility to ensure that legally cast votes are not nullified by illegal votes.”¹⁶

Opponents contend that any barrier to voting, including identification requirements, will disenfranchise certain groups disproportionately – especially low-income voters, minority voters and elderly voters.¹⁷

Since November 2000, voter identification has been introduced in a number of states, usually leading to pointed debates among legislators and election officials. New Hampshire lawmakers approved a voter ID provision, only to have the bill vetoed by the Democratic governor. A similar measure in New Mexico failed and among its most vocal opponents was the state’s election director. As part of its comprehensive election reform legislation, Florida enacted voter identification at the polls.

Major Issues in Election Reform 2001-2002 CONTINUED

MAP
VOTER IDENTIFICATION



Major Issues in Election Reform continues on page 19.

Election Administrators' Attitudes Toward Reform

In January 2002, *electionline.org* released the first-ever survey of election officials' attitudes toward reform.¹⁸ The findings, presented throughout this report, find a surprising difference in opinion between state and local election officials on a number of issues.

State officials were more likely to believe Florida's 2000 election had an impact on their election plans and administration. While 72 percent of state election officials said Florida had a "major" or "minor" impact on their plans for future elections, 60 percent of local officials said it had no impact at all. Only 4 percent of local officials said they found task force reports on election reform conducted by non-state organizations helpful. That number jumped to 25 percent for state officials.

On the issue of impending federal standards for elections, that divergence of opinion was just as evident. Asked whether they supported or opposed federal standards on voting technology and machines, 22 percent of state officials said they opposed them while more than twice as many local officials – 47 percent – expressed opposition.

Money appeared to drive consensus, and based on the survey responses early this year, state election administrators will likely embrace federal election reform. That may be because 54 percent of state and local officials said the biggest obstacle to election improvements is a shortage of funds.

Money appeared to drive consensus ... state and local officials said the biggest obstacle to election improvements is a shortage of funds.





Election Reform in Courts and Task Forces

There was a sense immediately following the Supreme Court decision in *Bush v. Gore* that the case would produce a rash of high-profile lawsuits across the country applying the Supreme Court's equal protection analysis to state and local elections in other states.

But like so many other predictions post-November 2000, it didn't work out that way. Still, despite the lack of headlines, the courts have not been silent on election reform.

This year has been a busy one for election reform litigation. Perhaps not in the sense of landmark decisions – which are generally as rare as they are spectacular – but rather in the more workmanlike daily pace of complaints, discovery and settlements: the bread and butter of the judicial system.

The end result was not a sweeping decision of nationwide significance but a series of smaller yet important developments that future plaintiffs and defendants will look to in shaping the pace and direction of further reforms. The highlights:

- In California, a federal judge ruled that the state must replace its punch-card voting machines by 2004 – substantially shortening Secretary of State Bill Jones' (R) deadline of 2005;¹⁹
- State and local election officials in Florida reached agreements with minority plaintiffs regarding the state's voter database, provisional ballots and poll worker training, as well as with the federal government regarding multilingual poll workers and ballot materials, though a lawsuit challenging the state's plan to identify felons on its voter list was dismissed;²⁰
- In St. Louis, local election officials reached a settlement with the U.S. Department of Justice regarding the city's voter lists – a deal that almost fell through until the federal government agreed to require the city to spend an estimated \$600,000 on new technology to verify voters' eligibility to vote. The requirement for additional spending was demanded by city officials as proof that St. Louis was serious about reforming its election process;²¹
- In the District of Columbia, the city agreed in August to place one touch-screen voting machine in each precinct after plaintiffs for disability groups filed suit alleging that the city's new optical-scan ballots denied visually impaired voters the right to a secret ballot;²² and
- In another technology-related case that could have ramifications nationwide, a state court ruled in September that touch-screen machines in Riverside County, California, are not prone to "fraud or manipulation due to the use of proprietary software and the absence of a voter-verified paper trail."²³



Election Reform in Courts and Task Forces CONTINUED

These cases – plus those likely to be filed in the wake of problems with Florida’s September primary – will continue to shape and direct what policymakers and election officials are able to accomplish with respect to election reform in 2003 and beyond.

Election Reform Reports 2002

A host of high-profile officials and organizations convened task forces last year to examine what went wrong in 2000 and how to fix it. That discourse was mostly absent from the election reform arena in 2002, as policymakers and advocacy groups focused on implementation in preparation for this year’s elections and beyond.

Task force recommendations and findings were a key component of election reform efforts in 2001. Although many expected these task forces, such as the National Commission on Federal Election Reform and a joint effort by the Massachusetts Institute of Technology and the California Institute of Technology, to push for wholesale changes to the American election system after the Florida fiasco, their final reports did mostly the opposite: They reinforced the notion that states should control elections, but they also called for the federal government to provide funding for some reforms. That principle generally guided the drafting of compromise election reform legislation in Congress.

But in 2002, attention has shifted from examination to implementation, as evidenced by the news coverage devoted to the roller-coaster travails of the federal voting overhaul bill and the latest voting problems in Florida. Still, some organizations and states did release significant task force reports this year, although none was so important to warrant a Rose Garden ceremony as the Carter-Ford report did in August 2001.

The Report Card

The NAACP issued perhaps the most controversial report in July with its 2001 report card on election reform. The NAACP found that only five state governors had signed into law important election reform legislation and concluded that “the vast majority of states put off election reform until the 2002 legislative session because they were waiting for federal leadership.” Six states – Delaware, North Dakota, Pennsylvania, Tennessee, Texas and Vermont – received failing marks. Michigan garnered the highest grade with an A-minus and only seven other states received some type of B.²⁴

Officials from some states that did not perform well in the survey criticized the NAACP’s methods, but Michigan Secretary of State Candice Miller was pleased with her state’s grade.

“We are committed to making certain that every vote counts in Michigan and we believe our commitment is reflected in the NAACP’s report on election reform,” Miller said in a statement.

Common Cause also issued a report card in November 2001 of state election reform efforts. The group found that “only a handful of states have made any improvement in their election laws” since the 2000 election. Only Alaska and Minnesota received A’s in the report card, while Florida jumped from an F in 2000 to a C in 2001.²⁵

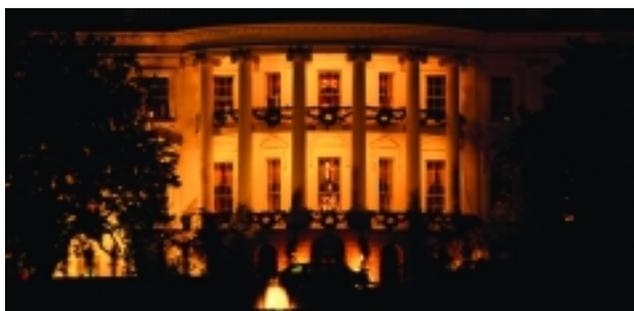
Election Reform in Courts and Task Forces CONTINUED

Earlier in the summer, The Election Center's National Task Force on Election Reform, comprised of state and local administrators, released an evaluation of Congressional election reform legislation. The task force urged Congress to fully fund any federal mandates that are included in a final bill. It also stressed that federal reforms should not become effective before the 2004 elections at the earliest.²⁶

State Task Force Reports

Only a handful of states issued election reform task force reports in 2002. New York State's Task Force on Election Modernization released in June what is expected to be a highly influential report. The panel called for the state to upgrade its lever machine voting systems by 2004. The recommendations led Gov. George Pataki (R) to propose a bill to change the state's full-face ballot requirement, which prevents the implementation of modern touch-screen technology. The state's legislature is expected to take up election reform in the 2003 session.²⁷

In Florida, the final report of the Secretary's Select Task Force on Voting Accessibility found "significant, severe and pervasive obstacles that have been placed in the path of Florida's voters with disabilities." The January report called on the state to adopt new accessibility standards to remedy these problems.²⁸



Some organizations and states did release significant task force reports this year, although none was so important to warrant a Rose Garden ceremony as the Carter-Ford report did in August 2001.

In New Jersey, the Law Revision Commission called for the adoption of a statewide voter registration system and the creation of a statewide agency, The Commission of Elections, to make a number of election procedures now governed by local statutes uniform statewide.²⁹

Local Reports

Officials from two of the nation's most notable voting jurisdictions – Los Angeles County, California, and Palm Beach County, Florida – released reports in April that provided insight into their election administration. Both had problems during March elections and both sought to respond to criticisms of their performances. The Los Angeles report, prepared by County Clerk Conny McCormack, painted a bleak portrait of future elections in the nation's largest voting jurisdiction if election laws continue to change and more money is not allotted to administering them. On the other hand, the Palm Beach report from elections supervisor Theresa LePore was upbeat in response to criticism of the county's new machines and poll workers.³⁰

State Findings

- *11 states passed reforms – including machine and voter registration database upgrades – that await federal funding*
- *8 states passed provisional voting rules*
- *8 states approved statewide voter registration databases*
- *4 states approved some form of voter identification requirements*
- *11 states approved vote counting, voter intent or recount standards*
- *9 states altered rules for absentee voters (including the introduction of no-excuse absentee voting in some states)*
- *2 states and the District of Columbia approved rules allowing teens to work in polling places*
- *12 states did nothing or had idle legislatures*

If 2001 was the year state lawmakers awaited task force reports and blue-ribbon panels to tell them how to best proceed with election reform, 2002 was the year that many of them got down to business on election reform.

With national elections two weeks away, a handful of states have made substantial changes in the way they conduct elections. A much larger number have made minor reforms or procedural changes designed to avert the kind of problems found in Florida in November 2000. And 13 more did nothing – either because their legislatures were idle or because they continued to look to a federal election reform bill for guidance before enacting reforms of their own.

Waiting for Washington (officially)

The agreement between House and Senate negotiators released on October 4 will offer that guidance. Well before that agreement was reached, however, lawmakers in 11 other states codified waiting for Washington into state law. Lawmakers in Florida, Iowa, Idaho, Indiana, Maine, Michigan, Mississippi, Missouri, Oregon, Rhode Island and Washington passed bills to establish statewide voter registration databases, grant programs to upgrade voting machines and/or purchase voting systems accessible to voters with disabilities and approved legislation



For millions of voters, casting ballots will be quite a bit different when they return to the polls on November 5.

dependent upon federal election reform funds. For more details on the bills approved, see each individual state's listing beginning on page 29.

Machines

As some states wait for money to fund new voting systems, a handful of states and localities forged ahead with purchases of machines that identify voter errors, allow voters with disabilities to cast a secret and independent ballot or both. For millions of voters, casting ballots will be quite different when they return to the polls on November 5. Familiar but much maligned punch cards have been scrapped in a number of states and counties in favor of more modern machines.

Those casting ballots at polling places in Florida, Washington, D.C. and Georgia will do so on machines that identify errors and reject ballots that contain them, allowing opportunities for corrections. The same will be true in a number of other counties and cities around the country.

Legislatures in four states banned future purchases of punch-card voting systems, including California, Indiana,

Iowa and West Virginia, paving the way for higher-technology machines, including touch screens and optical scanners.

Provisional Voting

Following Florida's lead, eight states either introduced or revised provisional voting to allow voters who believe they are registered but are not on the rolls, to cast special ballots and have their eligibility determined after they leave the polls.

Provisional voting, affidavit ballots or some limited form of either system – recommended by every major task force and a requirement of the federal election reform bill negotiated by House and Senate conferees – is now available to voters in 31 states and unnecessary in others because of election-day procedures.³¹

Of those states that approved provisional voting, most – including Colorado, Virginia, Maryland, Indiana and Utah – allow provisional ballots to be cast only by voters who show up at the correct precinct. Voters who are unsure of where they should vote are allowed to cast a provisional ballot anywhere in the correct county in Georgia, and under certain circumstances in Indiana and Wyoming.

Voter Identification

Missouri voters will need to present state-issued identification if two poll workers do not recognize them at the polls. Identification rules changed in three other states as well.

First-time voters who register by mail in Wyoming will need to present identification at the polls. The provisions are identical to federal election reform mandates agreed to in the Congressional conference.

Indiana will require voters to give the last four digits of their Social Security number when they register. State election officials said requiring numbers, rather than photo identification, will be less burdensome for voters and can guard against double registrations.

Voter Education, Bill of Rights and Other Reforms

Connecticut passed a voters' bill of rights, while Florida and Georgia, as part of their continuing comprehensive election reform, appropriated more money for voter education. Florida lawmakers also approved a bill that "softened" the language in the state's voter's bill of rights (passed in 2001), adopting less-stringent language in the section on "Voter Responsibilities."

State-by-State Highlights

- **California** voters narrowly approved a \$200 million bond measure in 2002 to purchase new voting machines in the state. Lawmakers also shortened the deadline by which voters had to register to vote from 29 days to 15 days. If voters approve a measure in November, the state will allow election-day registration.
- **District of Columbia** voters cast ballots for the first time this September on optical-scan voting machines while the city allowed teens to work at the polls.
- **Florida**, building on comprehensive reforms in 2001, established a deadline for making both polling places and machines accessible for people with disabilities by 2004.
- **Georgia's** reform-minded legislature, secretary of state and governor furthered a package of reforms passed in 2001. New touch-screen voting machines will be used statewide in November and voters will be allowed to cast provisional ballots.
- **Indiana** lawmakers adopted new laws to end the use of the maligned punch-card voting system, to institute an online, interactive statewide voter registration system and to develop rules for counting disputed votes and recounting ballots in close races. A state budget crunch has left expensive reforms in limbo until financial aid arrives from Washington.



State Findings CONTINUED

- **Iowa** banned the future purchase of punch-card machines.
- **Missouri's** comprehensive 2002 election reform package includes the adoption of provisional ballots, tougher voter identification rules, statewide vote-counting standards, a fund to purchase new voting machines and posted instructions at polling places.
- **Rhode Island** lawmakers approved a fund to receive federal money to purchase touch-screen machines that will be available statewide to voters with disabilities. The state will also create a statewide voter registration system when federal money becomes available.
- **Utah** voters will be able to cast provisional ballots if they arrive at their precinct, believe they are registered but are not on poll rosters.
- **Washington** approved a statewide voter registration system contingent upon federal funding. State officials also clarified voter-counting and voter-intent standards.
- **Wyoming** lawmakers approved provisional voting and refined vote-counting standards.

Alabama

In February 2001, just two months after the U.S. Supreme Court halted the 2000 presidential recounts in Florida, Alabama Secretary of State Jim Bennett (R) stood before the Governor's Task Force on Election Procedures and said this was the state's "great opportunity" for meaningful election reform. He outlined a series of recommendations, including voter identification provisions, uniform poll hours and improvements to voter registration software.



MAJOR REFORMS IN 2002

- Statewide voter registration system

February 2002, 200,000 voters who had died or moved were removed from rolls after the final four counties joined the statewide registration database. All 67 counties now are under a single computerized system, known as the Alabama Voter Information Network (ALVIN), which allows the state to track voters and update their records as they move from county to county. Bennett had instigated the clean-up in 1989, when he was a state senator, but it was perpetually delayed because of lack of funding.

No to Voter ID

Despite Bennett's call to action, little significant legislation has been enacted. In 2001-02, Alabama lawmakers tweaked some laws but skirted many other issues that have been at the forefront of election administration the past two years. While the legislature stalled, a 13-year mission to complete a statewide registration database finally fell into place modernizing and streamlining the state's voter roster.

New Rules, New Laws

Among the reforms enacted by the Alabama Electronic Voting Committee, a panel with statutory authority, were rules clarifying voter intent in instances where a machine cannot count a ballot.

Under the rule change, said Ed Packard, the state's National Voter Registration Act coordinator, a vote stands unless it is impossible to discern the voter's choice. If hand counting, poll officials will examine the ballot to identify a voting pattern and count the vote accordingly. The panel also amended recount rules by establishing more specific procedures in the case of a contested federal election.

In Montgomery, lawmakers agreed to abolish early voting. S.B. 34, introduced in 2001, terminated the practice because it was too expensive, Packard said.

Perhaps the most significant action was the completion of a 13-year program to clean up the state's voter rolls. In

Several election reform bills were defeated in the past two years in the Alabama State House, including a controversial measure to adopt polling place identification requirements.

H.B. 100 and H.B. 36, both introduced this year, would have required voters to show one of 15 possible forms of identification in order to cast a ballot. The bills would have imposed criminal penalties, including imprisonment, for voting as someone else. The bills also would have allowed voters who did not have acceptable identification to sign an affidavit saying they were registered to vote.

Alabama lawmakers also struck down legislation that would have restored voting rights to ex-felons. H.B. 40, introduced this year, would have restored felons' right to vote once they fulfilled the conditions of their sentences or requirements deemed by the Board of Pardons. After its defeat in the House, Alabama remained one of eight states that permanently preclude felons from voting.¹

Packard said making voting machines accessible to people with disabilities remains one of the state's top concerns. The state may use federal election reform funds to purchase technology that allows people with disabilities to cast an independent and secret ballot.

Federal funding will allow Alabama to move from a central counting system to a precinct-counting ballot system.

Alaska

Alaska's 2002 primary election created an unusual dilemma – registered voters who do not declare allegiance to any of the state's six political parties were not allowed to vote. After a U.S. Supreme Court ruling two years ago forced the state legislature to abolish its long-standing blanket primary system, these fiercely independent voters were unable to weigh in on the controversial yet nonpartisan issue of preferential voting. Many complained that the closed ballot system – which did not include a seventh ballot – stripped them of their independence.

"The controversy is a good question and a great challenge," said Janet Kowalski, director of the state's Division of Elections, adding it was unfortunate that the issue over possibly adding a seventh ballot was brought up so late in the election process. "It wouldn't have been a difficult problem to remedy [before the primary]."

Who Do You Prefer?

As a result, non-affiliated voters did not get a say in deciding whether to approve an initiative in favor of preferential voting or instant runoff voting (IRV). The measure would have applied to all state and federal races, except governor and lieutenant governor races. It was soundly defeated.²

Embraced by state Republicans, it also found support among smaller political parties, including the Alaskan Independence Party, the Green Party, the Libertarian Party and the Republican Moderate Party. Backers said IRV would have restored majority rule and generated more voter interest. Opponents, including the Democratic Party and the League of Women Voters of Alaska, argued IRV was too expensive, too complicated and unnecessary.

Despite the controversy surrounding the primary, Alaska has managed to avoid many of the election problems that plagued other states during and after the historically close 2000 presidential election. Most of Alaska's precincts



MAJOR REFORMS IN 2002

- Disabled accessibility – voting machines

moved away from its system of punch-card ballots in 1998 in favor of optical-scan machines. Kowalski described Alaska's absentee voting system – which allows individuals to vote absentee in person, by mail, or via fax – as "extensive." Alaska also has absentee voting for voters with disabilities, where a personal representative brings a ballot to the disabled voter's home, with ballots available 15 days before the election.

"We are one of the most progressive states on election reform legislation," Kowalski said in July. "We are way ahead of everyone and in great shape for [the 2002] elections."

Legislation

Alaska also has been able to take a proactive approach to election reform by pioneering a new disabled voter access bill. H.B. 320, introduced by Rep. Joe Green, R-Anchorage, requires all polling places to provide appropriate equipment for blind voters, allowing them to vote independently and secretly.

Kowalski deemed the bill "clearly the most important election reform initiative in Alaska since 2000." The bill passed overwhelmingly and with bipartisan support to provide for the roughly 12,500 blind voters in Alaska.

"[Voters with disabilities] will have the same opportunity to exercise their right to vote in private as other voters," said Gov. Tony Knowles, a Democrat, in a statement.

When they will have that right at the polls as opposed to their homes, however, is an open question. The bill provides no funds for the purchase of new machines, and state officials say they will begin purchasing accessible machines, such as touch screens with sound and voice-activated capabilities, as older voting machines need to be replaced.

"We felt that disability voting provisions were our job in the first place," Kowalski said.

Arizona

At first glance, Arizona's experience in the 2000 presidential election would seem to have little to do with the chaos that reigned 2,000 miles to the east. Voters did not report widespread problems at the polls; no recount was necessary; no lawsuits were filed against state officials for their handling of purges or ballot designs.

But in Arizona, just as in the Sunshine State, the debate over the use of punch cards has raged. Unlike Florida, Arizona's wrangling continues. Republican Secretary of State Betsey Bayless has become a crusader against chad. She recently told the legislature that more than 10,000 votes lost in Arizona were directly due to punch-card ballot problems.³

Bayless first called for eliminating punch cards in 2001, in time for the November 2002 elections. She faced a receptive legislature at first, but her plan was ultimately doomed by an insurmountable state budget shortfall. The estimated \$3 million to \$3.5 million it would cost to switch the 10 counties in the state still using punch cards to optical-scan ballots was not available, said Gov. Jane Hull (R) in her veto of the appropriation outlined in H.B. 2631.⁴

Bayless unsuccessfully sought private funding for the switch, but the legislature rejected the idea. She then penned a letter to state Attorney General Janet Napolitano (D) in February 2002 inquiring whether her office had the legal authority to decertify punch cards in time for the 2006 elections. Napolitano said it didn't.

State election director Jessica Funkhouser described the process of trying to rid Arizona of punch cards as "extremely frustrating," as she and Bayless tried to persuade legislators, the governor, the attorney general and even the clerks who administered elections to abandon the maligned voting system.

"We have put a lot of work into two sessions of the legislature," Funkhouser said. "It was important to us to have a uniform type of system. I didn't think it was that much money. The counties opposed it. They wanted to keep their punch cards."



MAJOR REFORMS IN 2002

- Disabled accessibility
- Voter registration update procedures
- Vote-counting standards

The clerks, however, said they were concerned about having enough time to train both voters and poll workers on new machines, and more importantly, money.

"It wasn't so much that they wanted to keep their punch cards," said Tonia Tunnell, government affairs manager for the Arizona Association of Counties. "It was more concern that by the time the last session came around, the timeframe [Bayless] was talking about replacing them wouldn't be enough to adequately train folks on them. And typically, voting machine replacement is a county responsibility. They were concerned about the true cost of replacing machines. Some of our counties are on the verge of going under."

While not all subjects induced deadlock as punch cards did, few significant election reform bills received the governor's signature. The legislature passed a bill prohibiting exclusion of voters with disabilities from voting (H.B. 2353) and a bill requiring county recorders to provide the state with a list of registered voters that includes birth dates, not just birth years, to serve as a check against double registrations (S.B. 1285).

Foot-dragging by the legislature, one prominent legislator said, has made impossible any serious reform in the state's elections in 2002.

State Sen. Chris Cummiskey, the Democrats' nominee in this fall's election to replace Bayless, sponsored S.B. 1407, a bill that would have phased out punch cards along with other reforms. He too saw his efforts fall flat after passing the Senate, and now fears the state might scramble to catch up.

"It fell through the cracks at the end of the session," Cummiskey said in July. "Now we are in the unenviable position of having to wait for Congress."

Through its rule-making authority, Bayless made procedural reforms including detailed descriptions of what constitutes a vote on each voting system and new voter education materials that give instructions on properly marking ballots. Bayless also instituted an online voter registration system allowing both new registrations and updates to existing registrations.

Arkansas

In November 2000, Arkansas Gov. Mike Huckabee (R) suggested that his own state's voting practices resembled a "banana republic." Since that time, Arkansas has taken several key steps toward election reform that could result in sweeping changes when the state legislature reconvenes in 2003.

Those changes could come about after lawmakers decide how to react to the findings of an election study designed to improve a series of current election procedures. In the wake of the 2000 presidential election fiasco, the House last year approved H.B. 1121, creating the Arkansas State Election Improvement Study Commission and giving it explicit instructions to examine current voting methods and submit recommendations for reform.

Susan Inman, director of the secretary of state's election department, said the commission's report will serve as the "foundation for election reform in Arkansas."

The panel, chaired by Secretary of State Sharon Priest (D), released its findings in June 2002 with a dozen proposed changes. Among the recommendations: statewide uniform procedures on Election Day; a protocol for restoring an felon's right to vote; funds for voter education and poll worker training and recruitment; and "no-excuse" absentee voting. But the commission failed to agree on some issues, most notably whether to make uniform state standards for early voting.

The panel recommended that setting dates and times for early voting should be left to local county officials. Priest, though, disagreed with the suggestion, instead calling for statewide consistency as a means of securing candidate and voter confidence.

"Unless uniformity prevails, states open themselves up for an equal protection lawsuit," said Priest, who was the 2000 president of the National Association of Secretaries of



MAJOR REFORMS IN 2002

- Vote-counting standards
- Task force

State. "For me, elections are not for candidates but for the people. [Early voting] is a working man's issue."

County clerks, however, say early voting uniformity is not so simple. Since 1992, Arkansas voters have been allowed to cast their ballots up to 15 days before Election Day. Early voting hours and Saturday voting, however, have varied among the 75 counties. In July 2002, lawmakers instructed county clerks to agree on uniform early and Saturday voting hours before the November elections or they would force a legislative mandate when they meet in January 2003.

"I don't know how we can get it uniform when the law doesn't allow us [to]," said Billie Gail Dunlap, vice president of the Arkansas Association of County Clerks.

Legislative Action

In 2001, lawmakers rejected bills to review ballot designs (H.B. 1106); to extend and standardize the hours for early voting – the same issue debated this summer (H.B. 1522); and to prohibit public officials from appearing in state-sponsored public service announcements and advertisements for a particular period of time before Election Day (S.B. 14).

Voter intent will be revisited in 2003. The State Board of Election Commissioners in March approved rule changes for deciding when a vote is a vote, revising standards that had not been examined closely until after the Florida debacle in 2000. The new rules establish that only punch-card ballots that have a chad with two or more corners detached from the ballot will be counted as a vote.

Priest's recommendation to take election oversight out of the Secretary of State's office and place the responsibility with a newly created State Election Board could also see legislative action in 2003. Members of the board would be prohibited from political activities, a proposal born from the heavy criticism directed at Florida Secretary of State Katherine Harris during the 2000 presidential recount.

California

The election controversy two years ago placed punch-card systems squarely in the national spotlight. And perhaps nowhere has that light shone brighter in the last two years than on California, a state where almost 8 million voters used the much-maligned machines in 2000.

Recognizing the poor track record of punch cards in the wake of the last election, Republican Secretary of State Bill Jones decertified the system in September 2001 for use in California elections. That decision meant nine counties – including Los Angeles, the nation’s most populous voting jurisdiction – had to replace their punch-card machines by the end of 2005. However, in February 2002, a federal judge ruled that those jurisdictions must use new voting systems in time for the 2004 presidential election, significantly shortening the state’s self-imposed deadline.

“Realistically, [the rush to replace punch cards] would not have happened without the Florida 2000 situation,” said Jones spokesperson Alfie Charles.

With California and its counties mired in a severe fiscal crisis, the focus even before the judge’s decision was on how to purchase new machines. To meet that need, in September 2001, the state Assembly passed A.B. 56, which placed the Voting Modernization Bond Act (also known as Proposition 41) on the 2002 primary ballot. That gave voters the opportunity to decide themselves whether the state should spend about \$200 million in bonds for the purchase of modern voting equipment.

“The huge hurdle was funding for county officials to put upgraded voting equipment in their precincts,” Charles said.

In the March 2002 primary, Californians approved Prop. 41, albeit by a three-point margin. The measure received strong support in Los Angeles County and the Bay Area, where election administration follies were often front-page news in 2001 and 2002, but it lost in almost every other part of the state. The vote cleared the way for counties to begin receiving state funds either to reimburse them for purchases already made or to help defray costs of future acquisitions.



MAJOR REFORMS IN 2002

- Voting machine bond measure
- Punch card ban
- Absentee ballot

Kim Alexander, president of the California Voter Foundation, a nonpartisan organization that tracks voting developments in the state, attributed Prop. 41’s narrow passage to Election 2000 and the resulting studies and commissions that found punch cards to have higher rates of ballot spoilage than other types of voting equipment.

“It is true that there never would have been that comparative analysis had there not been the awareness raised by the Florida fiasco,” Alexander said. “People would keep voting on punch cards here and there would be no funding from the state. [Counties] wouldn’t be considering buying new voting machines.”

Instead, less than two years later, the nine punch-card counties (in addition to Los Angeles, they are: Alameda, Mendocino, Sacramento, San Bernardino, San Diego, Santa Clara, Shasta and Solano) stand to receive about \$105 million soon from the state for new systems, according to a proposed allotment determined by the California Voting Modernization Board in July. The other 49 counties, which are not under a court order to change their voting systems, will receive the rest of the money if they choose to apply for their respective share. However, in order for any county to receive state funds, it must meet a 25 percent match provision.

County officials said this summer that they were satisfied with the initial distribution of funds, but at least one did not think her county’s share would be enough to enable it to buy a new system.

“The best case scenario, we get a proposal for \$75 million [for a touch-screen system],” said Conny McCormack, the Los Angeles County Registrar-Recorder. “But then we’re still \$25 million short. Worst case scenario, we get a proposal for \$100 million and we have to come up with \$50 million. We’ve got to figure out where to come up with that money when we’re in dire fiscal straits out here.”

With the allocation phase giving way to the implementation phase of the Prop. 41 money, voting system manufacturers were poised this fall to become key players in the Golden State. Earlier in the year, two companies spent at least \$50,000 each in support of the Prop. 41 campaign.



“There’s definitely vendor interest in the California marketplace right now,” Charles said.

But Alexander cautioned that the rush to acquire touch-screen systems might have unintended consequences. In Riverside County, the first jurisdiction in the state to use touch screens (Alameda will implement a new system in November), a resident sued earlier this year, alleging that the machines, which debuted in 2000, are unreliable because they do not produce an easily traceable “paper trail.”⁵ The lawsuit was dismissed in 2002.

“People are just beginning to ask questions about touch-screen voting,” Alexander said. “There is a need for transparency and trust in voting systems. Touch screens don’t have it.”

Reform Goes to the Polls

Prop. 41 might not be the only ballot measure to pass this year that will have a significant effect on California election administration. An initiative that would allow people to register to vote at the polls on Election Day will appear on the ballot in November as Proposition 52. Not surprisingly, it elicits mixed reactions. Supporters, including Sacramento County registrar Ernie Hawkins, say election-day registration will boost turnout. But some, such as Riverside County registrar Mischelle Townsend, say Prop. 52 would increase voter fraud. Still others doubt it would raise participation levels.

Nearly everyone agrees that election-day registration would dramatically impact California elections.

“If Prop. 52 passes, there will be major changes in polling place procedures and poll worker recruitment at the same time we’re dealing with new voting systems,” Charles said.

California has already relaxed some of its registration laws this year. The March primary represented the first statewide election in which residents were able to register to vote up to 15 days prior, instead of the previous 29-day deadline (A.B. 1094). Additionally, A.B. 1520 allows voters to now apply for permanent absentee voter status for any reason, eliminating the need to continually reapply for mail-in status.

The March primary also represented the first use of the new “slightly ajar” election method, which permits only unaffiliated voters to cast a party ballot of their choosing, provided that party has authorized the participation of non-partisan voters. Previously, the state employed a “blanket” primary that permitted all voters to cast a vote for the candidate of their choosing. But that practice was found unconstitutional in 2000.

Charles said this year marked the fourth straight statewide election in which California has altered its primary rules and/or date. And 2004 might mark the fifth straight, as the legislature in late August passed A.B. 1975, which would move all primaries for nonpresidential races to June, but maintain the presidential primary in March.

Troubled City Elections

The past year has also witnessed several key developments at the local level. During the March election, San Francisco voters approved Proposition A, to bring the instant runoff voting (IRV) system to all municipal races. In 2003, the city will become the largest jurisdiction in the nation to use IRV, which allows voters to rank at least their first, second and third choices for a particular office. In addition, San Francisco garnered national attention throughout 2002 for the acrimonious standoff between the city’s Elections Commission and elections director Tammy Haygood over her job performance.

In Los Angeles, a troubled primary prompted registrar McCormack to issue a 25-page report in April addressing the poll worker shortage that she said crippled her ability to run the March election. The report painted a bleak picture of future elections in Los Angeles if election laws continue to change and more money is not allotted to administering them, particularly toward poll worker recruitment.

“Elections are becoming incredibly complicated and that absolutely translates into errors,” McCormack said in April. “We have to start thinking about this as a structural problem. I’m trying to forewarn everyone. I don’t think this was a one-time happening.”

Colorado

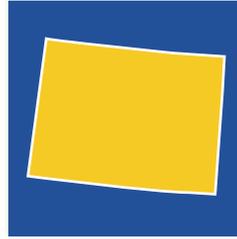
With no major Election Day problems plaguing the state in November 2000, Colorado saw little reason to overhaul its election system. Like dozens of other states around the country, the governor, secretary of state and legislature identified possible future problems – inspired by Florida – and enacted reforms that state officials say will make the state “ready to move forward.”

The state acted quickly in 2000 as Secretary of State Donetta Davidson (R) established a task force just a month after the U.S. Supreme Court ended the legal standoff that made George W. Bush president. According to Davidson, the task force was charged with identifying potential problems in Colorado’s election process and “to provide the General Assembly with recommendations for legislative solutions.”

One of those solutions was enacted in 2002, as Gov. Bill Owens (R) signed H.B. 1307, a bill that allows voters who believe they are registered but are not on poll rosters to cast a provisional ballot at their precinct and have their eligibility confirmed by election officials after they leave. While provisional balloting is nothing new to the state – Colorado previously allowed voters to cast provisional ballots at central locations in their counties – many hailed the new bill for simplifying the process for voters.

“The time was right to extend provisional balloting to the polling place,” said Colorado elections director Bill Compton. Voters were first able to cast provisional ballots in their precinct in August during the state’s primary.

The bill also calls for the exchange of information between state agencies and the Department of State to better manage Colorado’s voter registration records. The new law modifies ballot design rules, establishes rules prohibiting anyone from collecting and delivering more than five absentee ballots and requires signature checks of absentee ballot envelopes. Another bill, S.B.132, extended the state’s mandatory recount period from 21 to 30 days in 2001.



MAJOR REFORMS IN 2002

- Absentee ballot
- Task force
- Provisional voting
- Recount procedures

Few Changes, Some Controversy

More changes could come to Colorado voting as well. In July, the U.S. Justice Department designated Denver as a “bilingual jurisdiction” under Section 203 of the Voting Rights Act, meaning the estimated 60,000 Denver residents with limited English proficiency will have ballots and other election materials printed in Spanish, beginning in November.

Other reforms, proposed by both legislation and ballot initiative, proved thorny. A voter identification bill (S.B. 93) sponsored by two Republicans, one in the Senate and one in the House – and supported by Owens – would have required voters to provide a photo ID at the polls or have their signature verified before they could cast a ballot. Democrats objected strongly to the bill, killing it in committee along partisan lines and leaving state Sen. Ken Arnold, the bill’s sponsor, fuming.

“The Democrats seem content with voting early and often,” Arnold said.

Another divisive polling place issue will be resolved on Election Day when voters decide whether the state should have election-day registration.

Dave Minshaw, a spokesman for the initiative drive, said that election-day registration would signal a “move toward better government” and end the “disenfranchisement” of thousands of voters who fail to meet the registration deadline.

Opponents encourage voters to remember Florida.

“There is nothing in this initiative that will prevent a voter from registering in multiple counties,” said Alan Philip, the executive director of the state’s Republican Party.

Compton said while divisiveness remains on a number of election reform issues in the state, the actions taken so far by the legislature leave Colorado well-prepared for future elections.

“Obviously, some changes will occur, but I would say that we are in the top third of states that are ready to move forward,” Compton said.

Connecticut

Lawmakers in the home state of Sen. Chris Dodd, the chief Democratic sponsor of the U.S. Senate's election reform bill, have balked on election reform since November 2000.

Reasons for inaction in the state – more than 90 percent of all election reform bills were rejected – included concerns about money, partisan bickering, a desire to wait and see what Congress will require and pay for and general disagreement about what shape election reform should take in the state. Even bills that faced no strong resistance, including a measure that would start a pilot program to test touch-screen machines (S.B. 380), failed.

“When it comes to election reform, everyone has their own ideas as far as where we should go,” said Thomas Ferguson, the state's election director. “One factor is the Dodd [federal election reform] bill. It's going to bring money for us to purchase new voting equipment and give direction on the centralized voter registration system.”

State and local tensions have kept the state's voter registration system from being a complete list. On recommendations from local clerks, the legislature made the use of the system optional – though more than 87 percent of Connecticut's two million voters are on the state system.⁶

Legislation

Connecticut legislators approved only a handful of election reform bills since 2000, and advocates say only one, a voters' bill of rights (H.B. 5258), was significant.

Other legislation passed this year requires nursing homes and other institutions to inform residents of voter registration opportunities (also H.B. 5258) and changes residency rules for those who live in one county but receive public assistance from another (H.B. 5573).

The few bills that passed were dwarfed by the pile of rejected legislation. Those include measures to mandate



MAJOR REFORMS IN 2002

- Voters' bill of rights

the use of the state's voter registration system and to conduct a pilot project with touch-screen voting systems.

In 2001, the state passed a bill reinstating the voting rights of felons who complete their sentences, including parole. But those measures did not impress some election reform advocates, who said the state's efforts have fallen short in the last two years.

“Connecticut is usually a pretty progressive state,” said Rebekah Harriman, executive director of the state's Common Cause chapter. “But it has been very hard for us to pass any meaningful election reform. It just wasn't our year, and it was really disappointing. Everyone remembers Florida, but no one's doing anything to fix it. It was really frustrating.”

Maybe Next Year?

Election-day registration (EDR) was the centerpiece of Common Cause's election reform efforts. It met with resistance by those who would implement the system: Connecticut's Registrar of Voters' Association. George Cody, the group's vice president and registrar of voters for the town of New Caanan, said EDR would have to wait until the state's online voter registration system – now used in most but not all of the state's municipalities – was completed.

His organization, however, also opposed a bill that would have made the use of the now-optional database mandatory. A recent change to a Web-based system in the past two years, he said, has made the system too new and untested for some of the state's cities and towns. The legislature, he said, was probably wise to defer to those jurisdictions rather than press forward to make use of the database a state law.

“From my own personal view, and not my organization's, looking at it from the political angle, when you try and shove [the statewide voter registration database] down the throats of larger cities, you're just going to end up in court,” Cody said. “If you come up with an amicable solution, it's better than a court case.”

District of Columbia

Washington, D.C. makes headlines for politics – but almost never elections. Essentially a one-party town (more than 75 percent of D.C. voters are Democrats), there is hardly any drama in November. Even in presidential election years, the Democratic primary, the only contested race in town, is usually held after the identity of the party nominee is all but assured.

Still, when Washington, D.C. residents return to the polls in November 2002 to cast a vote for mayor, U.S. Representative (non-voting) and City Council positions, they will see the effects of two years of election reform debate around the country, despite having little in common with the rest of the country both on Election Day and in the way that elections are administered.⁷

Activity in 2002

A reform-minded City Council responded to the November 2000 election with a resolution (P.R. 14-0011) declaring that the election in the city was administered “effectively and fairly” while noting that other jurisdictions around the country “use outdated voting machines that may be prone to malfunction, that are no longer manufactured and have no source of replacement parts, and that may fail to record ballots accurately.”

This year, the city completed the modernization of its voting systems, doing away with its punch cards. Precinct-counted optical-scan machines were used in primaries in September 2002. The new machines identify voter omissions, stray error-causing marks or double-votes before they are counted. The City Council in March 2002 also passed legislation (B. 14-0580) allowing 16- and 17-year-olds to work as poll workers in general and primary elections, citing more than 200 no-shows in the temporary Election Day workforce in the November 2000 elections.



MAJOR REFORMS IN 2002

- Young poll workers
- Voting machines

Anticipated confusion and polling place problems during the September 10 primary never materialized. Voters used the new machines successfully, and even the added hurdle of thousands of write-in ballots for the city’s incumbent mayor – left off the ballot after his campaign workers forged qualifying signatures – seemed to bother neither voters nor vote counters. An estimated 85,000 ballots were counted by hand.

Alice Miller, the executive director of D.C.’s Board of Elections, said the punch-card phase-out was underway for several years.

“We made that decision before anything happened in 2000,” Miller said. “The actual purchase wasn’t related to Florida.”

The decision to switch to optical scan was not universally hailed, however. The American Association for People with Disabilities filed a lawsuit in May 2001 contending that the optical scanners violate the Americans with Disabilities Act (ADA) by failing to allow those with vision impairments or blindness the opportunity to cast an independent and secret ballot. Jim Dickson, executive director of the organization, said the two-part suit, the first seeking to require accessible machines, and the second part, requiring accessible polling places – which has yet to be resolved – will signal victory for voters with disabilities in 2003.

“We basically compromised by giving the 2003 deadline and giving up on this election,” Dickson said.

The partial settlement, announced in early August, requires the District to have available one touch-screen machine per precinct accessible to voters with vision impairments beginning in 2003. Machines will be available for demonstrations at the polls this year.



Delaware

With a centralized voter registration database, state funding of local elections, state-sponsored training of local election officials and electronic voting systems statewide, Delaware's election administration has already been using what other states – and Congress – may implement.

Delaware has had a uniform touchpad/keypad voting system since 1996, when the state paid \$4 million to improve its equipment. The state approved the restoration of voting rights for felons who completed their sentences in 2000.

With a number of "big ticket" reforms in place, the state's legislature adjourned without passing any substantive reform measures. Lawmakers rejected S.B. 267, that would have required counties to conduct a countywide registration program before each general election and authorized officials to allow voters to cast ballots even if their registration had not been received or processed by the Division of Motor Vehicles.



MAJOR REFORMS IN 2002

- None

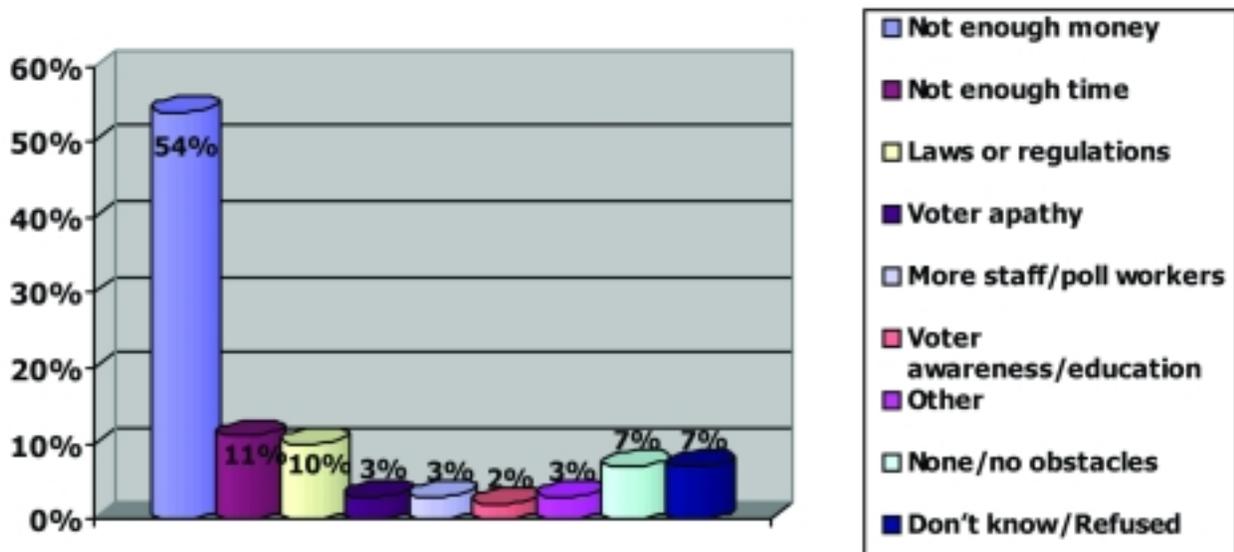
They also rejected H.B. 172, which would have temporarily allowed registered voters who were not affiliated with any political party to vote in the primary election of a party of their choice.

Despite minor technical problems that occurred with a handful of voting machines, Delaware's 2000 elections went smoothly because of preparation, said Elaine Manlove, the Newcastle County elections director.

But the First State experienced some snafus in this year's September 7 primary. While state law requires the vote be held on the first Saturday after the first Monday of the month, that date coincided this year with Rosh Hashanah, the Jewish new year. H.B. 418, introduced in March, would have made an exception, allowing the primary to be moved back one week for 2002 only. But Delaware's Board of Elections voiced opposition, and instead encouraged Jewish voters in the state to cast absentee ballots.

ELECTION ADMINISTRATORS' NATIONWIDE POLL SNAPSHOT (Princeton Survey Research Associates, January 2002)

Biggest Obstacle to Improvement



Florida

Florida officials said on September 9 that everything was in place for the next day's primary, the first statewide election since the November 2000 election chaos that became known as the "Florida fiasco." New machines had been tested and delivered to replace punch cards. Poll workers were trained with new polling place procedures, including provisional ballots, voting instructions and troubleshooting tips.

The voters themselves had studied up as well. Stung by the national perception of electoral ineptitude, many practiced casting votes on the state's new touch-screen machines and optical scanners. Many said they carefully checked their registration cards to make sure they arrived at the right precinct after redistricting. Even more read the paper and watched television to learn their rights.

So after nearly two years of preparation – after a study by a task force, days of legislative debates and millions of dollars in state and local investment in new machines and voter education – what went wrong on September 10?

Just about everything.

Chaos Started Early, Went Late

The chaos started early that day, as poll workers could not get their voting machines to start on time in dozens of precincts in Broward and Miami-Dade counties. A number of polling places opened hours late. The machines broke down throughout the day, with voters complaining of screens going blank and incorrectly cast votes. Poll workers handed Republican ballots to Democrats and Democratic ballots to Republicans.

The governor forced polls to stay open and candidates threatened lawsuits. Civil rights organizations from around the nation staged at polling places to offer "election protection" took hundreds of complaints from voters who said they did not cast ballots because poll workers incorrectly sent them away for lack of identification or because of machine malfunctions.



MAJOR REFORMS IN 2002

- Disabled accessibility – voting machines (awaiting federal funds)
- Task force
- Voters' bill of rights

Elections in Miami-Dade and Broward "went awfully," said Ion Sancho, election supervisor for Leon County, a jurisdiction that has used the same optical-scan machines since the early 1990s.

"As a Leon County official, it went wonderfully. The idea of leaping to a technically sophisticated voting system was not a wise decision in these two large counties," Sancho said. "Optical scan [first] then phasing in touch-screen would have worked better."

Reformed Too Fast?

In most of Florida, things went relatively smoothly, said state elections director Ed Kast. Problems in Miami-Dade and Broward, he said, painted the entire state's election administration with the same broad, ugly stroke.

"We didn't see problems in 65 of our 67 counties," Kast said. "They got it right. Touch screens were used in 15 counties, some using the same machines as [Miami-Dade and Broward]. The logistics, planning and training are the issues that need to be focused on."

David Host, spokesman for Secretary of State Jim Smith, agreed.

"It was really a matter of the lack of administrative coordination," Host said. "Not getting the components in the right precincts, a lack of training for operators of machines, those were evident. In

Broward and Miami-Dade, the training was four hours long with no real chance for hands-on training on the machines. Some places had 12 hours of training, most of it hands-on."

But in the shadow of 2000's failures, the breakdowns in Miami-Dade and Broward, the state's two largest voting jurisdictions, reverberated around the state and the country.

"If you insist on doing everything at one time, chaos can result," said Doug Lewis, director of the Houston-based Election Center. "When we look at changes, we've got to look at how you implement the changes you're going to do."

"We didn't see problems in 65 of our 67 counties. They got it right."

– ED KAST, STATE ELECTIONS DIRECTOR



In all, more than 65 percent of the state’s voters cast ballots on new machines in the September primary, *The Miami Herald* reported. Aside from machines – most purchased after a ban on punch cards – a slew of new rules and procedures outlined in S.B. 1118, a comprehensive bill passed in May 2001, took effect for the first time in the primary.

Those included: provisional ballots for voters who believe they are registered but do not appear on poll rosters; a voter’s bill of rights posted in each polling place; statewide recount rules and vote standards; no-excuse absentee voting; the creation of a statewide voter registration database; and, absentee write-in ballots for overseas or military voters. In all, the state appropriated \$32 million for election changes.

A Year Later, More Changes

In 2002, the legislature rejected a number of modifications to the omnibus bill it passed a year earlier. S.B. 618 softened the tone of the directives in the state’s voter bill of rights in the “voter responsibilities” section.

Following the completion of a report by the Secretary of State’s Task Force on Voting Accessibility in January 2002, lawmakers approved S.B. 1350, a bill requiring at least one accessible machine in all Florida polling places one year after an appropriation by the legislature. The bill also requires that by 2004, each polling place in the state be accessible to people with disabilities, unless the supervisor has certified that the location will not be ready.

That requirement will be a tough one to meet, said Sancho.

“The number one place for polling places in Florida is churches,” he said. “Those do not have to comply with the Americans with Disabilities Act. What will it cost them to be in compliance? Tens of millions of dollars.”

Also in 2002, lawmakers rejected H.B. 103 over the objections of civil rights advocates. The bill would have allowed voters to cast provisional ballots at any precinct in their county, rather than their legally-assigned polling place, for the 2002 elections, the first after the redistricting process.

Instead, said Elliot Mincberg, general counsel for People for the American Way, voters complained that they were unable to find their correct precinct, and, when they asked poll workers for assistance, they were often told that the information was not available.

“Florida officials proved once again what they are good at – passing the buck. Everybody from the governor on down shares some degree of responsibility and everybody needs to buckle down and get things right.”

– ELLIOT MINCBERG, GENERAL COUNSEL,

PEOPLE FOR THE AMERICAN WAY

In light of these problems, civil rights groups vowed to keep a close eye on the state during the November general election, even promising new legal action as a result of the primary woes.

“The NAACP is planning to file another lawsuit against the Florida election officials amid reports that voters complained about polls opening late, election workers struggling with new touch screen voting machines, and voter confusion about polling places because of new precinct boundaries,” said Kweisi Mfume, the group’s president, in a statement issued just after the primary.

Previous action by the NAACP led to some changes from the 2000 election controversy. The NAACP and Secretary of State Katherine

Harris (the suit was filed when she was still in office) reached a settlement in early September 2002 that, according to a summary from the Lawyers’ Committee for Civil Rights Under Law, requires: the names of all voters wrongly removed from registration rolls to be identified and restored; the state’s Elections Division to craft a poll worker training manual that provides examples of election procedures under the state’s laws; the state to notify provisional voters if their voters were not counted and

explain why; and the creation of a new state position to administer and coordinate the National Voter Registration Act to ensure that customers of state agencies are offered opportunities to register to vote.

Settlement aside, civil rights groups remain unsatisfied with the state of Florida elections.

“It is as if Florida officials totally ignored the election debacle of November 2000,” Mfume said.

Added Minberg, “Florida officials proved once again what they are good at – passing the buck. Everybody from the governor on down shares some degree of responsibility and everybody needs to buckle down and get things right.”

The Election ‘Super Bowl’

To ‘get things right,’ officials in Miami-Dade and Broward hurriedly enacted plans to mend the ills revealed in the September primary that include using county government workers to man polls and bolster the election workforce. Follow-up, hands-on training is underway as well, to ensure that election workers who received about four hours of training before the September 10 primary – with little or no time on the touch-screen machines themselves – are more familiar with the devices.

In Broward County, a specially organized election team designed a 459-point plan in anticipation of the November 5 election. Under the newly appointed leadership of Joe Cotter, a former political rival of elections supervisor Miriam Oliphant, the project outlines every preparation needing to be done before the vote.

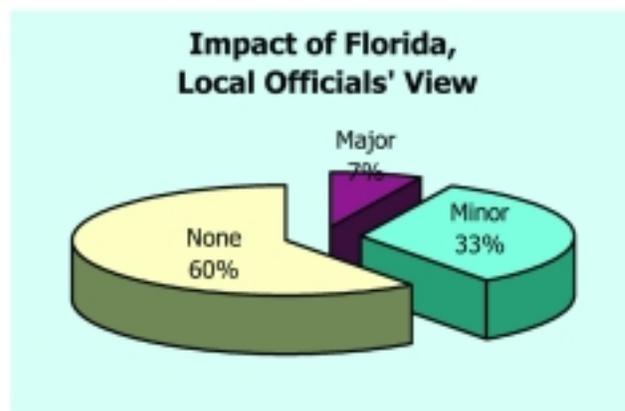
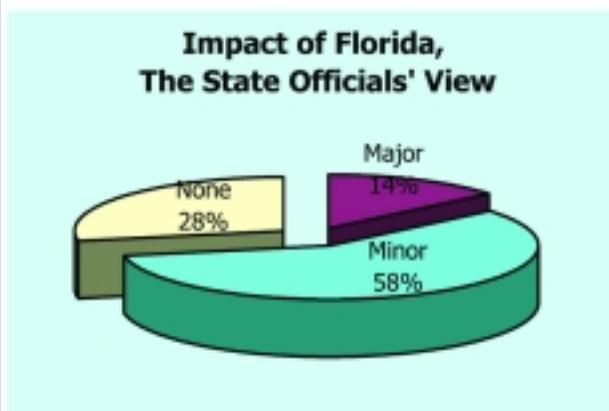
A report released in late September by Christopher Mazzella, Miami-Dade’s inspector general, places the blame for primary day problems on some machine problems, planning deficiencies and, mostly, poll worker training.

“The [inspector general] concludes that the matter does not lie in the caliber or technological experience of the poll worker, but is grounded in the absence of quality training sessions and written training materials,” the report stated.⁸ It also noted that the plans in place to re-educate poll workers and avert another election disaster in November might fail as well.

Referring to Miami-Dade’s plans for using county workers to work the polls and re-train workers, Mazzella concluded the efforts were “insufficient and untested.”

“Elections are like other major events,” Mazzella wrote. “For instance, we could not imagine the County hosting the Super Bowl unless it had in place a crisis management plan.”

ELECTION ADMINISTRATORS’ NATIONWIDE POLL SNAPSHOT (Princeton Survey Research Associates, January 2002)



Georgia

Georgia voters will make history in November when they become the first in the nation to cast their ballots on a uniform statewide touch-screen voting system. The state inked a \$54 million deal with Diebold Election Systems in May of 2002 to provide Georgia's 159 counties with more than 19,000 machines.

The unprecedented move to a uniform high-tech system arose out of concerns in the wake of Election 2000 that had the Presidential contest been closer in Georgia, it might have been considered another Florida, as Secretary of State Cathy Cox (D) told a U.S. Senate committee in March of 2001.

To hammer that point home, Cox's office issued a report in February 2001 that criticized Georgia's election system, particularly the differences among counties' voting equipment. The study found the percentage of ballots that registered no choice for President was actually higher in Georgia in 2000 than in Florida.

"The Florida experience should serve as a wake-up call for election officials throughout the nation – including Georgia," the Secretary of State's office wrote. "Could Florida's problems just as easily have been Georgia's problems? The answer is unquestionably yes."

The 'Forefront of Election Reform'

Armed with that conclusion, Cox pressed the state legislature in the spring of 2001 to adopt a statewide uniform electronic voting system. The legislature responded soon after with overwhelming support of S.B. 213, which required the state to acquire uniform technology by the 2004 primary, established a pilot program to test touch-screen machines in 2001 municipal elections and created a 17-member commission to recommend an electronic system for the state to purchase.

"With the passage of S.B. 213, Georgia is propelled to the forefront in election reform in the United States," Cox said in March 2001.



MAJOR REFORMS IN 2002

- Uniform touch-screen voting system
- Provisional voting
- Voter education

Democratic state Sen. Jack Hill, who shepherded the bill through his chamber, credited its passage to Cox and a sense of bipartisan ownership of the legislation.

"Everybody gets nervous when you start dabbling with election law, but that was kind of a shining moment for the legislature last year because we had a lot of input on both sides of the aisle," Hill said in August.

Hill noted that the state also acted without any assurance of funds from Washington.

By the time Democratic Gov. Roy Barnes submitted his fiscal year 2002 budget to the legislature earlier this year – in which he sought \$54 million in bond money for the implementation of a new voting system in 2002 – it had become clear to state officials that any federal election reform bill would almost assuredly help defray at least some of the state's costs. The governor's request also followed several meetings of the commission and a successful November 2001 tryout of electronic machines from six different vendors in several municipalities.

It was the promise of a federal reimbursement check that ultimately persuaded state politicians to approve state financing of the uniform voting system, said Charles Bullock III, a political science professor at The University of Georgia and an expert on state politics.

"There was the hope and expectation that much of the cost will be paid for by the federal government," Bullock said.

That may have allayed the fears of some in the Georgia legislature, one of a very few to appropriate state funds toward new equipment in the wake of the 2000 Election.

"Initially, [legislators] saw this as a zero-sum game, that this was \$50 million not going to other things," Bullock said. "[A statewide voting system] doesn't show so well with a ribbon-cutting ceremony."



In May 2002, Georgia officials held their ribbon-cutting event when they announced that the state had contracted with Diebold to provide touch-screens to every precinct in time for the November election – the largest contract for voting technology in U.S. history. The state commission picked Diebold because its proposal “offered the best value” and “is in the best interest of the counties,” Cox said at the announcement.

Two of the state’s 159 counties – Hall and Marion – used their new touch-screen machines for actual vote-counting in August because of problems with their old systems. Initial reports about the performance of both the machines and the voters were positive.

Beazley is confident that the machines will pass their first major test in November.

Having selected the machine, the state’s focus shifted to educating voters in the six-month period before the scheduled implementation. The Secretary of State’s office used an additional \$4.5 million in state funds from the 2002 budget to create 13 regional voter education coordinators, who over the summer, started teaching voters and local election officials about the new machines.

“We’ll be fine,” she said. “We’re excited to be the first to do this. I haven’t got time to be nervous.”

“Initially, [legislators] saw this as a zero-sum game, that this was \$50 million not going to other things. [A statewide voting system] doesn’t show so well with a ribbon-cutting ceremony.”

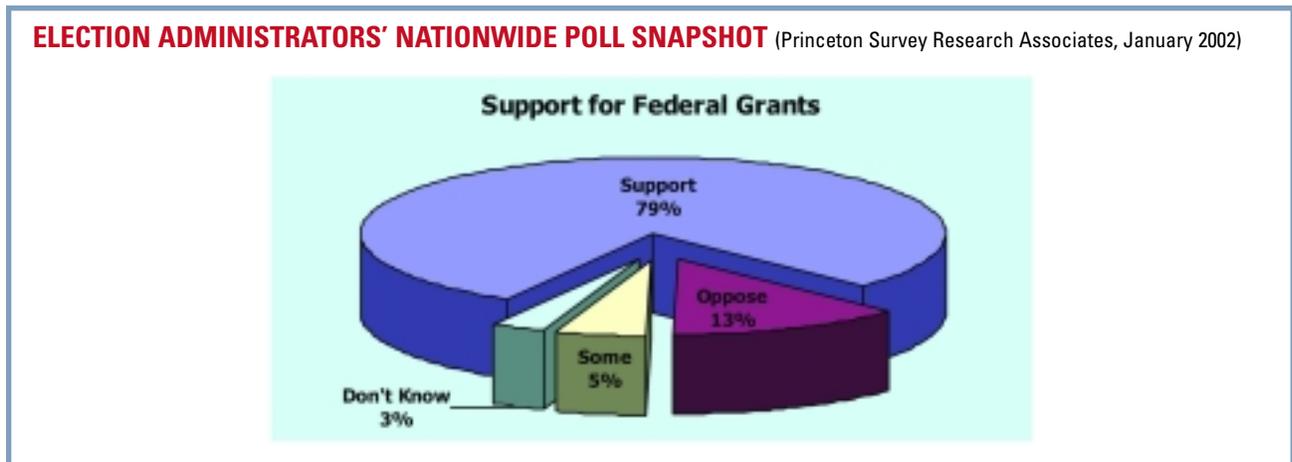
*CHARLES BULLOCK III,
POLITICAL SCIENCE PROFESSOR,
THE UNIVERSITY OF GEORGIA*

Along with the statewide debut of the new machines, the November election will also mark the first election for Georgia’s new provisional balloting requirement. Under S.B. 414, voters who claim to be properly registered but do not appear on the rolls when they show up to vote can now cast a provisional ballot. In another change, the legislature granted the secretary of state the ability to remove dead voters and some felons from the rolls (S.B. 213).

The state also mailed a color brochure with instructions for how to use the new machines to every registered voter. In addition, each precinct displayed at least one touch-screen machine for demonstration during the August primary.

Some legislative proposals were not as successful, however. An effort to create a 15-day early-voting period failed when it could not clear the state House. A Republican effort in the Senate to implement a uniform optical-scan system, rather than a touch-screen one, also was defeated.

“We have done extensive education for the voters and continuous training of local officials,” said state election director Linda Beazley.





In May 2002, Georgia officials held their ribbon-cutting event when they announced that the state had contracted with Diebold to provide touch-screens to every precinct in time for the November election – the largest contract for voting technology in U.S. history. The state commission picked Diebold because its proposal “offered the best value” and “is in the best interest of the counties,” Cox said at the announcement.

Two of the state’s 159 counties – Hall and Marion – used their new touch-screen machines for actual vote-counting in August because of problems with their old systems. Initial reports about the performance of both the machines and the voters were positive.

Beazley is confident that the machines will pass their first major test in November.

Having selected the machine, the state’s focus shifted to educating voters in the six-month period before the scheduled implementation. The Secretary of State’s office used an additional \$4.5 million in state funds from the 2002 budget to create 13 regional voter education coordinators, who over the summer, started teaching voters and local election officials about the new machines.

“We’ll be fine,” she said. “We’re excited to be the first to do this. I haven’t got time to be nervous.”

“Initially, [legislators] saw this as a zero-sum game, that this was \$50 million not going to other things. [A statewide voting system] doesn’t show so well with a ribbon-cutting ceremony.”

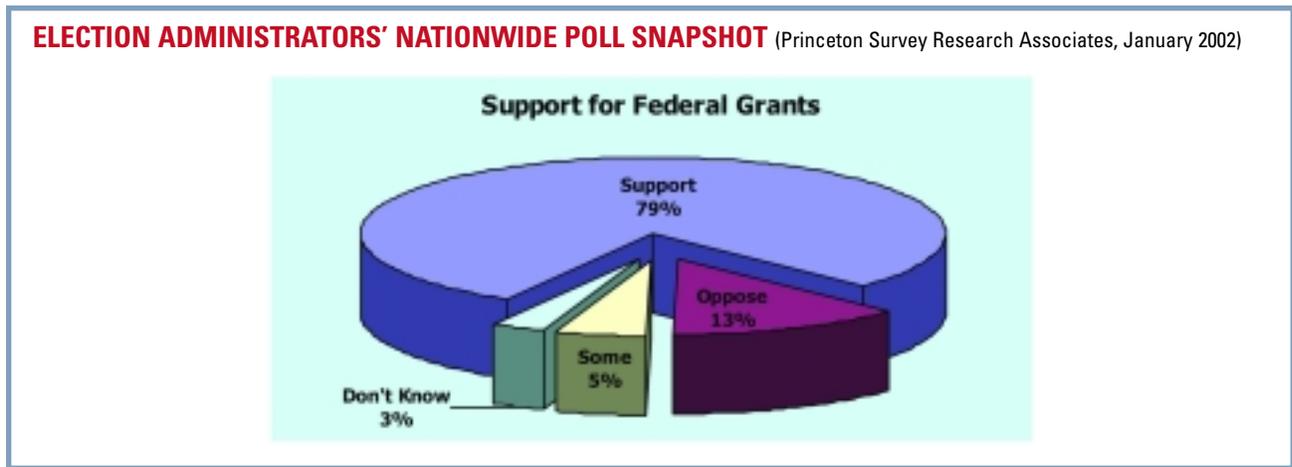
*CHARLES BULLOCK III,
POLITICAL SCIENCE PROFESSOR,
THE UNIVERSITY OF GEORGIA*

Along with the statewide debut of the new machines, the November election will also mark the first election for Georgia’s new provisional balloting requirement. Under S.B. 414, voters who claim to be properly registered but do not appear on the rolls when they show up to vote can now cast a provisional ballot. In another change, the legislature granted the secretary of state the ability to remove dead voters and some felons from the rolls (S.B. 213).

The state also mailed a color brochure with instructions for how to use the new machines to every registered voter. In addition, each precinct displayed at least one touch-screen machine for demonstration during the August primary.

Some legislative proposals were not as successful, however. An effort to create a 15-day early-voting period failed when it could not clear the state House. A Republican effort in the Senate to implement a uniform optical-scan system, rather than a touch-screen one, also was defeated.

“We have done extensive education for the voters and continuous training of local officials,” said state election director Linda Beazley.



BILL NO.: H.R. 3295

SENATE ROLL CALL VOTE, October 16, 2002

YEAS — 92

Akaka, Allen, Baucus, Bayh, Biden, Bingaman, Bond, Boxer, Breaux, Brownback, Bunning, Burns, Byrd, Campbell, Cantwell, Carnahan, Carper, Chafee, Cleland, Cochran, Collins, Conrad, Corzine, Craig, Crapo, Daschle, Dayton, DeWine, Dodd, Domenici, Durbin, Edwards, Ensign, Feingold, Feinstein, Fitzgerald, Frist, Graham, Grassley, Gregg, Hagel, Harkin, Hatch, Helms, Hollings, Hutchison, Inhofe, Inouye, Jeffords, Johnson, Kennedy, Kerry, Kohl, Kyl, Landrieu, Leahy, Levin, Lieberman, Lott, McCain, McConnell, Mikulski, Miller, Murkowski, Murray, Nelson (FL), Nelson (NE), Nickles, Reed, Reid, Roberts, Rockefeller, Santorum, Sarbanes, Shelby, Smith (NH), Smith (OR), Snowe, Specter, Stabenow, Stevens, Thomas, Thompson, Thurmond, Voinovich, Warner, Wellstone, Wyden

NAYS — 2

Clinton, Schumer

NOT VOTING — 6

Allard, Enzi, Gramm, Hutchinson, Sessions, Torricelli

HOUSE ROLL CALL VOTE, October 10, 2002

YEAS — 357

Abercrombie, Ackerman, Aderholt, Akin, Allen, Andrews, Arme, Baca, Bachus, Baird, Baker, Baldacci, Baldwin, Ballenger, Barcia, Barrett, Bartlett, Barton, Bass, Bentsen, Bereuter, Berkley, Berry, Biggert, Bilirakis, Bishop, Blumenauer, Blunt, Boehl, Boehner, Bono, Boozman, Borski, Boswell, Boucher, Boyd, Brady (PA), Brady (TX), Brown (FL), Brown (OH), Brown (SC), Bryant, Burr, Burton, Buyer, Calvert, Camp, Cantor, Capito, Capps, Cardin, Carson (IN), Carson (OK), Castle, Chabot, Chambliss, Clay, Clayton, Clement, Clyburn, Combest, Condit, Conyers, Costello, Cox, Cramer, Crane, Crenshaw, Crowley, Culberson, Cummings, Cunningham, Davis (CA), Davis (FL), Davis (IL), Davis, Jo Ann, Davis, Tom, Deal, DeFazio, DeGette, Delahunt, DeLauro, DeLay, DeMint, Deutsch, Diaz-Balart, Dingell, Doggett, Dooley, Doolittle, Doyle, Dreier, Dunn, Edwards, Ehlers, Emerson, Engel, English, Eshoo, Etheridge, Evans, Farr, Fattah, Ferguson, Fletcher, Foley, Forbes, Ford, Fossella, Frank, Frelinghuysen, Frost, Gallegly, Gekas, Gephardt, Gibbons, Gilchrest, Gillmor, Gilman, Gordon, Goss, Graham, Granger, Graves, Green (TX), Green (WI), Greenwood, Grucci, Hall (TX), Hansen, Harman, Hart, Hastings (FL), Hastings (WA), Hayes, Hayworth, Hefley, Herger, Hill, Hilleary, Hilliard, Hinchey, Hinojosa, Hobson, Hoeffel,

Holden, Holt, Honda, Hooley, Horn, Hoyer, Hulshof, Hunter, Hyde, Inslee, Isakson, Israel, Issa, Jackson (IL), Jackson-Lee (TX), Jefferson, John, Johnson (CT), Johnson (IL), Johnson, E. B., Johnson, Sam, Jones (OH), Kanjorski, Kaptur, Keller, Kelly, Kennedy (MN), Kennedy (RI), Kildee, Kilpatrick, Kind (WI), Kirk, Kleczka, Knollenberg, Kolbe, Kucinich, LaFalce, LaHood, Lampson, Langevin, Lantos, Larsen (WA), Larson (CT), Latham, LaTourette, Leach, Lee, Levin, Lewis (CA), Lewis (GA), Lewis (KY), Linder, LoBiondo, Lofgren, Lowey, Lucas (KY), Luther, Lynch, Maloney (CT), Maloney (NY), Markey, Mascara, Matheson, McCarthy (MO), McCarthy (NY), McCollum, McCrery, McDermott, McGovern, McHugh, McInnis, McIntyre, McKeon, McKinney, McNulty, Meehan, Meek (FL), Meeks (NY), Menendez, Millender-McDonald, Miller, Dan Miller, George Mollohan, Moore, Moran (VA), Morella, Myrick, Nadler, Nethercutt, Ney, Northup, Norwood, Nussle, Oberstar, Obey, Olver, Osborne, Ose, Owens, Oxley, Pallone, Pascrell, Payne, Pelosi, Pence, Peterson (MN), Peterson (PA), Petri, Phelps, Pickering, Pitts, Platts, Pombo, Pomeroy, Portman, Price (NC), Pryce (OH), Quinn, Radanovich, Rahall, Ramstad, Rangel, Regula, Rehberg, Reynolds, Riley, Rivers, Roemer, Rogers (KY), Rogers (MI), Rohrabacher, Ros-Lehtinen, Ross, Rothman, Roybal-Allard, Royce, Rush, Ryan (WI), Ryan (KS), Sanchez, Sanders, Sandlin, Sawyer, Saxton, Schakowsky, Schiff, Schrock, Scott, Serrano, Shadegg, Shaw, Shays, Sherman, Sherwood, Shimkus, Shows, Shuster, Simmons, Simpson, Skeen, Skelton, Slaughter, Smith (NJ), Smith (TX), Smith (WA), Snyder, Solis, Spratt, Stark, Stearns, Stenholm, Strickland, Stupak, Sullivan, Sweeney, Tancredo, Tanner, Tauscher, Tauzin, Taylor (MS), Terry, Thompson (CA), Thompson (MS), Thune, Thurman, Tiahrt, Tiberi, Tierney, Towns, Turner, Udall (CO), Upton, Visclosky, Vitter, Walden, Walsh, Waters, Watkins (OK), Watson (CA), Weiner, Weldon (FL), Weldon (PA), Weller, Wexler, Wicker, Wilson (NM), Wilson (SC), Wolf, Woolsey, Wu, Wynn, Young (FL)

NAYS — 48

Barr, Becerra, Bonilla, Callahan, Cannon, Capuano, Coble, Collins, Cubin, Duncan, Everett, Filner, Flake, Gonzalez, Goode, Goodlatte, Gutknecht, Hoekstra, Hostettler, Istook, Jones (NC), Kerns, Kingston, Lucas (OK), Mica, Miller, Jeff, Moran (KS), Napolitano, Otter, Pastor, Paul, Putnam, Rodriguez, Sabo, Schaffer, Sensenbrenner, Sessions, Smith (MI), Souder, Thomas, Thornberry, Toomey, Udall (NM), Velazquez, Wamp, Watt (NC), Watts (OK), Whitfield

NOT VOTING — 26

Berman, Blagojevich, Bonior, Cooksey, Coyne, Dicks, Ehrlich, Ganske, Gutierrez, Houghton, Jenkins, King (NY), Lipinski, Manzullo, Matsui, Miller, Gary, Murtha, Neal, Ortiz, Reyes, Roukema, Stump, Sununu, Taylor (NC), Waxman, Young (AK)

Hawaii

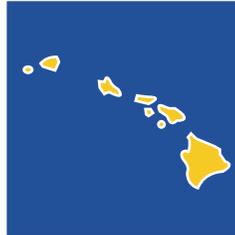
During Hawaii's 2000 primary election, nearly 30,000 miscast their ballots because they chose candidates in more than one party. Though given a second chance, 9,300 left the polling places without correcting their vote, causing a slew of spoiled ballots.

Hawaii election officials say they have had difficulty educating an electorate that does not fully understand how their state's elections work. Cross-party voting demonstrated to many a growing need for voter education. But how to fund the endeavor remains an open question.

In 2001, Dwayne Yoshina, Hawaii's chief election officer, asked the legislature for \$200,000 for voter education – including educational pamphlets, radio announcements, a Web site and public demonstrations of voting machines. But with a budget limiting spending, Gov. Ben Cayetano (D) cut the amount in half before lawmakers trimmed it further to \$25,000.

"Voter education was needed to improve and explain the mechanics of voting," Yoshina said. "But the legislature was not willing to give us money to fund the program."

"We anticipate the [cross-party] problem to continue," said Rex Quidilla, deputy chief election officer. "We've not been very successful in that respect. We have raised awareness about the issue. All the jurisdictions are going to face this problem because of redistricting. The hardest part is explaining to the voter what they did wrong. It requires a lot of training of the precinct official."



MAJOR REFORMS IN 2002

- Task force

According to the Federal Election Commission, voter turnout in Hawaii was the lowest in the nation in 2000, with only 40.5 percent of eligible voters turning out, and ranked near the bottom in terms of voter registration.

Quidilla said the state elections office cannot be held responsible for the turnout rate. "The difficulty for us is that it is hard for any one office to be responsible for voter turnout ... we cannot be directly responsible for inspiring the voters. What we do is try to provide adequate and fair elections."

Hawaiian lawmakers did little in the area of election reform in the past two years. In the 2002 session, they rejected bills that would have required automatic recounts in close elections (H.B. 1122); restored ex-felons' voting rights (H.B. 2604); election-day voter registration (H.B. 1442, S.B. 613) and instant run-off voting (S.B. 1270) for all state offices.

The legislature enacted a bill protecting the voting rights of people with mental disabilities. H.B. 1542 effectively eliminates a discriminatory provision that prevented mentally disabled people from voting. The Association for Retarded Citizens (ARC) of Hawaii championed the measure as a step to recognizing the abilities of people considered mentally challenged.

Lawmakers will reconvene next year, when election officials hope they will consider many of the recommendations proposed by the state's Elections Review Task Force. The report, released in May 2002, calls for establishing a voter's guide to elections, clarifying what constitutes a valid vote and offering election-day voter registration.



Idaho

During Idaho’s contentious Republican primary for secretary of state last May, election reform took center stage as a battle over the future of punch cards heated up.

Chief Deputy Secretary of State Ben Ysursa found himself defending the state’s 14 counties (which represent 58.7 percent of the state’s total voters) that still use punch-card machines. His opponent, state Sen. Evan Frasure, campaigned on a platform to end their use in Idaho.

Ysursa, who emerged victorious from the primary, noted that the punch-card machines had “performed well” and did not need immediate replacement, though he did acknowledge that counties might upgrade their machines anyway “within the next two years.”

Frasure had called for an immediate state-mandated switch to more modern technology in order to cut down on balloting problems. “I would like to see us move away from chads entirely,” he said. “It’s just an outdated system.”

Ysursa’s more measured approach reflected Idaho’s relatively smooth 2000 election, in which few voting troubles were reported. Nonetheless, as in other states that did not experience significant problems in 2000, Secretary of State Peter Cenarrusa (R) formed a task force shortly after the Florida fiasco to review election laws and procedures in order to stave off any future problems.

“It’s an ongoing entity,” Ysursa said. “We strive for perfect elections. We’ll never make it, but that’s our goal.”



MAJOR REFORMS IN 2002

- State fund (awaiting federal funds)
- Absentee ballot

The task force recommended – and successfully lobbied for – cutting off requests for mail-in absentee ballots six days before Election Day. State law previously had allowed registered voters to request absentee ballots up to and including the day of an election. H. 612, which the legislature easily passed in March of 2002, established the deadline, while also eliminating walk-in absentee requests on Election Day.

“This gave the clerks an opportunity to have time to get the ballot out to [voters] and allow it to be returned,” said Republican state Rep. Bill Deal.

A similar bill, H. 207, had failed during the 2001 legislative session because it would have denied all requests for absentee ballots during those six days before an election, including walk-in absentees. The newer version, however, allows walk-in requests up until the day before an election.

“We strive for perfect elections. We’ll never make it, but that’s our goal.”

– BEN YSURSA, CHIEF DEPUTY SECRETARY OF STATE

Legislation in 2002 that stemmed directly from the task force’s findings includes H. 613, which created a “Democracy Fund” to manage federal money designated for election reform.

“[The bill] spells out what [federal money] is used for,” Ysursa said. “It was an easy vote.”

In addition to the task force’s recommendations, Cenarrusa’s office also sponsored a workshop for county clerks. The two-day workshop was part of a voter education plan that included election worker training videos, revised voting instructions, new instructional flip-charts and updated manuals for each poll worker position.

“We think that people, policy and procedure are what we need to work on, along with [voting] machines,” Ysursa said.

Illinois

The intense national focus on the shortcomings of punch-card systems during the 2000 election led to significant legislative reforms in states such as California, Florida and Georgia.

Not so in Illinois, where punch-card balloting may have produced the most problems of any state. In Chicago and the Cook County suburbs alone, more than 120,000 ballots – 6 percent of the total cast – did not record a vote for president. Even with the staggering numbers, the state legislature has yet to act on any significant election reform.

“It takes a lot of concentrated effort and momentum to [act] in Illinois,” said Ron Michaelson, executive director of the state board of elections. “That so far hasn’t happened.”

“We have been stalemated,” added Rep. Mike Boland, D-East Moline, chairman of the elections and campaign reform committee.

‘Highly Politicized’ Issues

But the lack of legislation does not reflect a lack of effort, state officials said. Rather, the inaction can be mostly attributed to the divided partisan control of the state legislature, with Democrats controlling the House and Republicans the Senate during the 2001-02 sessions.

The most high-profile of the partisan election reform battles has been over voting technology in Chicago and suburban Cook County. When both jurisdictions spent \$25 million in 1999 to improve their punch-card systems, they sought special legislative permission to use the error-detection technology that came with the new machines. But Republicans in the Senate refused to allow officials in Chicago and Cook County to implement the technology, which is designed to notify voters if their ballot contains under-votes or over-votes.

Cook County Clerk David Orr attributed some of his jurisdiction’s balloting problems in 2000 to the inability to use the error-detection equipment correctly.



MAJOR REFORMS IN 2002

■ None

“Most ballots would have been corrected if we had the protections that we should have had but the Republican Senate majority blocked,” Orr said. “Can you imagine if Illinois had been Florida? It would have made Florida look like nothing.”

But state Republicans countered that the technology violates the notion of a secret ballot, since election judges would know if a voter has cast an intentional under-vote in a given race.

“The voter has a key right to privacy,” said Peg Mosgers, election law analyst for Republican state Senate President James “Pate” Philip. “That information should not be known to anyone else but the voter.”

“We have been stalemated.”

REP. MIKE BOLAND, D-EAST MOLINE,
CHAIRMAN OF THE ELECTIONS
AND CAMPAIGN REFORM COMMITTEE.

Efforts in the state legislature to approve use of the technology after the 2000 election went nowhere. Senate Republicans were stymied in their bid to permit the technology just for over-votes, “which we have no problems with being returned,” Mosgers said.

Reformed By Bench, Not Bill

State Democrats and Chicago voters, seeing little chance of victory in the legislature, took their case to a local court. A lawsuit filed in January 2001 against state and local election officials sought permission to use the system’s error-detection equipment for all elections. A Cook County judge initially permitted officials to use the technology in early 2001 municipal elections on a trial basis. In August 2001, the judge ruled that the technology could be used in all future elections, including this year’s primary and general election, citing the high ballot spoilage rate in 2000.

“Many citizens expected that their respective legislatures would enact laws to remedy the many ills that characterized that election,” Circuit Judge Julia Nowicki wrote at the time. “This expectation was especially high in Chicago, where the uncounted votes reached an unprecedented level.”

Local election officials applauded the decision. "We won our right to use the voter protections," Orr said.

Chicago area precincts featured the error-detection equipment in the state's March primary, which "went much better" than the 2000 general election, Orr said. He also pointed towards increased voter education and election judge training programs as reasons for his jurisdiction's improvement in the last two years.

"It takes time to learn how to use [the new technology], but I think people are learning how to handle it better," Orr said. "We've done a lot."

Suburban DuPage County also performed a widespread implementation of new voting equipment during the March primary, switching from punch cards to optical scanners primarily as a response to the punch-card controversies in 2000.

But the absence of a response at the state level has been the story in Illinois. Michaelson called it "disappointing" that legislators have yet to authorize the use of direct-recording electronic (commonly known as touch-screen) machines in the state. Currently, jurisdictions are only permitted to purchase punch-card and optical-scan systems.

"We just think the [voting machine] choices ought to be widened," Michaelson said.

Boland said in August that he is planning to introduce a bill in the 2003 legislative session that would do what state election officials want.

"I've been a skeptic on [electronic voting]," Boland said. "But I've seen it's about as foolproof as you're going to get. I'm ready to move now on legislation that would allow other types of systems."

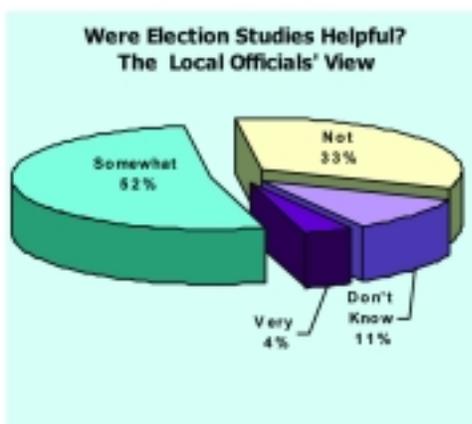
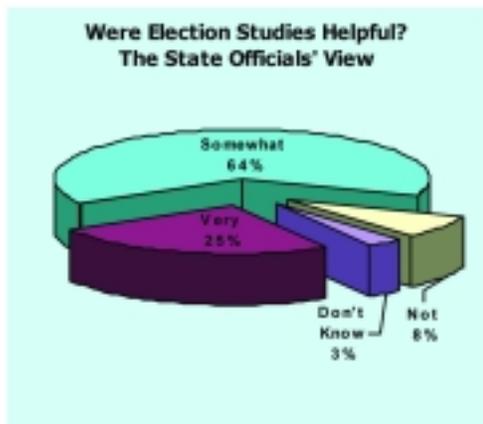
Added Mosgers, "Touch-screen voting's time has come. But even touch-screen voting in this state has been bogged down."

The fate of that bill and other possible reforms, such as voter intent standards, could largely depend on what happens in next month's elections. A favorable legislative redistricting plan and a strong gubernatorial challenge has Democrats optimistic that they can capture complete control of state government for the first time in decades and make the substantive election reforms that so far have been mired in partisan politics.

"We're likely to have a very different legislature next year," Michaelson said. "If that happens, perhaps it would result in some different outcomes."

Added Boland, "seeing what other states have done since 2000, that should help give us the impetus to move ahead [in 2003]."

ELECTION ADMINISTRATORS' NATIONWIDE POLL SNAPSHOT (Princeton Survey Research Associates, January 2002)



Indiana

The Hoosier State's election reform efforts have touched on nearly all of the problems revealed in Florida and elsewhere during the 2000 presidential election. Its legislature acted quickly to adopt new laws to end the use of the maligned punch-card voting system, to institute an online, interactive statewide voter registration system and to develop rules for counting disputed votes and recounting ballots in close races.

But as state coffers have dwindled, ambitious plans have given way to the sobering reality of a budget deficit and more urgent needs that could delay upgrades to voting for years. While some reforms will go into effect in 2003 – including provisional voting, vote-counting standards and voter identification rules – machine and registration reforms will have to wait.

"I think the legislature acted in good faith," said Spencer Valentine, state election co-director. "The legislature passed bills and set aside money in the budget meant to address these things. But they, like so many other states, have run into a fiscal crunch."

The severity of that crunch – an estimated \$800 million to \$1 billion shortfall – could mean that Indiana will miss the self-imposed 2004 deadline for the statewide voter registration database as well as the 2006 deadline for banning punch-card machines still used by 29 counties (and 25 percent of Indiana's registered voters).

Legislative Reforms Stalled

Acting in response to an October 2001 report by the governor-appointed Indiana Bipartisan Task Force on Election Integrity, the legislature overwhelmingly approved H.B. 1101. The panel of lawmakers, county clerks, citizen representatives and the secretary of state called for an integrated statewide voter registration system by July 2004; nationwide "unique identifiers" to determine interstate double registrations; flexibility in purges; provisional ballots; voter intent and recount rules; and more pay and younger workers at the polls.



MAJOR REFORMS IN 2002

- Voters' bill of rights
- Statewide voter registration system
- Voter identification (last 4 digits of Social Security number)
- Provisional voting
- Absentee ballot
- Vote-counting standards
- Punch card ban

The legislation, signed into law in March 2002, created a voters' bill of rights and established provisional ballots, allowed absentee ballots to be submitted by fax and charged the state's Election Commission with adopting rules for updating voting system standards statewide.

Gov. Frank O'Bannon (D), said at the bill signing that the 2000 elections "were an appropriate warning for Indiana to take a serious look at how elections are conducted."

Sen. Becky Skillman, a Republican who served on O'Bannon's task force, said Indiana's rapid approval of bills and sweeping reforms, even in the absence of Florida-like crises, reflected the strength and legitimacy of the panel that recommended them.

"I can't recall any major provision that was at any point discussed that failed," Skillman said.

"It was an equal number of Republicans and Democrats, House and Senate members, citizens, election officials, attorneys and college students, so we had a lot of bipartisan support and citizen input to come up with the recommendations. It had more weight behind it than one legislator's good ideas."

It also could repair a problem that both Republicans and Democrats say plague Hoosier elections – bloated registration rolls. Skillman said the state estimates as many as 20 percent of the names in local registration databases are "false names," meaning non-voters, ineligible voters, married voters with new last names, voters who moved and voters who died.

While lawmakers have for years rejected efforts to introduce photo ID requirements at state polling places, H.B. 1101 will require all voters to provide the last four digits of their Social Security number – or present a state-produced ID – to guard against registration errors. Once the database is operational and linked throughout the state, the combination of a voter's last name, address, birth date and partial Social Security number will be able to quickly identify voter mobility and mortality.

Skillman said legislation in early 2003 could attempt to force the release of the funds to upgrade voting systems so cash-strapped counties do not have to bear the cost of a state mandate without help.

“You can’t mandate new systems on counties that are already financially strapped without 50 percent assistance from the state,” she said.

Counties Move Ahead – Without Funds

Despite an indefinite hold on \$4 million in state matching funds to upgrade voting machines, a number of counties have moved ahead with upgrades of their systems. The number of counties using punch cards dropped from 35 to 29 in the past two years. Six counties tested new voting systems during the state’s May primary, including two that selected touch-screen systems and four that picked optical scanners.

Sara Taylor, Marion County clerk and immediate past president of the Indiana Association of County Clerks, said some local officials were “determined” to go ahead with voting system upgrades even without assurances of state or federal matching funds.

“They may have already been going down that path, and when the 2000 election [and state task force] came along, some of their local officials might have had some hope [that there would be funding],” Taylor said.

“I think the legislature acted in good faith. The legislature passed bills and set aside money in the budget meant to address these things. But they, like so many other states, have run into a fiscal crunch.”

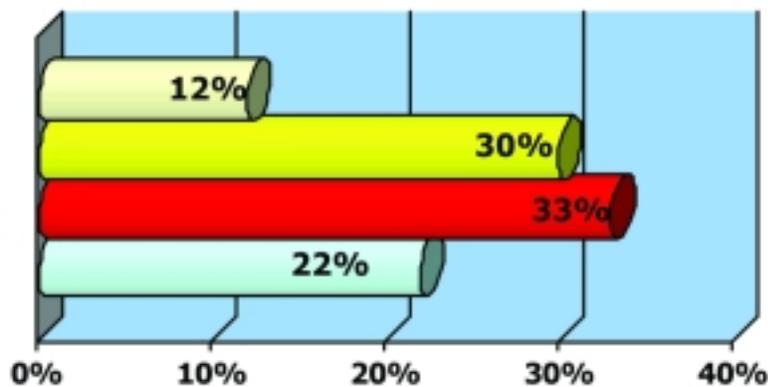
– SPENCER VALENTINE,
STATE ELECTION CO-DIRECTOR

Taylor, whose county includes Indianapolis and is the largest in the state with more than 900 precincts, said she would love to ditch her 1950s-era lever machines, but will likely have to wait for the state to release money or its share of funds promised in election reform legislation.

“My dilemma here is that obviously I was looking toward the state,” she said.

ELECTION ADMINISTRATORS’ NATIONWIDE POLL SNAPSHOT (Princeton Survey Research Associates, January 2002)

Best Action by Federal Government



Iowa

In the wake of Election Day 2000, Iowa Secretary of State Chet Culver (D) embarked on a five-stop tour of his state, meeting with voters in order to gather ideas for election reform and found a “good election system, and a well earned and deserved reputation for conducting clean, open, and honest elections.”

Culver said he also found room for improvement in the areas of voting technology, poll worker training and recruitment and voter education.

Hoping a statewide voter registration system would clean up the voter rolls and prevent fraud, the state legislature gave his office \$500,000 in May 2001 to create the system. But Culver was criticized by lawmakers for not being able to deliver on the initial investment and an additional \$350,000 appropriation was cancelled.

“We gave the secretary of state money in the past and we didn’t think it was spent wisely, and, in fact, he couldn’t even tell us where some of it was spent at all,” said Sen. Jeff Lamberti, R-Polk, vice-chair of the state government committee. “The Democrats want more money for improving technology while we are worried about voter fraud. We need to continue to work to find some common ground.”

When told about Lamberti’s comments, Culver responded: “The people that are criticizing my office now are the same ones that supported giving us additional funds, so this talk of misappropriation is nonsense.”

Culver and other election officials said the database project has been put on hold as they wait for possible federal legislation.

“Federal legislation may greatly impact how we approach a new voter registration system,” said Bob Galbraith, director of



MAJOR REFORMS IN 2002

- Punch card ban (future purchases)
- Election-related crime prosecution
- Statewide voter registration system (awaiting federal funds)

voter registration and elections.

While the statewide voter registration database will not be available for the November election, some new laws will be in effect. H.F. 2472, a comprehensive bill passed this year, makes several changes to the state’s election codes, including banning future punch-card voting system purchases, allowing electronic transmission of election results and obliging county commissioners to remove a voter’s Social Security number from registration lists requested by the public or political parties.

The bill’s original photo ID provision, which would have required all voters to show identification at the polls, was divisive in the House. Democrats likened it to 19th-century poll taxes, and Republicans insisted it would drive down voter fraud. In the end, a watered-down H.F. 2472 passed both chambers without voter ID provisions.

“I supported the initial legislation because I had a strong feeling that legitimate voters were concerned that their vote wouldn’t count as much because of votes cast by illegal voters,” said Rep. Dan Boddicker, R-Tipton. “But [Republicans] supported the watered-down legislation because we realized that it did make some positive steps.”

Making a statement against voter fraud and other election crimes, the legislature passed H.F. 2409, which specifies that individuals who commit voter or registration fraud, bribery, election counterfeiting or any numerous other acts (even loitering) will be “vigilantly prosecuted.”

Lawmakers rejected a bill that would have allowed voting by mail in towns with fewer than 200 residents (H.F. 2085), a bill to generate unique identifiers for each voter for the state’s new database (S.F. 2296) and legislation that would have clarified vote-counting and voter intent standards (H.F. 2550).



Kansas

Kansas Secretary of State Ron Thornburgh's (R) proposal to revise several existing election laws motivated lawmakers to make some reforms to the state's elections – most notably recount procedures and a ban on vote-trading.

Lawmakers acted on a number of suggestions Thornburgh proposed in November 2001. While some of the suggestions have been made into law, others are still pending, said Brad Bryant, deputy assistant secretary of state.

Legislation

S.B. 126 simplified the protocol for recounts, now requiring statewide candidates seeking recounts to post bonds with the Secretary of State's office indicating which counties need to be recounted. Previously, a statewide candidate had to post a bond in each county in which he wanted a recount.

"It [used to be] a great impediment to the candidate to call for a statewide recount," said Republican state Rep. Tony Powell. "Given what happened in Florida, the legislature thought that it was in the best interest for the state as well as for the candidate to bring consistency to the process of a recount."

Prevention of vote-trading and voter intimidation was also high on the reform agenda, as Kansas lawmakers approved S.B. 128, making it a crime for individuals to exchange votes. Vote-trading during the 2000 election triggered the law, officials said, when some



MAJOR REFORMS IN 2002

- Recount procedure
- Ban on vote-trading

supporters of Green Party candidate Ralph Nader – registered in states where the presidential race was closer – allegedly traded their votes with those living in less Democratic-leaning states that supported Al Gore.

With Kansas' Hispanic population more than doubling between 1990 and 2000, according to the U.S. Census, voters were issued registration cards in either English or Spanish for the first time this year.

Improving voting technology also became an issue in Kansas when Johnson County decided to upgrade their voting machines. The county spent \$3 million to buy 860 new touch-screen machines, which were used for the first time in an April 2002 municipal election.

County election officials and voters said they were pleased with the touch screens' performance. Several days later though, tabulation errors were discovered when election officials attempted to transmit results to the central computer, forcing the county to conduct a hand recount the next week. Connie Schmidt, Johnson County elections commissioner, said that the problem has been fixed and the machines have been tested several times since April.

"Given what happened in Florida, the legislature thought that it was in the best interest for the state as well as for the candidate to bring consistency to the process of a recount."

– STATE REP. TONY POWELL, REPUBLICAN

"We requested a hand recount ourselves to ensure that [the] machines' recount results were accurate and to eliminate any possible skepticism," Schmidt said. "Voters in Johnson County have a lot of confidence in us."

Kentucky

While it led to heated debates around the country and in Congress, voter identification was not a particularly controversial issue for the Kentucky legislature this year.

An effort to strengthen the state's existing identification requirements by closing a loophole for affidavit balloting received broad bipartisan support and the backing of county clerks.

"I know it's controversial nationwide, but here there wasn't any flap over it, which was kind of surprising to me," said Laura Hendrix, staff administrator for the legislature's task force on elections.

Mary Sue Helm, executive director of the Kentucky State Board of Elections, called H.B. 33 "a nonpartisan issue," pointing to the identification requirements that have been in place for most of the commonwealth's voters since the late 1980s.

"We have required identification for a long time," she said. "It's to assist in combating fraud."

Prior to this year, voters whose names did not appear on the rolls but said they were registered could sign an "oath of voter" form and then cast a ballot, even if they did not carry any identification with them or if poll workers could not vouch for their identity. Affidavits can no longer be used for the purpose of identifying a voter. Instead, voters must show some form of identification such as a credit card or driver's license.

The new law, which took effect July 15, will be used for the first time in November.

"It's a small number of voters this would affect," Helm said. "There are very few occasions in which a voter would show up without identification."



MAJOR REFORMS IN 2002

- Voter identification
- Voting machines
- Young poll workers

Other proposed election-related legislation was not successful. In the wake of the 2000 election, Secretary of State John Y. Brown III (D) submitted a package of reforms to the legislature, including appropriations for new electronic machines in several counties and pay increases for poll workers. But most of the changes originally included in H.B. 327 did not clear the legislature in 2001.

"It was a little bit too complex," Hendrix said. "There wasn't that big [of an] impetus for reform [after 2000]."

Partisanship also might have played a role in curbing passage of some election reforms, Hendrix added, noting the current split control of the legislature.

"[Election reform] will be more of a piecemeal kind of deal unless there is some big thing that comes up in Kentucky,"

— LAURA HENDRIX, STAFF ADMINISTRATOR,
LEGISLATURE'S TASK FORCE ON ELECTIONS

"There wasn't a whole lot of anything getting through," she said.

Still, some small election law changes were enacted this year. H.B. 251 permits 17-year-olds to serve as election officers in a primary election, provided they will turn 18 in time for the November general election. Only one 17-year-old will be permitted to serve in each precinct.

In addition, S.B. 128 enables Jefferson County to purchase and use equipment that allows visually impaired voters to cast secret ballots. As part of the pilot program, the state is waiving a rule that required voters to cast ballots in only their home precincts. The county will use four new touch-screen machines in the November election, said Bill Lile of the Jefferson County Board of Elections.

With Kentucky facing a tight budget, Hendrix does not expect the legislature to tackle costly reforms, such as new machines or statewide voter database upgrades, in the near future.

"[Election reform] will be more of a piecemeal kind of deal unless there is some big thing that comes up in Kentucky," Hendrix predicted.



Louisiana

Although it was not as high-profile a purchase as the one made by southern counterpart Georgia, Louisiana also acquired a cutting-edge, statewide voting system in 2002.



MAJOR REFORMS IN 2002

- Voting machines

Debuting in some parish elections last summer, the 700 touch-screen machines from Elections Systems & Software, which cost the state more than \$3 million, will be used in most parishes during the fall elections to replace punch-card ballots for all in-person absentee voting. About half of the new touch-screens will also serve as the Election Day voting equipment in Ascension and Tangipahoa parishes, replacing the 1950s-era lever machines that had represented the state's oldest system in use.

"Louisiana did what they're calling on everyone to do now 40 years ago. We didn't have any of the kinds of problems that they had in Florida. We have had electronic voting machines in our parishes for years and years."

*STATE REP. CHARLES LANCASTER JR.,
REPUBLICAN, CHAIRMAN,
HOUSE AND GOVERNMENTAL AFFAIRS COMMITTEE*

While some states and localities have upgraded their voting technology as a response to Florida 2000, Louisiana's procurement was just the next step in a long-term statewide modernization process that began decades ago, said Republican state Rep. Charles Lancaster Jr., the chairman of the House and Governmental Affairs Committee.

"Louisiana did what they're calling on everyone to do now 40 years ago," Lancaster said. "We didn't have any of the kinds of problems that they had in Florida. We have had electronic voting machines in our parishes for years and years."

For now, the other 62 parishes will continue to use on Election Day the same full-face machines that have been used in past elections. But the state, which has controlled all voting machine purchases since 1954, hopes to acquire more touch screens for several parishes in the near future.

"We call it updating equipment more than reform," said Keith Edmonston, state election director. "The touch screens cut down a lot of human error. The old machines still worked [in Ascension and Tangipahoa], don't get me wrong, but we were still getting some errors when the

results were reported by hand."

The new machines successfully passed their first test during a round of July municipal elections, boding well for their widespread implementation in November, when a hotly contested U.S. Senate race will head the ballot, according to Louisiana officials.

"I don't think we're going to have any problems with them," Lancaster said. "We've done a lot of proactive runs on the new machines here. They really seem to be pretty well liked."

Another significant change to the state's election system will be less visible to the average voter and will not take effect until January 2004. During last year's legislative session, both the state House and Senate easily approved H.B. 18, which will put the state Elections Department under the control of the Secretary of State's office. Previously, the

commissioner of elections had been an elected position with a four-year term and the Secretary of State's office had only partial jurisdiction over election administration. After the 2003 state elections, the secretary of state will appoint the next commissioner.

"That's probably the biggest [election reform] bill that was passed," Lancaster said. "We were trying to save the state some money. It was not a response to Florida."

Edmonston added: "The people out there won't see a difference" in the conduct of elections after the change goes into effect.

Officials do not foresee any major changes in the near future, either, now that paper ballots have been limited to use for mail-in absentee voting only. For example, the state already handles the voter registration rolls.

"We're on the cutting edge in the U.S. as far as election law and equipment," Lancaster said.

Maine

To state Rep. Paul Tessier, Election Day problems start with people – more specifically the people working the polls in the state’s 520 municipalities.

“It has been our experience that problems that crop up at the polling areas often are the result of election clerks not keeping up with current changes in election laws,” said Tessier, a Democrat. “Requiring [training] is one way to insure that everyone knows current election laws and to insure that all voters’ rights are adhered to.”

In late 2001, Maine’s legislature ratified L.D. 623, a bill that supporters say will improve election officials’ know-how by making state training mandatory. The legislation was an effort to “put something on the books so people know that this training is required,” said Deborah Cabana, the states election director.

The new rules, which will go into effect in 2003, require the municipal clerk and registrar from each municipality to attend a training session approved by the secretary of state at least once every two years. Sessions will focus on voter registration and the rules governing election laws.

Legislation Paves Way for Statewide Registration System

One major aspect of Maine’s election process that is likely to change soon is the voter registration system. In 2002, lawmakers laid the groundwork for a new system with the passage of L.D. 2182. The bill, overwhelmingly approved this spring, calls for officials to begin creating a computerized interactive statewide system this year to be completed and online by the end of 2007.

Linda Cohen, Portland’s city clerk, said she strongly supports the move to a statewide database to reduce



MAJOR REFORMS IN 2002

- Statewide voter registration system (awaiting federal funds)

double registrations and simplify updates, deletions and additions.

“I’m excited,” Cohen said. “I like the idea that people will not be able to register in multiple counties. It will definitely make my job easier.”

Cabana said the state is counting on the approval of federal legislation to fund the system.

Another Florida That Wasn’t

A 2002 election controversy in a state Senate race perhaps convinced some Maine lawmakers that their system was not, compared with other states, all that bad.

In the 27th District, an initial vote count found Democrat Michael Brennan with a 20-vote lead over Republican Sally Vamvakias. But a recount of the ballots reduced Brennan’s lead to 11 votes. The fate of the seat hinged on whether 37 late-arriving absentee ballots would be counted.

The task fell to the state Senatorial Vote Committee to determine if the late arriving ballots should be counted. While the Senate possessed complete latitude to decide the winner in whatever manner it deemed appropriate, the committee decided that state law regarding election ballots provided the necessary explanation.

Ultimately, Brennan was declared the winner.

“Fortunately this section of law is, for the most part, both clear and readable,” said state Sen. Jill Goldthwait, an independent and a member of the committee. “The decision flowed rather easily from there. To the credit of both parties, despite the furor surrounding the process because the majority rested upon it, the committee dispatched its mission fairly and efficiently.”



Maryland

Last year, Maryland was one of the first states to act on the reform momentum caused by Florida’s fallout, approving a series of proposals designed to improve election administration.



MAJOR REFORMS IN 2002

- Provisional voting
- Restoring rights of felons

Lawmakers acted quickly to mandate statewide voting systems in 2001. H.B. 1457 instructed the State Board of Elections to “select, certify and procure a uniform polling place voting system and a uniform absentee voting system for use in Maryland.” It also earmarked \$2 million for equipment purchases, with \$15 million earmarked for fiscal year 2003.

Donna Duncan, director of the state’s election management division, said the state had been working on election reform since 1997, rewriting election laws and changing the way elections were run in the state. Voting equipment, she said, “was the last piece of the puzzle.”

“While the 2000 election in Florida pushed it a bit, it was certainly in the radar scopes here anyway,” Duncan said.

Replacements began this year in four counties – Montgomery, Allegheny, Dorchester and Prince George’s – which employed some of the oldest voting equipment in the state. Montgomery County dropped punch-cards and the other three abandoned lever booths in favor of new touch-screen machines.

Confidence in the Machines

Some problems plagued the machines’ unveiling, however. Reports detailed tabulation delays during the September 10

primary in Montgomery County. Others noted some poll workers did not know how to operate the new technology. But Tim Augustine, deputy administrator of elections, said those problems were resolved quickly.

“It’s a new system ... it’s natural to expect some problems on the initial use,” he said, adding that poll workers attended a three-month training course on how to operate the touch screens.

While machines made headlines, Maryland lawmakers also passed a number of other election reform bills since 2000. In 2002, the legislature passed S.B. 184/H.B. 535, which restored felons’ right to vote upon completion of their sentences, with waiting periods for those convicted of multiple felonies.

Lawmakers also approved provisional balloting, passing H.B. 1046, a bill that requires election judges or election directors to grant temporary certificates of registration to voters who show up at the polls and are not on registration lists. According to the bill, voters will be allowed to cast provisional ballots in their home precinct only.

H.B. 871, also approved in 2002, allows an individual who has cast a provisional ballot to petition for confirmation of his or her ballot status within 10 days. Additionally,

S.B. 740, passed in 2001, provides registered voters with continuous registration. Under the law, once a Maryland citizen registers to vote, he or she remains registered regardless of relocation within the state.

“It’s a new system ... it’s natural to expect some problems on the initial use.”
– TIM AUGUSTINE,
DEPUTY ADMINISTRATOR OF ELECTIONS



Massachusetts

With voting machines inaccessible to people with disabilities, local-option voter identification that has attracted court attention and no system of provisional voting in place, Massachusetts might be considered a state ripe for the kind of election reforms seen in Florida, Georgia and elsewhere.

But in the Bay State, where election controversy in recent years has focused almost entirely on campaign finance and not voting itself, little has happened since November 2000.

“There weren’t any huge proposals [that came out of Florida] that were that different from what we already had in place,” said Michelle Tasfanari, legal counsel for the state’s elections division. “There was no task force and no legislative package from the Secretary of the Commonwealth.”

Massachusetts lawmakers ended their session in August making no reforms to elections. Lever machines made decades ago continue to be the equipment of choice in some jurisdictions, as well as paper ballots and, in a few small towns, punch cards. The state offers a version of provisional voting called an “escrow ballot,” but the procedures by which voters attain them will likely need to be changed with the possible passage of federal election reform. Voter identification is still a local option for cities and towns, though it is rarely required.

‘What Happened ... Nothing’

“It’s easy to say what happened with election reform here – nothing,” said Carma Forgie, chair of the



MAJOR REFORMS IN 2002

- None

Massachusetts League of Women Voters Election Study Committee. “Some bills were introduced, but they didn’t get anywhere. Our legislature has been fighting with the governor about the budget and it seems like nothing else gets done here.”

An extensive list of 50 rejected bills includes proposals requiring ID at the polls statewide (H.B. 1571), establishing an Internet voting task force (H.B. 3282), studying Election Day registration (S.B. 357) and creating an election equipment replacement fund (H.B. 3280).

Accessibility for Voters and Other Unresolved Issues

Currently, the state does not have a single machine that would be considered accessible to voters with certain forms of disabilities, including blindness. Tasfanari said Massachusetts has yet to approve a touch-screen voting system because the state’s rules for write-in candidates require machines to accept street addresses as well as names. In 2002, she said, not a single vendor with a machine that could handle the Commonwealth’s write-in rules applied for certification.

She said the legislature will probably need to consider ballots in multiple languages after a number of groups representing minorities complained of the inaccessibility of ballots in languages other than those required by the 2000 U.S. Census.

“It’s easy to say what happened with election reform here – nothing.”
– CARMA FORGIE, CHAIR,
MASSACHUSETTS LEAGUE OF WOMEN VOTERS
ELECTION STUDY COMMITTEE

Forgie said her committee will be investigating ways to find more – and better trained – poll workers in the state, whether it requires legislation or simply rule changes by the secretary of the commonwealth.

Michigan

With a statewide voter registration database and affidavit balloting already in place, Michigan officials said they did not have much to reform in the wake of the 2000 election, even as Congress debated what voting upgrades to require of states.

“Most of the stuff we don’t need or we already have,” said Chris Thomas, director of the state’s elections.

Still, Michigan officials want the money that would likely come with a federal election reform bill so that they can standardize and improve their diverse set of voting systems. In May 2001, Secretary of State Candice Miller (R) recommended in a report to the state legislature that Michigan adopt a statewide optical-scan system with precinct-based tabulation. Currently, paper ballots, punch cards, lever machines, optical scanners and touch screens are used.

“Uniform voting equipment in every precinct would have many advantages, including providing equal protection for every voter,” Miller said last year. “Michigan is recognized as a national leader in conducting elections and if we are to maintain our tradition of excellence, we must ensure that every voter is treated equally and uniformity is the key.”

Ready for Federal Money

Lacking the millions of dollars necessary to purchase a statewide system, lawmakers in 2002 established a mechanism to accomplish that goal by using federal funds. Under H.B. 5216, as federal money becomes available, the secretary of state is authorized to form an advisory committee for the selection and implementation of a new uniform voting system. Prior to this legislation, which Thomas labeled “our major reform” since November 2000, decisions on voting equipment were made solely at the local level.

More controversial was S.B. 173, a package of election reforms that included a ban on straight-ticket voting. The



MAJOR REFORMS IN 2002

- Voting machines (awaiting federal funds)

bill passed the Republican-controlled legislature along party-line votes and the Republican governor signed the measure into law in March of 2002, despite Democratic objections that the provision was a partisan move that would disenfranchise some voters and lead to longer lines at polling places.

“We thought that voters would stand to benefit by having to learn a little bit more about the candidates rather than just checking a box,” said Chris Gillett, a spokesman for state Rep.

Bruce Patterson, a Republican who chairs the House Oversight and Operations committee.

In an effort to block the new law from taking effect, a coalition of Democrats and voter rights groups collected enough signatures to force a referendum vote on the entire bill during the November election.

“The straight-ticket voting ban was limiting voters’ choices,” said Ben Kohrman of the state Democratic Party. “This did not arise by popular demand.”

With the measure now suspended pending the outcome of the referendum, straight-ticket voting will remain an option on the ballot in November. It also delays less-controversial measures in the bill, including changes to how the state handles recounts and affidavit ballots. Election officials will press the state to enact them in the next legislative session if the referendum fails, Thomas said.

The state’s closed primary might also be a topic in the next legislative session. Following this year’s August primary – in which 224,000 ballots were invalidated for votes for candidates from multiple political parties – Miller urged Michigan to switch to open nominating contests, in which any voter could vote for any candidate regardless of partisan affiliation.

“Voters should be able to vote for the candidate of their choice in a primary regardless of party affiliation,” Miller said.



Minnesota

When they return to the polls in November, more than 300,000 Minnesota voters will cast ballots on upgraded voting machines, the result of \$1.9 million in state matching grants to counties deemed by state officials to be at a technological disadvantage.



MAJOR REFORMS IN 2002

- Voter registration update procedures
- Voter identification procedures (election-day registration)

Passed in 2001 as an omnibus state government finance bill, S.F. 9 created a “Voting Equipment Grant Fund,” which allows localities to apply for money to purchase upgraded voting systems.

“This program is a big step forward toward equalizing ballot treatment and counting,” Bob Schroeder, deputy secretary of state, said in a statement.

The beneficiaries, according to Secretary of State Mary Kiffmeyer’s (R) office, will be an estimated 33 percent of state voters who, until now, have cast paper ballots that were hand counted on election night. Kiffmeyer said the old-fashioned system increased the likelihood of defective ballots and disqualified votes.

With the passage of the bill, smaller localities that previously could not afford equipment upgrades will now be able to have a 50 percent match from the state or federal government. The first cycle of grant applications yielded \$850,000 in matching grants earmarked to 63 localities. The second cycle is pending.

The bill also created a pilot program designed to increase accessibility at the polls for voters with disabilities.

According to Scott Simmons, the state’s elections director, voting machines allowing the blind to cast an independent and secret ballot will be tested during the general election.

S.F. 9 also provided for the development and posting of voting instructions in languages other than English. Voting instructions are now available – at polling places and online – in English, Spanish, Somali and Hmong.

“The face of Minnesota is changing, but the right to vote remains the same,” Schroeder said in a statement.

Additionally, the bill made it easier for military voters and students to access absentee ballots. Rather than requiring absentee voters to mail in applications, forms can now be faxed. It also set a uniform threshold for automatic recounts of one-half of one percent, regardless of the election.

More than 300,000 Minnesota voters will cast ballots on upgraded voting machines, the result of \$1.9 million in state matching grants to counties deemed by state officials to be at a technological disadvantage.

In 2002, lawmakers cooled on election reform legislation, rejecting bills to reinstate voting rights to ex-felons (H.F. 3540), requiring voter identification at polling places (H.F. 1978) and providing for instant run-off voting (H.F. 1831).

Only one significant election reform bill, H.F. 2886, passed, amending the identification requirements to register to vote on Election Day. The bill will allow some forms of tribal identification to be used to register to vote. The bill also stipulates that if a voter does not vote for four years, their registration becomes inactive and they must re-register.

Mississippi

Although Mississippi did not experience major problems in the 2000 election, Secretary of State Eric Clark (D) decided to create the Select Task Force on Election Procedures and Technology to examine its election practices. The panel issued three legislative recommendations in 2001, each of which was enacted by the legislature this year.

Most significantly, Mississippi is now poised to create a statewide voter registration database. With the passage of S.B. 2366, the new database will link together the state's 82 individual county lists into one centralized system. The state office will maintain the database, but county commissioners will still be responsible for purging unqualified names – including dead people and felons – from the rolls.

The legislation cleared a hurdle this summer when the U.S. Justice Department approved the bill. All changes to Mississippi election law are subject to federal pre-clearance under the Voting Rights Act. An equally significant obstacle – money – awaits federal action.

"If we can build a statewide computer network, we can significantly improve what often has been an inefficient process," Clark said in August.

In another effort to bring uniformity to the state's election process, the legislature also established statewide voter intent standards for counting ballots that are not clearly marked. Under H.B. 833, a punch-card vote will not count unless at least two corners of the chad are detached, light is visible through the hole and there is an indentation made by the stylus.

Lawmakers also approved S.B. 2380 this year, requiring



MAJOR REFORMS IN 2002

- Statewide voter registration system (awaiting federal funds)
- Vote-counting standards
- Required reporting of uncounted ballots

counties to report uncounted ballots after each election. The Secretary of State's office is expected to use that data to make recommendations for improving voting machines and procedures.

"We suspected that there may be a problem with residual votes due to ballot design, voter education, etc.," said Leslie Scott, assistant secretary of state.

Identifying problems with its antiquated lever machines, Hinds County (Jackson) spent \$1.54 million in early 2002 to replace its machines with 550 wireless touch screen devices. The new machines will be used in November.

While Clark's recommendations sailed through the legislature, efforts to implement a voter identification requirement were not as successful. Numerous bills have died in committee in the last two years because of opposition from some Democrats who said the measure would suppress turnout in predominantly black communities.

"The fact of the matter is there are people who have had problems at the polls in the past and we don't need to add an extra burden," said Democratic state Sen. David Lee Jordan.

But Republican state Rep. Bill Denny, a sponsor of some of the defeated measures, noted that an identification provision would not have proved onerous on voters.

"In the past, requiring a voter to show identification at the polls was seen as a device to keep minorities out of the polls, but we have moved past that," Denny said. "If you get to the polls and you have no identification, you can sign an affidavit. I don't think that is too much to ask."

Missouri

While many of the nation's lawmakers have used the credo "Remember Florida" when proposing and promoting election reform, Missouri's legislators need look no further than the state's largest city.

A hotly-contested 2000 Senate election and well-publicized allegations of voter fraud in St. Louis made Missouri one of the few states to pass comprehensive reform in 2002.

While U.S. Sen. Kit Bond, R-Mo., spearheaded election reform legislation for Republicans in Congress, a bipartisan group of lawmakers backed by Secretary of State Matt Blunt (R) shepherded the approval of significant legislation in the Show Me State. Changes include the adoption of provisional ballots, tougher voter identification rules, statewide vote-counting standards, a fund to purchase new voting machines and posted instructions at polling places. Gayla Vendelicht, state election co-director, said the new rules would help prevent "another Florida."

Or another St. Louis, for that matter.

Passed in Jefferson City; Made In St. Louis

Fraud, disenfranchisement, voter intimidation, judges, court rulings and punch cards. St. Louis could have been considered something of a Midwestern outpost of the Sunshine State in 2000.

Allegations of voter fraud filled a three-inch thick tome produced by Bond's office last year. The U.S. Justice Department (DOJ) filed a lawsuit against the city for disenfranchising hundreds of voters. The suit was settled in August 2002 when the city agreed to spend roughly \$600,000 on new technology to clean up voter rolls.

Press reports from the 2000 election detailed long lines at polling places; some opened late while others never opened at all. A judge held some precincts open past the



MAJOR REFORMS IN 2002

- Voting machines
- Disabled accessibility – voting machines
- Voter identification
- Provisional voting
- Vote-counting standards

official closing time, but another judge shut them down shortly after.

Legislation

Those rules (S.B. 675) became law in late August, too late for the primary, but not for November's general election. Touch-screen voting systems have been approved for use, but currently are not employed by any counties. Those showing up at polling places will need to produce a state-issued ID unless they are recognized by at least two election supervisors.

For voters who claim they are registered but are not on the rolls, the state for the first time will offer provisional ballots in November's election. Ballot-counting standards will require that only a punch that removes at least two corners of a chad will count as a vote. The state will establish a grant program for improvements in election equipment, including machines that are accessible to voters with disabilities.

The bipartisan bill found broad support. Gov. Bob Holden (D) said the bill took "positive, reasonable steps to make certain both the rights of the voter and American democracy are safeguarded" while fellow Democrat House Speaker Jim Kreider said it would ensure that "nothing like [Florida] ... ever happens in Missouri."

State Sen. Anita Yeckel, R-St. Louis, the bill's sponsor, said fraud allegations in St. Louis and Kansas City, election night legal decisions about polling places and a wary eye toward Florida compelled Missouri's lawmakers to act more comprehensively – and more quickly – than most states. Both Republicans and Democrats felt wronged by some aspect of elections in the state, she said.

"We remember St. Louis, and we were horrified. It was outrageous. At the very first hearing for this bill, we had Sen. Bond and [Democratic Representative William Lacy] Clay, and they both wanted the same thing – provisional voting," Yeckel said. "And they both wanted it for different reasons. Both sides felt totally disenfranchised."

Montana

In 1997, Montana implemented a statewide voter database to keep tabs on registrations and minimize cases of voter fraud. While a number of states have been striving for such a system in recent years, Montana officials discovered that the five-year-old list was not doing what it was designed to do.

The list was a “skeleton of a database,” said Elaine Graveley, state election deputy. Plagued with outdated listings, Graveley said the state decided in 2001 to “dump everything and start over.”

Last year, all 56 counties were required to provide updated voter rolls and maintain their own election information by using death records and new voter registrations. That information was then passed on to Secretary of State Bob Brown’s (R) office.

In this year’s primary, the rejuvenated database helped election officials weed out double registrations and purge dead voters from the system.

“We were well aware there were duplicate [registrations] out there and we worked hard with good support from the secretary to get [the database],” Graveley said. “It went really well in the [June 4,] 2002 primary.”

Punching Out Ballots

As Montana state officials moved to



MAJOR REFORMS IN 2002

- None (legislature did not meet)

improve the state’s registration database, lawmakers – who had no legislative session this year – started the legislative process to rid Montana of punch-card voting. The decision came as a result of Brown’s 10-point plan for election reform, which he proposed after the November 2001 elections. In it, Brown highlighted rewriting election laws to make them clearer, prohibiting candidates from running for more than one office at a time and upgrading the process for absentee voting.

In his plan, Brown encouraged the counties that still use punch-card ballots – Flathead, Fallon, Fergus, Glacier, Mineral and Broadwater – to switch to optical-scan or paper ballots. Most have, but officials in Flathead and Fergus counties still favor punch cards.

“Many people think that [punch-card ballots] are outdated, but for us, they are economically sound and effective,” said Sue Haverfield, Flathead County’s election administrator.

Other Legislation

Brown’s office plans to introduce a bill in next year’s legislature that would allow provisional voting solely for those registered via motor voter, said Gayle Shirley, a spokeswoman in Brown’s office. With many voters often finding themselves missing from registration lists – through purges, database errors, simple clerical mistakes or recent moves – the bill would allow voters claiming they are registered to cast a provisional ballot until his or her registration is confirmed.

“Many people think that [punch-card ballots] are outdated, but for us, they are economically sound and effective.”

– SUE HAVERFIELD,

FLATHEAD COUNTY’S ELECTION ADMINISTRATOR.

Nebraska

Nebraska's nonpartisan unicameral legislature has experienced few hurdles in passing election reform measures since 2000.

Like many states, Nebraska created a task force after the 2000 election. Neal Erickson, deputy secretary of state for elections, said many in the state saw this as an essential step in preventing potential mishaps.

"[It] solved a lot of problems that Florida had, [but] it needs to be done on a periodic basis," Erickson said.

In the spring of 2002, the six-member panel released a preliminary report identifying 26 recommendations, including voter identification, poll worker recruitment, increased poll worker wages and training and provisional ballots.

"We compared all of those recommendations and chose the ones that would best serve us," said state Sen. DiAnna Schimek, a member of the task force.

Comprehensive Reforms

Acting on those recommendations, lawmakers overwhelmingly approved L.B. 1054, a comprehensive bill that implemented nearly all of the recommendations. Erickson said the most significant measures approved were the addition of provisional balloting, allowing split shifts for poll workers – eliminating the requirement common nationwide that poll workers labor from a poll's opening to its closing – and mandating poll worker training.



MAJOR REFORMS IN 2002

- Task force
- Provisional ballots
- Absentee ballot
- Split shifts for poll workers
- Poll worker training

"I think there needs to be a period of time which a law-abiding citizen can prove they learned their lesson."

– STATE SEN. ADRIAN SMITH

Lawmakers also approved L.B. 935, which altered absentee ballot procedures and required that all absentee ballots arrive by the time polls close on Election Day.

Restoring Felons' Right to Vote

Restoring ex-felons' voting rights also saw its way into the legislature this year, but failed to pass. Schimek, a proponent of restoration of voting rights, introduced a constitutional amendment to restore felons' rights upon completion of their sentence. The amendment died in committee after the task force failed to make a recommendation because of a then-pending Nebraska Supreme Court case.

The court decided this summer that felons could only be granted voting rights by the Board of Pardons, not automatically upon release from prison. The Court ruled against John Ways Jr., an ex-felon who served two years and was released in 1998 on a weapons charge. He argued that the state law ordering the Department of Correctional

Services to present discharged felons a certificate saying their civil rights are restored included the right to vote.

Although some members would endorse removing the ban, they could not agree on how long ex-felons should be required to wait after their release before regaining the right to vote.

"It basically died in committee because there was not a majority of members who would support a timeframe," said state Sen. Adrian Smith. "I reluctantly supported the 5-year [waiting period]. I think there needs to be a period of time which a law-abiding citizen can prove they learned their lesson."



Nevada

Free of major election administration problems in the 2000 election and with an idle legislature in 2002, Nevada has done little to update its election laws.



MAJOR REFORMS IN 2002

- None (legislature did not meet)

Indeed, election officials see Nevada’s smooth sailing during the presidential election as a double-edged sword. Unlike many states that scrambled to rewrite their election laws after experiencing problems on Election Day, Nevada went through no such difficulties, making election reform a hard sell in the legislature.

“It’s a huge Catch-22, that’s part of the problem,” said Susan Bilyeu, deputy secretary of elections. “We’ve had a hard time going over and making arguments to the legislature knowing this is their mentality. It makes it incredibly frustrating going over there and not getting anywhere.”

Election Reform Crowded Out

When the state legislature convened in 2001, reapportionment, deregulation and budget issues crowded out efforts to rewrite election laws.

Secretary of State Dean Heller (R) introduced S.B. 565, which would have updated the state’s Electoral College laws, provided Internet voting for military personnel, and instituted a statewide voter registration system. It never survived the Senate’s Government Affairs Committee, despite support from Democrats.

Republican lawmakers, who edged committee Democrats 4-3 in rejecting the bill, also nixed Heller’s plans for a statewide registration system.

In a letter to U.S. Sen. Chris Dodd, D-Conn., Heller argued the system would “ease the process of clearing those rolls

of duplicate names, deceased persons and others who are ineligible to vote” and “dramatically reduce the potential for voter fraud.” The proposal would cost the state \$2.5 million, but Heller said the expense would be worth a uniform system uniting the Silver State’s 17 counties into one master voter file.

“We’ve kind of butted heads with county clerks, they don’t want to give up control of their voter registration lists,” Bilyeu said. “One county clerk said, ‘I don’t see fraud here so it doesn’t exist.’ It’s hugely naive.”

Heller also unsuccessfully petitioned lawmakers to introduce legislation for a “Democracy Fund” to help counties purchase new voting machines. Seven counties still use punch card ballots and nine have optical scan systems. Clark County, which includes Las Vegas and constitutes roughly 75 percent of the state’s electorate, uses electronic machines.

Heller estimates it would cost \$250,000 to upgrade the remaining punch-card counties to optical-scan systems.

No More Hanging Chad

Staving off any potential “hanging chad” problems, the legislature approved S.B. 297, a bill proposed by state Sen. Ann O’Connell, R-Las Vegas, in 2001 to establish a uniform state system for counting votes. If at least one corner of the chip or chad required to be punched out is detached from the ballot, the vote counts. Also, if more than one choice is made for an office or question, the vote will not be counted. It also limits recounts only to the votes cast for the candidate contesting and the winning candidate.

Bilyeu said these regulations were already a part of the secretary of state’s procedures for recounts. All the bill did, she said, was codify the provisions.



New Hampshire

In New Hampshire, state lawmakers passed no substantive reforms, deferring action until the results of a statewide election law study are presented in November.



MAJOR REFORMS IN 2002

■ Task force

The pending results of the study effectively killed many election reform bills, including measures to eliminate straight-ticket voting (H.B. 226) and creation of an online centralized voter list (H.B. 1262).

Vetoes killed others. Gov. Jeanne Shaheen (D) rejected bills that would have required voters to produce identification when registering (H.B. 399) and voting (H.B. 201).

Shaheen’s most newsworthy veto was that of S.B. 112, which was designed to alert voters that they should not cast ballots if they were not permanent New Hampshire residents. Under the bill, city and town clerks would be allowed to give voters a detailed affidavit that explains state residency requirements and warns voters that registering in New Hampshire forfeits a voter’s right to cast a ballot in another state.

Shaheen told lawmakers she rejected the bill because of its “threatening and confusing” language. She also argued that it would disenfranchise eligible voters and could imperil the state’s exemption from the National Voter Registration Act (NVRA).

Offering election-day registration to voters, New Hampshire is one of a handful of states exempt from the requirements of NVRA. Shaheen said she feared that if the rules outlined in the bill became law, the state’s status would change.

The pending results of the study effectively killed many election reform.

“Rather than erecting new barriers to voting, lawmakers should instead investigate why so many of our fellow citizens do not vote and develop public policies that encourage every eligible citizen to exercise this precious and fundamental right,” Shaheen wrote.

In 2001, Shaheen signed H.B. 124, which established a committee to study Internet and electronic voting, and H.B. 639, which moved the state toward a uniform ballot design by amending certain instructions on town ballots to make them consistent with those on state ballots.

A dispute over ballot design erupted this year when House Democratic Leader Peter Burling argued that candidates should be listed on the November 2002 ballot alphabetically, regardless of party affiliation. Currently, the majority party’s candidates are listed first, a fact Burling said unfairly favored them in the eyes of voters. In an effort to change state rules, Burling introduced S.B. 341, a bill that would randomly determine the listing of candidates on ballots. The bill failed not only in the legislature, but in the state’s Supreme Court, which also rejected the change.

The fight over the order of names on ballots raged at the same time redistricting was heating up. New Hampshire’s redistricting plan was not approved until mid-July of this year, a delay that did not grant enough time for complete ballot printing. As a result, voters were given three separate ballots for the September 10 New Hampshire primary: a main ballot with the gubernatorial, congressional, and county seats, and separate paper ballots for the state Senate and state House races.

New Jersey

After only one-half of New Jersey's registered voters turned out in the November 2000 election, some lawmakers and election officials decided that passing laws making voting more accessible – through the Internet and mail-in ballots – was a state priority.

But with nearly every election reform bill still pending in the state Senate, election reform measures in the Garden State will have to wait.

Two bills introduced by Assembly Majority Leader Joseph Roberts, D-Camden, aim to make voting more convenient. A. 543 would allow no-excuse absentee voting, while A. 542 would authorize a study of the feasibility of Internet voting. Both were approved by the General Assembly in 2002 and await consideration next year in the Senate.

The first measure would allow any voter to cast an absentee ballot without having to provide a specific reason. The second would create an 11-member panel to study if and how the Internet could be used in the state's election system.

"We want to take a look at where this will take us," said Troy Singleton, Robert's chief of staff. "Voter turnout has been quite stagnant and we believe that this is related to access."

Awaiting Senate action

Other election reform bills passed by the Assembly will also be debated in the Senate. A. 586 would require electronic voting statewide. Under the bill, electronic machines that use paper ballots would be prohibited, except as emergency provisional or absentee ballots.

Additionally, counties that purchase electronic systems before the bill passes or money becomes available from the state or federal government would be reimbursed by the state's Attorney General. Last year, two counties got rid of punch cards in favor of electronic systems.

A. 323 – also approved by the Assembly - would require school, primary and general elections to be conducted by mail. A voter ID measure would become law (A. 337) and



MAJOR REFORMS IN 2002

■ Task force

persons on parole would be allowed to vote (A. 584) under two other proposed bills.

Bills increasing the compensation of poll workers (A. 1849) and allowing minors to vote a simulated ballot on the Internet (S. 572) were passed in 2001.

While statewide reform may be on hold, some changes are occurring at the local level. Passaic County, which has been in the spotlight in recent years because of charges of voter intimidation and suppressing the Latino vote,

added bilingual ballots and voting instructions and recruited more Spanish-speaking poll workers.

"Is there room for improvement? Always," said Passaic County Board of Election Chairwoman Maria Havasy. "But I have seen a great turnaround here with regard to the Latino voters."

The New Jersey Law Revision Commission, a legislative agency, recently started looking at election laws.

The commission heard testimony from local election officials, various state officials and even the Library of Congress before issuing a tentative report calling for the adoption of a statewide voter registration system, and the creation of a statewide agency and uniform election procedures. Havasy said that even as a local official, she would like to see more election responsibility shift to the state.

"I think there is too much home rule; each county is trying to reinvent the wheel," she said. "The division of elections becoming its own agency would vastly improve the situation."

State and local officials braced themselves in early October for a challenging 2002 election, following the withdrawal of Democratic incumbent Robert Torricelli from the U.S. Senate race. Democrats persuaded the state Supreme Court to permit former Sen. Frank Lautenberg to take Torricelli's place on the November ballot. As Republicans appealed the decision in federal court, county officials prepared new ballots and voting materials. New ballots had to be resent to some overseas military absentee voters. State Democrats agreed to pick up the \$800,000 tab for the new ballots.

New Mexico

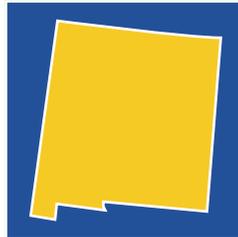
The same four women have been working at state election director Denise Lamb's polling place for the past 30 years in the village of Chimayo, population 6,000. These women know everybody, she says, and have never had to ask anyone for identification.

But if legislation being considered for next year's session passes, that could change. Despite the failure in 2001 of a House bill requiring voters to present identification at the polls, H.B. 9 was intended to clamp down on what many Republican lawmakers believe are widespread cases of fraud and voter irregularity.

"Voter fraud resonates with the average voter," said Republican state Rep. Joseph Thompson. "They want something done about it."

His bill failed, but the re-introduction of a similar bill next year is likely, observers say.

Currently, New Mexico voters must sign a poll book before they cast their ballots, but are not required to prove who they are through identification. If there are two voters with the same name in one precinct, voters are asked for their Social Security numbers. Lamb said she is lobbying for legislation that would allow signatures to be compared through digitized signature poll books, similar to what is used in New York State. She said voter identification is an unnecessary, "highly partisan" issue that disenfranchises non-English speakers and the elderly, and that cases of fraud are exaggerated.



MAJOR REFORMS IN 2002

- Restoring rights of felons

"At this point you don't want to waste a lot of time and energy in changing election laws when a year from now you might have to go back and change everything [again]."

— DENISE LAMB, STATE ELECTIONS DIRECTOR

Though Thompson's bill failed, it would have allowed voters to use driver's licenses, library cards, Social Security cards or other forms of identification at the polls. He said if he is re-elected in the 2002 election, he will re-introduce the bill in January of 2003 when the House reconvenes.

While the margin of victory in New Mexico's 2000 vote for president was just 366 votes, the state did not experience the havoc that occurred in Florida — where the margin of victory was even wider — because all precincts used either direct electronic voting machines or optical scanners and were therefore not subject to errors found with paper ballots, Lamb said.

Still, election reform became a popular issue among state lawmakers who did not want to see a repeat of Florida. Several bills dealing with voting practices were introduced, but most failed. In July, Lamb said New Mexico, like most states, was waiting to see what happened at the federal level before proceeding with sweeping reform laws.

"At this point you don't want to waste a lot of time and energy in changing election laws when a year from now you might have to go back and change everything [again]," she said.

One piece of legislation that New Mexico lawmakers did approve last year was S.B. 204, which restores the right to vote to a felon who has completed his or her sentence.

New York

Nearly two years after officials pledged to examine the state's voting process, election reform is still a work in progress.

But with the release of 64 recommendations from Republican Gov. George Pataki's Task Force on Election Modernization in mid-June, officials said they believe progress will soon come out of the work done so far.

"We expect that when the legislature comes back in January, there will be a number of bills coming out of [the task force]," said Tom Wilkey, executive director of the state board of elections. "The governor's task force called for a number of comprehensive things."

One piece of legislation has already resulted from the task force's recommendations. In announcing the task force's findings, Pataki also proposed a bill to change the state's full-face ballot requirement. This restriction, intended to prevent a drop-off in voting for down-ballot races, also unintentionally barred the implementation of more modern touch-screen machines that scroll through the races on the ballot.

"New technology is a key component to modernizing the elections process in New York State," Pataki said in June. "This legislation will ensure that the latest in new voting technology, which cannot accommodate the full-face ballot requirement, can be used in the State."

Democratic state Assemblyman David Sidikman, who served on the governor's bipartisan task force, called the full-face restriction "a problem" that he expects the legislature to correct in next year's session.

But even if the state removes the requirement, it remains unclear when localities will actually upgrade their voting equipment to new touch-screens, even though the task force set a goal of deployment for the 2004 election. About 95 percent of the state's votes, most notably those in New York City, are presently cast on lever machines no longer manufactured. Replacement costs are estimated to be more than \$200 million.

Prior to the announcement of a congressional compromise,



MAJOR REFORMS IN 2002

■ Task force

Sidikman said it would be difficult for the state and local jurisdictions to bear the entire expense of modernizing voting technology.

Nonetheless, Wilkey said most officials, particularly at the state level, agree it is time for a change.

Wilkey said he would also like to see a change in who handles voting system decisions in New York. Currently, officials at the township level are responsible for the purchase and maintenance of voting machines, but Wilkey said he wants to

consolidate key election administration functions, including poll worker compensation, at the county level.

While it appears certain that state legislators will tackle election reforms, it remains less clear exactly what changes will come out of next year's session. Sidikman said the state will have to create a central database of voters to comply with mandates set forth in a federal election reform bill. One reform unlikely to pass is election-day registration, which was backed by Democratic state Attorney General Eliot Spitzer, but struck down by the task force.

"We're looking at a lot of things," Sidikman said. "To get everybody to sit down and agree on something is not easy."

Alluding to the divided control of state government, Sidikman added, "Politics plays a part."

Some Democrats were blaming partisanship during the summer when an ongoing Republican National Committee (RNC) study of state voter registration lists found 402 New York City residents who had voted in both the City and one of three South Florida counties – Miami-Dade, Broward or Palm Beach. The RNC used their national database of registered voters, post office change of address notifications and subscription information from companies who track changes in address for publications to compare the New York City area to the south Florida counties. The study has also examined other parts of the country.

Following the release of the RNC's findings, the board – which conducted its own survey and found no double votes – requested the names of the alleged double-voters for possible prosecution, but board officials said recently it has yet to receive any information in return.

North Carolina

The challenge redistricting can pose to election administration could be plainly seen in North Carolina this year.

While other states had their election calendars set years ago, North Carolina had to play a waiting game throughout the spring and into the early summer because of redistricting delays. The State Board of Elections indefinitely postponed the primary from its original May date. It was not until the mid-July approval of new districts that the state was able to establish a new primary date of September 10, giving officials just a two-month window to prepare.

“The redistricting issue has dominated the landscape in 2002,” said Don Wright, general counsel to the State Board of Elections. “We’ve had to do just as much in the past but in a condensed schedule. We hope it’s not the case, but there’s a greater chance there might be some oversights.”

That concern stems from some of the administrative changes forced by the timing of the primary. In particular, the legislature, with the backing of state election officials, decided to eliminate primary runoffs for races in which no candidate receives more than 40 percent of the total vote. Officials said it would be nearly impossible for the state to have a second primary in between the September and November elections because of federal requirements that overseas and military voters have enough time to receive and cast their absentee ballots. The state halved the absentee voting period for those voters from 50 to 25 days for the primary and shortened it to 35 days for the general.

Wright predicted in August that state legislators would closely monitor the results from this year’s primary to determine if either the late primary or the elimination of the runoff should evolve into permanent changes.

One local election official said runoff elections should become a thing of the past.

“I wish we never have to worry about [runoffs] again,” said



MAJOR REFORMS IN 2002

- Absentee voting procedures

Jo Winkler of the Mecklenburg County Board of Elections.

While the absence of a runoff gave officials one less election for which to prepare, the redistricting confusing did make their jobs more difficult this year, said Cherie Poucher of the Wake County Board of Elections. She noted that the primary delay disrupted her county’s plans to mail out new voter cards early enough to use the undeliverable cards for correcting voters’ addresses.

“That will lead to a larger number of provisional ballots,” Poucher predicted. “Overall, we’re working quite a bit more overtime now.”

This year’s redistricting saga came a year after state lawmakers passed extensive election law revisions, many of which came out of recommendations to the General Assembly from the Election Laws Revision Study Commission. That body, formed in 2000 and before the Florida controversy, was charged with clarifying and amending the state’s election codes.

One of the most significant changes made in 2001 was H.B. 977, which removed for all elections the excuse requirement that was needed to cast an absentee ballot. In 2000, voters did not have to provide an excuse during the early voting period, but the previous law only applied to in-person balloting during even-year general elections.

Two other changes were responses to the controversy that marked the 2000 election in Florida. H.B. 34 banned butterfly ballots and punch-card systems in the state by 2006. H.B. 31 established a method of selecting the state’s Presidential electors in case the secretary of state was unable to certify a winner before the mid-December gathering of the Electoral College.

Wright praised the willingness of state legislators to make the changes that the state board requested. But he noted that major reforms in the future require federal assistance.

“A lot of what we can do in the future is dependent on ... federal funds,” Wright said.

North Dakota

When North Dakota lawmakers meet in January 2003 for the first time in two years, they will likely have far fewer election reform bills to debate than their legislative peers around the country. But a system of strong local control could make the state face more dramatic changes in coming years.

North Dakota traditionally leaves decisions about voting to localities. It is the only state in the country without voter registration, one of a handful that allows counties to certify their own voting systems and has a state election office with two employees.

One major aspect of federal election reform – the requirement for a statewide voter registration database – will not be required of North Dakotans.

Federal standards for voting machines and provisional voting could compel the legislature to enact election reform bills transferring at least some of the power that resides in local election administrators to the state government.

'Common sense changes'

In 2001 – the last legislative session in the state – lawmakers passed reforms that Deputy Secretary of State Cory Fong said were unrelated to Florida's 2000 election. Changes include rules allowing a poll challenger or election board member to check a voter's identification in the event of a challenge (H.B. 1047) and requiring instructions to be included with absentee ballots (S.B. 2372). It also encouraged the secretary of state to establish a task force to study election laws (H.C.R. 3039).

"None of the changes made in 2001 were a response to *Bush v. Gore* or the 2000 Florida election," Fong



MAJOR REFORMS IN 2002

- None (no legislative session)

One major aspect of federal election reform – the requirement for a statewide voter registration database – will not be required of North Dakotans.

said. "They were simply common sense changes that were required to improve or 'reform' our elections."

Democratic state Sen. Joel C. Heitkamp said he suspects the Republican-dominated legislature's hesitation to act in 2001 had more to do with perception than reality.

"Any attempt to make changes right after the election would have been perceived as if there were problems with the election process," Heitkamp said. "They didn't want to send that signal."

Lawmakers rejected measures that would have prohibited broadcasting election results or projections before polls close (S.B. 2277) and a revolving loan fund for optical scanners (S.B. 2338).

With a deadline for bill submission this fall, North Dakota lawmakers faced a looming deadline to submit enabling legislation – bills that would allow the state to comply with new federal standards.

Secretary of State Al Jaeger (R) encouraged a National Association of Secretaries of State resolution urging Congress to complete work on the bill before the end of the summer. "If I have to propose legislative changes, I'm running out of time," he said. "I hope they realize that."

Heitkamp put it even more bluntly, saying that the legislature could not afford to hold a special session after it completes its work in mid-April of 2003.

"We meet three to four months every two years. You won't see anyone call a special session to deal with something the federal government did," he said in July.

Ohio

Short on actual legislative election reform, the Buckeye State has nonetheless been the setting for a protracted debate over whether the tens of thousands of punch-card machines used by 70 percent of state voters should be retired to scrap heaps in favor of more modern vote recording and counting systems.

That fight, pitting Secretary of State Kenneth Blackwell (R) against a host of local clerks and state lawmakers, has carried on for more than six months. So far, punch-card supporters seem to be winning.

Blackwell, who has been calling for eliminating punch cards statewide by 2004, says the system leads voters to make mistakes. Other members of the state's Election System Study Committee disagreed, and by a 6-5 vote, refused to eliminate punch-card voting. Blackwell attached a minority report to the state's election study, detailing his desire to rid the state of punch cards.

Predictably, punch cards have become a campaign issue in the secretary of state's race, with Democratic candidate Bryan Flannery warning *electionline.org* that, "in Ohio, you're not certain your vote is going to count."

Legislation and Punch Card Battles

With a spotlight on punch cards in 2001, Ohio lawmakers passed H.B. 5, a bill that established standards for determining voter intent and what constitutes a vote on a punch-card ballot. It also clarified rules for accepting overseas and military ballots and set up the study committee that sparked the punch card row.

In 2002, election reform was far less successful. Blackwell introduced what he termed a "further strengthening" of H.B. 5, a bill (H.B. 566) that determines vote standards for optical scan systems and recount procedures for all types of ballots. It also would have made weekly the now annual updates to the



MAJOR REFORMS IN 2002

- None

state's voter registration system, required "as practicable" accessible polling places and would have made the Election System Study Committee a permanent fixture, reviewing practices every five years. The bill is pending in committee.

Upgrades Statewide

A number of Ohio's punch-card counties are testing touch-screen voting systems in preparation for a change-over when outside money becomes available.⁹ As the home state of Diebold, Inc., the well-known ATM

manufacturer now known in election circles for winning the bidding war to manufacture Georgia's statewide touch-screen system, Ohio's punch-card war will likely soon give way to a touch screen free-for-all as more and more counties – through attrition, federal funds or both – look to make replacements.

Voting machine manufacturers have plenty of reasons to salivate over Ohio in the years ahead. According to one business journal, Cuyahoga County alone (which includes Cleveland) would represent a \$20 million contract when it decides to part with its 8,000 punch-card machines in favor of touch-screens.⁴⁴ Other large and medium-sized counties will similarly be looking to meet federal mandates requiring one machine per precinct to be accessible to voters with disabilities, including blindness. Right now, touch-screen machines are the only possibility for allowing many people with disabilities the means to cast an independent and secret ballot, advocates say.

Like many Ohio election administrators, Lois Enlow, director of the Portage County Board of Elections, knows a change from punch cards is inevitable. But she said she does not believe there is anything wrong with the system the way it is used in the state.

"It works just fine, it really does," Enlow said. "We've not had any problems and I think all over the state you'll find that. If used properly and the devices are clean, they're fine."



Oklahoma

Oklahoma changed some of its outdated election procedures long before the 2000 election controversy. In 1990, the state spent \$20 million to switch to a uniform statewide voting system with the purchase of optical-scan machines for all 77 counties.

This early step set Oklahoma apart from other states, said Michael Clingman, secretary of the state’s election board, and possibly staved off the kind of Election Day problems experienced in Florida.

Since 2000, state lawmakers have spent much of the past two sessions debating whether Oklahoma was in need of election reform measures, but adjourned this year without enacting many significant bills. S.B. 1350, which gave state officials the power to remove felons from the voter rolls and increased county election officials’ pay, was one of the few measures that passed in 2002. Another bill, S.B. 867, extended in-person absentee voting hours to 8 a.m. to 6 p.m. on the Friday and Monday and 8 a.m. to 1 p.m. on the Saturday preceding an election.

H.B. 1291, which would have eliminated straight-party voting and made presidential primary elections optional for the state’s political parties, cleared the state legislature, but was vetoed by Gov. Frank Keating (R).

Perhaps the most controversial election reform issue dealt with



MAJOR REFORMS IN 2002

- Poll worker pay
- Absentee voting procedures
- Voter registration update procedures

during the last two legislative sessions, implementing a voter identification requirement, did not lead to successful legislation. H.B. 2772 and S.B. 187, which were intended to prevent voter fraud by requiring all voters to present identification at the polls, died in conference. The measures failed due to staunch partisan disagreement, Clingman said.

“There was no problem in Oklahoma where someone was deliberately compiling a list of deceased voters,” Clingman said. Alleged incidents of voter fraud turned out to be voter or system errors, he added, and therefore, “there was nothing that would substantiate the need for a voter identification mandate in Oklahoma.”

Republican state Sen. Jim Reynolds, sponsor of the Senate bill, said a voter identification law would boost election credibility by ensuring the right people are voting. However, Oklahoma Democrats have historically opposed such practices, fearing that poll workers may unfairly target certain minority groups or effectively turn away elderly voters discouraged from longer lines because of the identification requirements.

State lawmakers have spent much of the past two sessions debating whether Oklahoma was in need of election reform measures, but adjourned this year without enacting many significant bills.

State lawmakers did not act on S.B. 924, which would have established a voters’ bill of rights. The bill would provide voters with a 10-point statement that included how to register, how the primary system works, how to correctly mark ballots and what constituted voter fraud. The bill called for printing the information clearly and legibly at every polling place.

Oregon

When Oregon's legislature meets in early 2003 for the first time in two years, it will have few election reform bills to debate.

John Lindback, the state's election director, said Oregon's lawmakers in only one session "did more than most states," by enacting a statewide voter registration database, tightening ballot acceptance rules, mandating public equipment testing and directing rules to strengthen the state's vote-by-mail system through the Secretary of State's office.

Oregon Secretary of State Bill Bradbury (D) and the state's Association of County Clerks completed an election reform study in early 2001. The legislature passed a number of significant bills by spring that year.

H.B. 2002 required the implementation of a centralized voter registration database, while H.B. 2581 ordered local election officials to "make reasonable efforts" to educate voters on how to cast a vote on their specific voting system. It addressed vote-by-mail security concerns, detailing instructions on ballot handling and counting and how election observers should be governed. The bill also required public testing of voting machines – only punch cards and optical scanners – no more than five days before an election and established uniform recount rules.

But like many states, Oregon needs money to implement some of the reforms sought by the legislature. A \$2 million appropriation to build a statewide voter registration database has been frozen by a legislative emergency board, citing more pressing funding needs. With a budget deficit of \$880 million as of May 2002, the database will have to wait for Congress.

"They'll only let it go when federal election reform passes, and will use it as matching funds," Lindback said.



MAJOR REFORMS IN 2002

- None (legislature did not meet)

A \$2 million appropriation to build a statewide voter registration database has been frozen by a legislative emergency board, citing more pressing funding needs.

Unlike other states that needed to shore up polling place procedures or accessibility or recruit more poll workers, Oregon officials focused on the security, management and counting of vote-by-mail ballots.

The state's elections process has long been a matter of fierce pride for local officials, who often take to the road to extol the virtues of voting by mail. Vote-by-mail faced a federal challenge in early 2002 when the U.S. Senate debated rules to require "second-chance" voting systems that identify voter errors and allow voters to receive a new ballot if theirs contained an error. It also contained a provision that would require all first-time voters who register by mail to vote at a polling place and present ID before casting ballots.

But compromise legislation agreed to in October 2002 will allow voters to provide either their driver's license numbers or the last four digits of their Social Security number with their mail-in registration forms and would exempt vote-by-mail states from second-chance machines.

Despite reforming its processes and fending off challenges to its unique voting system, Oregon has not done away with punch-card voting.

While only three counties in the state still use the system, 40 percent of the state's voters cast ballots on punch cards, said Multnomah County Clerk John Kauffman. Clerks in the counties that still use them, Kauffman said, will be the first to seek an upgrade to optical-scan ballots.

Using punch cards at home requires voters to look on an explanatory sheet and decide on a candidate or initiative then punch out the correct corresponding chad – numbered from one to 228 – which can be a tough task for voters with eyesight problems.

"They do want to make a change, and I think everyone agrees that for vote-by-mail, punch cards are simply not that user friendly," Kauffman said.

Pennsylvania

Ask Pennsylvania officials if their state enacted election reforms since 2000 and they respond almost unanimously: sure.

As in, SURE, the Statewide Uniform Registry of Elections that Republican Acting Gov. Mark Schweiker signed into law in January 2002. The new statewide voter registration database, which could cost \$8.5 million initially and then \$2 million per year to maintain, will link voting lists from all 67 counties and enable local officials to crosscheck registration records with other counties and the state.

"The biggest thing that happened in Pennsylvania is that we're now in the process of installing a central registry," state elections commissioner Dick Filling said in August. "It is a big project."

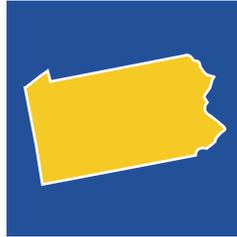
The state inked a five-year deal with Accenture in late July to construct and implement the database of voters. Work began soon after, with a first batch of counties adopting the new system in August. In those counties, the new database will run parallel with their old systems during the 2002 election.

"We're doing it in phases," Filling said of the deployment of SURE.

Although the state imposed a deadline of January 2005 for all 67 counties to have switched to SURE, "we're expecting to complete it before then," Filling said.

"We hope to have counties up and running as soon as possible," he added.

Support for the statewide database was strong in the legislature, despite the price tag, said Josh Wilson, aide to Republican state Sen. Jeffrey Piccola, sponsor of the SURE bill and chairman of a legislative panel that examined Pennsylvania's election system following the Election 2000.



MAJOR REFORMS IN 2002

- Statewide voter registration system

"That's probably the biggest success to point to," Wilson said. "We feel that we have a model for other states to look at on that front."

But other than the creation of SURE, little else has changed in the state, even after an initial flurry of calls to undertake major upgrades to Pennsylvania's "patchwork quilt" of election administration, as then-Republican Gov. Tom Ridge labeled it in February 2001.

"We were focused so much on the statewide registry that we didn't get to some of the other things we want to address," Wilson said. "We didn't move as fast as we had anticipated."

The issue of voting technology is a prime example of that tepidness so far. During the 2000 election, the state's 67 counties used a variety of voting systems, including punch cards, optical scanners, mechanical lever machines, paper ballots and touch screens. In early 2001, when both Ridge and legislative leaders appointed separate election reform task forces, talk centered around ways to bring uniformity to the state's voting machines and procedures.

"Our first hearing was on voting systems," Wilson said of the legislative panel. "Some said, 'We need to adopt a uniform system.' But there was no clarion call to do that after we heard from everyone."

The Governor's Voting Modernization Task Force in 2001 discovered the same general sentiment during its examination of the state's election systems. Some had expected that the committee's final report would urge a decertification of punch-card and lever machines, forcing counties to upgrade to direct-recording electronic (DRE) machines in the near future. But local officials balked at a possible move to a statewide uniform voting system, citing the cost of the DREs and the reliability of their current systems. When the task force released its recommendations in the fall of 2001, it did not mandate, but rather encouraged, counties to switch to DRE equipment.



“One size doesn’t fit all,” Filling said. “What works for Sullivan County isn’t going to work for Philadelphia. I think reality set in.”

Jennifer DeFrain, elections director for Elk County and a member of the governor’s task force, said local officials and voters do not see a need to change their voting systems.

“I think overall people are pleased with what they have,” DeFrain said.

Still, both Wilson and Filling indicated that federal funding for new voting equipment could prompt jurisdictions to upgrade to electronic systems.

“Our counties are sitting around waiting for what happens in Washington,” Filling said.

One county that will not be waiting is Philadelphia, which already switched to a more modern full-face touch-screen system from 1950s-era lever machines during the state’s May primary. The first use of the Danaher system was deemed a success, despite fears that introducing new voting technology to a large jurisdiction during a crucial election – in this case the race for the Democratic gubernatorial nomination – would result in chaos and confusion at the polls.

“The voters found the machines user-friendly,” said Fred Voigt, executive director of The Committee of Seventy, a Philadelphia election watchdog group, in May. “The transition was easy.”

Although city voters authorized the purchase of new voting machines in 1998, contractual delays and disputes prevented actual implementation of the new devices until this spring’s statewide primary, which featured one of the hottest Keystone State contests in the last decade.

The timing was not ideal for the introduction of new voting equipment, Voigt conceded, but said, “This is the soonest we [could get] the machines.”

For the November general election, which is expected to feature a tight gubernatorial race at the top of the ticket, the state may implement new uniform recount and vote-counting standards. A state task force was expected to send its recommendations for the new rules to the state legislature in time for the body to approve them during its fall session.

“We want to standardize rules for all 67 counties,” Filling said. “It’s difficult to do. There are varying opinions.”

Wilson called uniform standards “probably our main focus for the fall. We want to do our best to have in place any changes before the 2002 gubernatorial election.”

But do not expect the state to adopt some form of provisional balloting in the fall, Wilson said.

“I don’t see us looking at provisional ballots until the federal government does something,” he said in August. “It’s not worth it for us to pass something that doesn’t pass muster.”

However a more controversial issue could come before the state Senate in the fall. State House Republicans in late June attached an amendment to a poll workers’ compensation bill that would require voters to present identification before casting a ballot. The party-line vote (102-93) underscored the divisiveness of the issue and the state Senate may be unwilling to touch the political hot potato before November.

“We were focused so much on the statewide registry that we didn’t get to some of the other things we want to address. We didn’t move as fast as we had anticipated.”

– JOSH WILSON,

AIDE TO REPUBLICAN STATE SEN.

JEFFREY PICCOLA

“It is quite a contentious issue,” Wilson said. “I don’t know what the fate of that is going to be at this point.”

Rhode Island

Small, centralized and uniform in its election administration, Rhode Island has little in common with the rest of the country. It is run much like a city-state, with state officials purchasing and maintaining machines, training workers, printing ballots and having authority over most facets of elections.

"Most states want to [centralize elections]," said Robert Fontaine, the executive director of the state's Board of Elections. "We are already there. We are constantly looking at ways to improve Rhode Island's election system, but right now there is no urgency."

Nonetheless, in late 2001, Democratic Secretary of State Edward Inman and Roger Begin, chairman of the state election board, set up the Commission to Study Rhode Island Election Procedures. Its goal, Inman said, was to "afford Rhode Islanders the opportunity to be part of improving the process, by giving them an outlet to offer suggestions, and ask questions."

Waiting for Washington

The Commission's report, released in January 2002, called on the state to make major – and costly – reforms to the state's registration system and voting machines. As a result, the two most significant bills passed by Rhode Island lawmakers in 2002 rely on Washington to cover some of the tab.

With optical-scan voting systems in place statewide, Rhode Island lawmakers approved a fund (S.B. 2486) to purchase touch-screen machines that will be available statewide to voters with disabilities. According to Inman, the fund will receive federal dollars rather than use state tax money to purchase the new machines.



MAJOR REFORMS IN 2002

- Voting machines
- Task force
- Statewide voter registration system
- State fund (awaiting federal funds)

S.B. 2420, also passed this year, will allow the secretary of state to create a centralized voter registry as federal funding becomes available. Inman will also report the findings of a study on a centralized database to the legislature in January 2003.

In addition, the panel recommended improving poll worker training and compensation while expanding voter education and outreach services. It also called for improved registration forms, better voter information handbooks and restoration of the voting rights of felons who have completed their sentences.

The creation of a voter database could avert the kind of problems revealed in Providence in August of 2002. Keven McKenna, a Democratic mayoral candidate, sent out a campaign mailing using the registration roster he purchased from the city and found evidence, he said, of bloated voter rolls.

"I used the same list for some of my mailings and about 56 percent of [them] came back," said McKenna, who lost in the September primary. "The city is telling me that, 'We can't purge the list because of the federal motor voter law,' but if we don't we are encouraging people out of our city to vote."

City canvassers deemed a purge illegal a few weeks later, citing federal law which prohibits any registration purges up to 90 days before an election.

"We are already there. We are constantly looking at ways to improve Rhode Island's election system, but right now there is no urgency."

– ROBERT FONTAINE,
EXECUTIVE DIRECTOR, BOARD OF ELECTIONS

As the state waits for the registration study and federal dollars, McKenna said he is concerned inaccurate voter rolls could jeopardize elections.

"Who knows, we could have people voting for their dead relatives," McKenna said. "In small elections, this purge could make a big difference."

South Carolina

Republican state Rep. Ron Fleming remembers watching the news in November 2000 and seeing Florida poll workers inspecting punch-card ballots for hanging, dimpled or pregnant chads. That moment, he said, was when he realized the Palmetto State might not be as immune to election turmoil as he once thought.

“They were holding it up to the light to see who they voted for,” Fleming said. “You shouldn’t have to do that.”

The fallout from Florida’s presidential election mess prompted Fleming this year to sponsor a wide-reaching but unsuccessful bill (H.B. 3789) in the House that would clarify voter intent. If a voter’s intent is not clear, the ballot would not be counted.

“With the fiasco that happened in Florida, I think it was incumbent on us to do the simplest thing possible,” Fleming said. “It’s hard to hold up a ballot and figure out, well, what was the voter’s intent?”

H.B. 3789 also would have developed procedures for hand recounts and financially penalized a candidate who files a “frivolous” protest contesting the results of a race for any reason except the disparity of votes. Though the bill sailed through the House, the Senate balked. As a result, the bill did not generate support, dying when legislators adjourned without taking action.

Democratic state Sen. Bradley Hutto said the bill contained too many provisions. “House Bill 3789 should have been divided into several bills rather than being just one bill so that the sound reform measures could have been passed,” he said.



MAJOR REFORMS IN 2002

- Poll worker training and pay

Still, Fleming said he will re-introduce the bill next year as is, and might be willing to compromise on some of the sticking points if it would lead to passage.

While popular with reform-minded lawmakers, the measure left out two changes proposed by a state task force: early voting and giving the state’s 46 counties financial incentives to convert to electronic voting systems. Both recommendations met resistance from some Palmetto State legislators.

The legislature did pass reform bill H.B. 4878 recommending pay hikes for election managers and poll workers. The bill also calls for all members and staff of county boards of voter registration and county election commissions to participate in a common training curriculum.

The Task Force on Election Processes, whose members were appointed by Democratic Gov. Jim Hodges, saw a need to modernize the state’s voting equipment following the 2000 election, in which 40 percent of South Carolina voters used punch cards. To decrease the possibility of voter error, the task force recommended that the state convert the 25 counties using punch card and optical scan equipment to electronic voting machines at a cost of roughly \$30 million over three years.

The task force also examined the state’s outdated statewide voter registration computer system, which has been in place for about 20 years and requires too much staff time and money to operate, according to the task force’s report. The database was the first of its kind in the nation,

which has its disadvantages as time passes. Steve Skardon, chairman of the task force, said the database over the years has become “overburdened, which has required additional staff and money.”

“With the fiasco that happened in Florida, I think it was incumbent on us to do the simplest thing possible.”

— STATE REP. RON FLEMING, REPUBLICAN



South Dakota

For South Dakotans, casting ballots in 2002 will not seem much different from voting in 2000. Behind the scenes, though, the legislature and Secretary of State Joyce Hazeltine (R) have implemented a statewide voter database, standardized rules for determining a vote, closed the door on an election loophole and opened the door for displaced college students.

Legislation

Creation of a statewide voter database was the most important election reform in South Dakota, said Chris Nelson, former Election Supervisor and current Republican candidate for Secretary of State. Sponsored in 2001 by Rep. Kay Davis, D-Sioux Falls, H.B. 1252 ordered the construction of a statewide voter registration database and earmarked \$200,000 for its completion. Davis said the database will give the state “clear, concise voter data,” a significant improvement over the previous system, which included counties that had voter registrations on a notebook.

As “an encouragement for kids to get involved in politics,” Davis said, S.B. 9, passed this year, provides an exception to the requirement that a voter be a physical resident of his precinct. College students are now permitted to vote in their hometowns, even when living in a far-away dormitory.

Other legislation, enacted at the behest of the secretary of state, responded to potential pitfalls identified in Florida two years ago. S.B. 12, passed this year, orders election officials to count ballots if a voter’s choice is “sufficiently plain.” Other bills requested by the secretary of state and passed by the legislature included: requirements that recounts be performed publicly (H.B. 1007); revisions of election provisions and terminology (H.B. 1008); and an option to localities to use electronic voting (H.B. 1010). H.B. 1006 updates procedures used monthly in removing dead people



MAJOR REFORMS IN 2002

- Voter intent standards
- Recount procedures
- Voting machines (allows counties to purchase electronic machines)
- Voter registration update procedures

and convicted felons from voter registration lists and bans any commercial sale of the lists.

Quiver v. Hazeltine

All of those efforts to reform elections – and hundreds of other election laws passed in the state in the past four decades – could be scrapped if a lawsuit filed by Native American voters is successful in court.

In August, the American Civil Liberties Union (ACLU) filed a complaint on behalf of Native American voters, accusing state and county officials of failing to secure U.S. Justice Department (DOJ) preclearance before implementing 635 laws and regulations since 1972 in Shannon and Todd counties. The suit contends that state officials ignored the law

on advice from Gov. Bill Janklow (R), then the state’s attorney general.

Section 5 of the Voting Rights Act of 1965 requires DOJ approval for new election laws affecting certain counties with minority populations. Janklow determined in 1977 that preclearance applied to all voting laws passed after November 1, 1972, but advised the state not to comply.

“[Preclearance] is a major protection for minority voters,” said Jennifer Ring, executive director of the ACLU of the Dakotas. “To fail to submit anything takes away these protections.”

In a recent effort to comply, the Secretary of State’s office has submitted South Dakota’s election codes to the Justice Department since the lawsuit was filed, Nelson said. He added that regardless of compliance with preclearance, South Dakota has not passed any election laws that discriminate against Native Americans. “Since the suit has been filed, we’ve looked at the changes they’ve complained about, and in every instance the changes made it easier to vote,” Nelson said.

Tennessee

More than 2,300 Tennesseans who showed up at their polling places in November 2000 were surprised to learn they were not registered. Initially, the state's Department of Motor Vehicles was blamed for not delivering applications to election officials. The U.S. Justice Department even got involved, threatening to sue several cities in the state.

But would-be registrants caused the snafu, said Brook Thompson, the state's election director. Most of those who believed they were registered never requested forms. Others, he said, took the form home but never returned it. To avoid a repeat, state officials combined the voting and driver's license forms to simplify the process for registrants.

Problems did not end with the new forms, however. During the August primary, a phone glitch caused voters in Davidson County to be turned away when officials couldn't confirm their eligibility. Difficulties intensified when a number of poll workers did not show up for duty that day.

"I'm not trying to gloss this over and say it's acceptable, but it happens in almost every election," said Michael McDonald, Davidson County election administrator.

Urgency Is Dwindling

Aside from some mending of handling of registrations, much of the urgency for election reform in Tennessee has dwindled in the past two years. Lawmakers introduced several election bills in the last two years, but only three made it into law, including the memorably-titled "2000 Presidential Debacle Reform Bill of 2001."

Sponsored by Sen. Stephen Cohen, D-Memphis, the bill (S.B. 21) defines what constitutes a valid vote on punch-card, paper and optical-scan ballots. Polling places in 95 counties still using punch cards are now required to post



MAJOR REFORMS IN 2002

- Registration list access rules

instructions on how to cast a ballot. When counting votes, county election commissioners are required to "fan cards" with hanging chads before tallying votes.

The law also requires a recount in case of a tie vote, indication of fraud or malfunction of a voting machine. The original bill called for an automatic recount if an election was decided by less than one-half of 1 percent, a provision removed to avert a threatened veto by Gov. Don Sundquist (R).

In 2002, lawmakers passed S.B. 2801, eliminating requirements that poll workers record a physical description of a voter if the voter is unable to sign a registration application.

Other reform bills failed, including a ban on punch cards (H.B. 321/S.B. 244), restoration of voting rights for some felons who completed their sentences or served a year of probation or parole (H.B. 1876) and provisional voting (H.B. 2831/S.B. 2583).

Thompson said many election proposals have been deferred for a lack of money. A fund designed to loan money to counties to update voting equipment was recently emptied by the legislature.

A 2002 bill (S.B. 2373) allowing election officials to sell voter registration lists for political purposes, however, could result in more funds as proceeds from the sale of the lists will be deposited in the voting equipment fund.

Thompson said federal dollars will help Tennessee upgrade its voting system with newer technology, though he said he worries new machines could overwhelm voters.

"Technology is always a concern," Thompson said. "We want to keep current but not enough to scare voters into staying home."



Texas

One of a number of states with no even-year legislative session, Texas lawmakers took a break in 2002 while election administrators, voters and candidates saw a flurry of new changes that alter the way voting is conducted in the Lone Star State.



MAJOR REFORMS IN 2002

- None (legislature did not meet)

As the state phases out punch cards in the 14 counties that still use them, a few jurisdictions are preparing to hold their first elections with state-of-the-art electronic voting systems.

“The concentration in election reform this year has been on getting the details right,” said Ann McGeehan, the state’s election director. “We don’t have any big, high-profile initiatives, but our election officials saw what happened in 2000 and are paying extra attention to procedures. There’s a new sensitivity.”

Voters and election administrators have adjusted to new rules as well, part of a number of changes made in 2001 that will take effect this year. Those include: vote-counting rules (H.B. 1599); a ban on the purchase of new punch-card machines and permission to use direct recording electronic machines (H.B. 1856); a method for distributing federal election reform funds, when available (H.B. 2336); rules governing registration list purges (H.B. 2921); and a voting rights hotline posted at every polling place (H.B. 2922).

But the biggest election reform story in Texas will likely come out of its biggest jurisdiction. Harris County (Houston), with 3.4 million people, is the third largest county in the country and the largest single jurisdiction to entirely switch from punch cards to electronic voting machines. In the 2002 primary, Harris County conducted early voting on the machines. In November, all will cast ballots electronically.

David Beirne, spokesman for the Harris County Clerk’s office, said the machines will help the county meet new language challenges – ballots will be offered for the first time in Vietnamese – and prevent some of the problems found in Florida, such as ambiguous voter intent and ballot spoilage.

The technology upgrade did create some concerns however. The 7,000 electronic machines cost around \$2,600 each, and the county is concerned that federal election reform legislation would provide for reimbursement.

“Our biggest concern is that federal [election] reform is retroactive to include counties that were looking to upgrade well ahead of November 2000,” Beirne said in July. “We want to make sure we’re not forgotten.”

The rest of Texas faces another hurdle – recruiting and retaining some of the lowest-paid poll workers in the country. The legislature passed a bill last session lifting the \$6-an-hour cap on poll worker pay. But large counties continue to have difficulty finding enough people willing to work on Election Day. With new language requirements, that task could become even more difficult.

Between legislative sessions, McGeehan said lawmakers were holding a series of hearings to address problems with poll worker recruitment and pay.

“Our biggest concern is that federal [election] reform is retroactive to include counties that were looking to upgrade well ahead of November 2000. We want to make sure we’re not forgotten.”

– DAVID BEIRNE, SPOKESMAN FOR THE HARRIS COUNTY CLERK’S OFFICE

Before the 2003 legislative session, Secretary of State Gwyn Shea (R) will lead the crafting of reports on three other election reform issues: the feasibility of moving to an integrated statewide voter registration system; the success of H.B. 2691, a bill that requires the electronic reporting of public safety information (i.e. felony convictions) to Harris and Dallas Counties; and the potential of online voter registration updates.

Utah

Utah's state legislature unified to pass a series of voting reform bills covering polling place accessibility, provisional voting, absentee ballots and standards set by the Federal Elections Commission – perhaps inspired by the Olympic Games in their backyard.

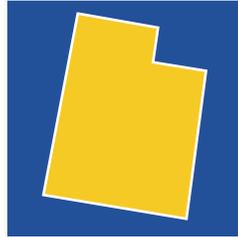
“Because of the attention with the Olympics ... everyone got on the bandwagon with our election reform package,” said Amy Naccarato, Utah's elections director. “We credit the Olympics for creating a climate where these issues became important.”

This year's key bill, according to Naccarato, was S.B. 36, which authorized provisional balloting. The new law allows voters who are missing from registration rolls to cast a ballot, which is counted once the voter's validity is established. Naccarato regards this reform as the most significant “because we feel like it gives every voter an opportunity to vote.”

Three other issues were at the top of Utah's election reform agenda. H.B. 284 requires election officials to check all polling places for accessibility for the disabled by May 15, 2003. After that date, each precinct must have a site that accommodates disabled voters or state in writing why that is not possible.

Utah also updated its code for postmarks on overseas and military ballots to avoid disenfranchising voters who had cast valid ballots. According to Naccarato, Florida's election difficulties directly motivated the passing of H.B. 32, approved this year, and H.B. 314, passed in 2001. Naccarato said lawmakers realized ballots “could come in and be thrown out.”

Finally, H.B. 33 mandated that voting equipment meet



MAJOR REFORMS IN 2002

- Provisional voting
- Absentee ballot
- Disability accessibility
- Voting machines

Federal Election Commission standards and be tested by an independent testing authority approved by the National Association of State Election Directors.

Election reform efforts were not just limited to the legislature however. The Utah Republican Party instituted two procedural changes to their primary process. In an executive committee decision, the party established preferential balloting. Also known as instant runoff voting (IRV), this system allows delegates to rank candidates for the party's primary rather than vote for just one. If no candidate wins a majority of the popular vote,

the candidate receiving the fewest votes is eliminated and his or her votes are distributed according to the voters' second preference until one candidate receives a majority of the vote.

“It does save a lot of time,” said state Republican Party chairman Joseph Cannon. “There is no concern that people will leave [in the middle of the process] and change the dynamic of things.”

In a more contentious move, the state Republican Party decided to close its 2002 primary to all but registered Republicans. The party passed the restriction “to clean up the Democratic crossover,” said Scott Simpson, executive director of the state GOP.

The May primary was the first time only registered Republicans could cast ballots in a Republican primary.

Some voters were content to declare themselves Republicans, but others were not as pleased.

“We have about 80 percent of people in Utah without an affiliation. People love their open primary,” Naccarato said. “We had people leave [without voting], people scream, people frustrated.”

“Because of the attention with the Olympics ... everyone got on the bandwagon with our election reform package.”

– AMY NACCARATO, ELECTIONS DIRECTOR.

Vermont

A quirky thing might happen in Vermont's gubernatorial race next month: There could be no winner.

In the "funny state" of Vermont, as one election official described it, winning the popular vote does not necessarily make a candidate the victor in a statewide race. The state's 225-year-old constitution dictates that if a candidate for Governor, Lt. Governor, or Treasurer fails to receive a majority, the General Assembly will determine the winner, which it has 21 times so far.

And this year, with Democrats leading state polls for both Governor and Lt. Governor in races with Republican and third-party candidates, an interesting scenario could occur. It is quite likely no candidate will win more than 50 percent of the vote, sending the outcome to a majority Republican legislature, which would then select the winner.

"It's a crazy, ugly situation," said Democratic state Sen. Richard McCormack. "And it could happen in the governor's race."

Republican state Sen. William B. Corrow said if the decision comes down to the legislature's choice, he will vote the way his constituents vote.

"My stance is with the state constitution," Corrow said. "I can't speak for the legislature. There's nothing that says they have to go with the popular vote so there's no telling what they will do."

Perhaps no state is less inclined to change its election laws than Vermont. Though the Florida fiasco two years ago prompted many states to review how elections were administered and rewrite outdated or nonsensical statutes, lawmakers in the Green Mountain State struck down nearly



MAJOR REFORMS IN 2002

■ None

every election reform bill that was introduced in the last two legislative sessions, including Internet, instant runoff and military absentee voting measures.

Although this year's governor's race could come down to the legislature's – not the electorate's – choice, many still do not believe election reform will be a top priority in next year's session, either.

"Part of the Vermont temperament ... is to be reluctant to ever amend the constitution if you don't have to," McCormack said.

Lawmakers did consider a number of reform measures, including McCormack's call for instant runoff voting (IRV). McCormack's bill, S. 94, would have created a system in which voters rank candidates for all statewide and federal offices by preference instead of picking one candidate per office.

Though once considered a confusing concept that would never work in American elections, IRV has started to catch on as a viable option for some localities. Voters in 52 of Vermont's 55 cities and towns have passed joint resolutions supporting the system.

"IRV makes sense to people," Democratic Secretary of State Deb Markowitz said. "When we think about democracy, we think of majority, not plurality rule."

Despite the legislature's inaction on election reform, Markowitz's office plans to continue lobbying for certain provisions. In particular, said state elections director Kathy DeWolfe, officials want to increase the penalties for voter fraud and create a statewide voter file to prevent fraud.

Because Vermont had many provisions in place even before 2000 – such as recount procedures and strong voter registration laws – the state didn't encounter many problems in the 2000 election, DeWolfe said.

"Part of the Vermont temperament ... is to be reluctant to ever amend the constitution if you don't have to."

– STATE SEN. RICHARD MCCORMACK, DEMOCRATIC

Virginia

Lawmakers in Virginia spent the past two years tweaking election laws by introducing a bevy of bills intended to bolster election administration.

Fresh off the November 2000 election scandals just months before, General Assembly members convened in 2001 and debated a number of new election laws, but downshifted their election reform efforts a year later by considering significantly fewer bills.

In 2002, lawmakers passed H.B. 101, which updated its provisional balloting laws by providing that such votes may be counted only if the voter is “a qualified voter in the precinct in which he offered a conditional vote.” Another measure, H.B. 878, requires local officials to notify an absentee voter within 90 days if his or her ballot has been rejected. Under H.B. 985, ballots containing over-votes or under-votes will not be factored into a recount of a contested race.

Other bills that were not successful included extending poll hours from 7 p.m. to 8 p.m. (H.B. 125) and requiring localities to provide election materials in the native language of their residents (S.B. 214). Despite the failure of H.B. 1036 to clear up some vague voter registration language for military personnel living overseas, Democratic Gov. Mark Warner in September directed the State Board of Elections to simplify absentee voting for those voters.

Held over until next year was H.B. 1099, a measure that would prevent poll workers from announcing precinct election results prior to 11 p.m. on Election Day. The bill, introduced by Del. Jim Scott, D-Arlington, was passed by the House of Delegates but was stifled in the Senate.



MAJOR REFORMS IN 2002

- Provisional voting procedures
- Recount procedures

The legislation, intended to prevent early media projections from eastern states (blamed by some for declining turnout on the West Coast), would apply only to presidential elections and only if two-thirds of the states east of the Mississippi River enacted similar legislation by July 1, 2004.

Curtis Gans, director of the Center for the Study of the American Electorate and a proponent of the legislation, says that “network inaccuracies” can lead to a “presumptive bias” in favor of a certain candidate.

“If states decide they will not release [election] results ... then networks cannot project the outcomes,” Gans said.

The bill’s supporters hope other states will follow suit in order to “encourage people to participate in the political process,” Scott said.

What a Difference a Year Makes

The legislature this year took far less action on election reform than in 2001, when the Assembly considered laws ranging from minor procedural changes that clarified vague laws to more substantive reforms.

In 2001, lawmakers also established a joint subcommittee to review the Commonwealth’s election procedures, focusing mainly on improved voting equipment. Much of the state still uses 1950’s-era lever machines as well as a mix of punch cards, optical scan and a handful of counties where votes are cast on touch-screen systems or paper ballots.

It recommended more state involvement in voting systems, primarily in the form of funds to help counties pay for new equipment and new rules to standardize the training of election officials to include more accessible times.

Washington

Washington Secretary of State Sam Reed (R) said earlier this year he believes “every state took a hit after the 2000 Presidential election.”

While the secretary insisted the state’s procedures and systems differed significantly from Florida, Reed said the Sunshine State offered “lessons to be learned.”

Moving steadily toward elections conducted without polling places, Washington is only a step behind Oregon, where all elections are conducted entirely by mail. Nearly 70 percent of the state’s voters cast absentee ballots in last year’s elections.

The transformation of elections from the polling place to post office, coupled with the lessons learned from Florida, has focused state officials on the administration of elections, rather than the machines through which they are conducted.

Responding to a request from Reed, the legislature passed H.B. 2332, a bill that orders the secretary of state along with county auditors and registration experts to design a coordinated, online registration database by early 2003. Reed warned lawmakers that failing to establish a database that could check for double-registrations, identify felons and those who commit voter fraud by casting multiple ballots, would “leave us behind and put our ability to leverage federal funding in jeopardy.”

Democratic state Rep. Sandra Romero, who sponsored the initiative, said the legislature will take cautious steps toward implementing a system that addresses privacy concerns as well as the needs of an initiative state that is moving steadily toward polling-place free elections.



MAJOR REFORMS IN 2002

- Statewide voter registration system (awaiting federal funds)
- Vote-counting standards
- Voter intent standards
- Absentee ballot procedures

It also has to be affordable to a state struggling with its bottom line. Dean Logan, the state’s election director, said his office has begun the process of building the database, but warned the state’s budget crunch “is bad and getting worse.”

Added Romero, “I think everyone was looking for the federal bill to bail us out. I think this kind of reform came out of the fallout from Florida. We had to try and figure out a way to get rid of duplicates and reduce the possibility of fraud taking place.”

The state’s budget shortfall led to the death of a number of other reform bills, including a measure (S.B. 6131) that would establish a fund to rid the state of its punch-card systems. Fifteen counties

still use the machines. Other factors led to the demise of more than 75 bills, including proposals to switch to a district system for electoral votes (H.B. 1228), prohibit punch cards by 2007 (H.B. 2335), institute instant runoff voting (S.B. 5338) and appropriate state money for certifying and training election officials (H.B. 1754).

However, Reed’s statutory authority allowed him to make other changes to the state’s voting system without legislation. In March of 2002, the secretary announced new rules to determine voter intent on questioned ballots, to define a punch-card vote and to determine how absentee ballots are handled statewide.

The transformation of elections from the polling place to post office, coupled with the lessons learned from Florida, has focused state officials on the administration of elections, rather than the machines through which they are conducted.

“In *Bush v. Gore*, the [U.S. Supreme] Court essentially held states must use consistent standards when trying to figure out what a voter intended to do,” Reed said in a statement. “The court case spread awareness around the country that in elections, the small stuff matters. The small stuff can even determine a race.”

West Virginia

Improving voter turnout has been the driving force behind much of West Virginia's election reform efforts since the 2000 election, when about 62 percent of the state's registered voters went to the polls. That figure represented the lowest in modern history for a presidential election.

"We were concerned with voter turnout and thought that there may be ways to help," said Democratic state Sen. Bill Wooton, chairman of the Judiciary Committee, which oversees election legislation.

The state established a "no-excuse" absentee voting period of 15 days prior to any election during the 2001 legislative session, meaning any registered voter can cast a ballot at the county clerk's office within 15 days of an election without having to provide a reason, as was required in years past. The period closes at 1 p.m. the day before the election.

West Virginia officials call H.B. 3066, which also shortened the deadline for voters to register before an election from 30 to 20 days, the most significant piece of election reform enacted in the state in the last two years.

"We really felt that was a good change," said Cindy Smith, team leader of elections in the Secretary of State's office. "It was a good piece of legislation for the voters."

Early Indication of Success

Officials proclaimed the "no-excuse" period a success based on turnout figures from the May 2002 primary election. Despite a ballot lacking high-profile contests, almost 19,000 more votes were cast in this year's primary than in the 1998 primary, representing a 1 percent increase, reversing a nearly 20-year trend of declining off-year primary turnout.

In another effort to boost voter participation, Secretary of State Joe Manchin III (D) in 2001 launched SHARES (Saving History and Reaching Every Student), a program to encourage teen-agers to become interested in elections. By



MAJOR REFORMS IN 2002

- Young poll workers
- Absentee voting
- Punch card ban
- Disabled accessibility – voting machines

conducting mock elections for eighth-graders and attempting to register every student graduating from high school, Manchin said he hopes the program generates excitement in the democratic process among the next generation. Additionally, 16- and 17-year-olds can now serve as poll worker trainees under S.B. 196, which was enacted in 2002.

Overall, Smith has been pleased with the legislature's action on election reform since early 2001.

"We were satisfied with what got through," she said. "They were very willing to make changes that will help voters. It shows that we're very willing [in West Virginia] to entertain any ideas for improving our elections system."

Future Upgrades

Still, both legislative leaders and the Secretary of State's office already have future improvements in mind. Wooton is exploring another reduction in the time period between the registration deadline and Election Day, perhaps up to the weekend before. He said he wants newer voting equipment in the 12 counties that still use punch-card machines, which under H.B. 3066 can now no longer be purchased under state law. In addition, the state now requires counties that upgrade their voting systems to purchase at least one accessible machine per precinct (S.B. 226).

Smith said Manchin "wants to see a uniform voting system in West Virginia." So far, three counties have started to use touch-screen machines, but she admits that the secretary of state's goal is a ways off due to the state's fiscal situation.

Another project in need of funding is a statewide voter registration database, which officials hope to launch in 2003. But, like most other states, West Virginia must wait for an infusion of federal funds to accomplish some of its desired reforms.

"It's something we'd like to see improved, but we cannot do it on our current budget," Smith said.



Wisconsin

In 2002, Wisconsin's election reform efforts were characterized by tough talk but little legislative action, as partisan politics and a budget deficit stymied efforts to upgrade equipment, establish a statewide voter registration database and introduce voter identification requirements.



MAJOR REFORMS IN 2002

■ None

The razor-thin margin of Democrat Al Gore's victory in Wisconsin during the 2000 presidential election – 4,690 votes – led to allegations of votes swapped for cigarettes and ballots cast by dead people.

"No question about it, the feeling was that we must do something about elections," said Kevin Kennedy, executive director of the Wisconsin state election board.

The board released a report in 2001 evaluating voting in Wisconsin. It recommended increased funding to promote support for voters with disabilities and the establishment of regional polling places. But trouble with state finances and partisan disputes left many of the report's goals unmet in 2002.

The Democrat-majority Senate and Republican-majority Assembly passed a series of comprehensive reform bills covering ex-felon voting rights, polling place hours, statewide registration database and poll worker benefits and eligibility. But none survived scrutiny in the other house.

Evoking the greatest controversy, the Assembly passed a measure (A.B. 259) requiring voters to present state-issued identification at the polls. The bill was dead-on-arrival in the Senate.

Legislation that enjoyed broad support was hampered by political hang-ups, including creation of a statewide voter database, moving up the date of the presidential primary and establishing uniform poll hours. Facing a \$1.1 billion budget deficit, state lawmakers focused on more pressing funding priorities. Even reforms that would cost little or no money "got caught up in all the political maneuvering at the end of the session," Kennedy said.

While the legislature intends to reintroduce some election reform bills in the 2003 session, lingering partisan tension and the state's budget crunch make the prospects of significant change unlikely, state officials said.

The state election board also made a number of recommendations, including an unsuccessful bill that would have permitted high school students to serve as poll workers on Election Day.

Through its rule-making authority, the board will now require a poster identifying qualifications to vote in every polling place. It also released new poll inspector guidelines specifying how to conduct a voter challenge.

Additionally, the board decertified punch-card machines in 2001. Though punch-card use was already being phased out in the state, the move appeased concerns stemming from Florida's experience.

"We have approved two systems that are better equipped to serve the elderly or disabled," said Kennedy. "They will create better opportunities for people with disabilities, but increase the cost of running elections."

Legislation that enjoyed broad support was hampered by political hang-ups, including creation of a statewide voter database.

Wyoming

Wyoming came out of the election reform gates fast this year, with lawmakers in the Cowboy State passing significant legislation many believe could shore up inconsistencies in election law.

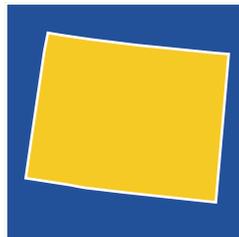
Following the completion of the state's legislative session in March, Republican Gov. Jim Geringer signed into law H.B. 30, a package of significant election reforms that easily made its way through the legislature.

The bill authorizes the state to issue provisional ballots to voters who have their eligibility questioned at the polls. The ballots will be counted only if it can be confirmed that the voter is qualified to vote. Another provision of the bill requires all first-time voters in Wyoming – one of six states allowing election-day registration – to present identification when they register to vote, whether by mail or at the polls.

It also clarifies a number of other aspects of the state's election code. For example, only ballots that are properly marked will count. Previously, a ballot could be tabulated if the intent of the voter could be determined. All of these changes will go into effect at the beginning of 2003.

Wyoming officials credited cooperation among legislators and election officials for the smooth passage of the election reform bill in 2002.

"There was near universal support for this," said Republican state Sen. Cale Case, member of the subcommittee responsible for elections, last spring. "Everybody thought that this was a reasonable approach. Everybody's concerns



MAJOR REFORMS IN 2002

- Provisional voting
- Voter identification (first-time voters who register by mail)
- Vote-counting standards

were pretty well addressed."

Wyoming election director Peggy Nighswonger agreed, adding, "We have a very good working relationship with [the elections] committees in the legislature."

Both Case and Nighswonger pointed to the Florida controversy in 2000 as a major motivation to address election law, but stressed that none of the specific changes were a reaction to any recent voting problems in Wyoming.

"We don't feel we have a crisis or anything, but it needs a little tuning up sometimes," Case said.

Wyoming legislators and election officials took into account some of the so-called consensus issues debated in Washington, particularly provisional ballots, when they crafted H.B. 30.

"We were trying to comply with anything that may come down from the feds," Nighswonger said. "We haven't had problems with ID before because we are such a small state, but we figured it was something that probably needed to be put in there."

Nighswonger added her state waited until 2002 to address election reform, in spite of the immediate outcry following November 2000 to act, because it needed time to evaluate what was in need of repair and how to best fix it.

"It took us all summer to get cooperation with our county clerks; plus we took things from the national groups that issued reports over the summer," she said. "There was no way we could have brought changes to the legislature in a month."

"We don't feel we have a crisis or anything, but it needs a little tuning up sometimes."

– STATE SEN. CALE CASE, REPUBLICAN



Endnotes and Methodology

¹ In Michigan, for example, lawmakers passed H.B. 5216, a bill that would take federal money as soon as it becomes available and begin looking at a new uniform voting system to purchase for the state.

² See “State Findings” on p. 25 for a complete analysis.

³ Seligson, Dan. “On the Ground in Broward: Widespread Problems Cast Doubt on Success of Florida Reforms,” *electionline Weekly*, September 11, 2002.

⁴ “In the News,” Message from the Governor, May 11, 2001. Executive Office of the Governor, State of Florida.

⁵ Drinkard, Jim. “Elections commission says reforms should be up to states,” *USA Today*, July 31, 2001.

⁶ *electionline.org* and the Constitution Project, *Working Together?: State and Local Election Coordination*, September 2002, p.3.

⁷ Columbia World of Quotations, found online at <http://www.bartleby.com/66/91/12391.html>

⁸ “Our vision of provisional balloting is connected to this different world in which there are more accurate state voter files. In both we are motivated by a consistent goal: No American qualified to vote anywhere in her or his state should be turned away from a polling place in that state.” The National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process*, August 2001.

⁹ *electionline.org* and the Constitution Project, *The Provisional Voting Challenge*, December 2001.

¹⁰ See individual state reports for more detail.

¹¹ Election systems in states with election-day registration or no registration (North Dakota only) make provisional ballots unnecessary. Those who find themselves not registered on Election Day fill out the necessary forms to become registered and have their ballots counted normally.

¹² U.S. Commission on Civil Rights, “Voting Irregularities in Florida During the 2000 Election,” 2001.

¹³ *electionline.org* and the Constitution Project, *Statewide Voter Registration Databases*, March 2002, p. 6.

¹⁴ *Ibid*, p.8.

¹⁵ *electionline.org* and the Constitution Project, *Voter Identification*, April 2002, p. 2.

¹⁶ Senator Bond’s Statement on his Election Reform Bill on the Senate Floor, February 13, 2002, from <http://bond.senate.gov>.

¹⁷ Op-Cit., *Voter Identification*, p. 9.

¹⁸ The survey, paid for by *electionline.org*, was conducted by Princeton Survey Research Associates and was based on telephone interviews with chief election officials in 36 states and the chief election officials in 208 local jurisdictions. Interviews were conducted from October 16 to November 9, 2001.

¹⁹ *Common Cause v. Jones* (C.D. Cal. 2001).

²⁰ *NAACP v. Harris*, Case No. 01-CIV-120-GOLD (S.D. Fla.) ChoicePoint, the database provider whose purge of voters in November 2000 was the subject of so much controversy, also settled. U.S. Department of Justice release, http://www.usdoj.gov/opa/pr/2002/June/02_crt_380.htm. *Johnson v. Bush*, (S.D. Fla. 2002).

²¹ “City Aimed to Repair its Image in Deal”, *St. Louis Post-Dispatch*, August 18, 2002, p. B1.

Endnotes CONTINUED

²² “District of Columbia to Provide Touch Screen in Every Precinct Under Settlement with Disabled Voters”, *electionline Weekly*, August 15, 2002.

²³ “Judge decides in favor of touch screens,” *CVF News* (California Voter Foundation), September 13, 2002.

²⁴ “Defending the Vote: Holding Officials Accountable,” NAACP 2001 Election Reform Report, <http://www.naacp.org/news/releases/ElectionReformJuly02.pdf>

²⁵ “Not Making the Grade: A Year After Florida, Little Action in States on Election Reform,” A State-By-State Report Card from the Common Cause Education Fund, <http://www.commoncause.org/publications/ereform/ereform.pdf>

²⁶ “Supplemental Report from the Nation’s Election Administrators to Congressional Conference Committee on Election Reform,” National Task Force on Election Reform, www.electioncenter.org

²⁷ “Voting in New York in the 21st Century,” New York State Task Force on Election Modernization, <http://www.state.ny.us/governor/electionmodernization/PDFS/nystaskforce.pdf>

²⁸ Secretary’s Select Task Force on Voting Accessibility, <http://www.dos.state.fl.us/>

²⁹ “Election Law,” New Jersey Law Revision Commission, <http://www.lawrev.state.nj.us/election/electionlawTR092602.pdf>

³⁰ “March 5, 2002 Primary Election: Problems, Solutions and Resources Needed for Improvement,” <http://www.lavote.net/general/3-5-02PSR/>. Palm Beach County report is not available online.

³¹ States with election day registration or no registration requirement at all (only North Dakota) do not require the safeguard of provisional voting and are not counted in the total. However, some states, including Wyoming, offer provisional voting to ensure that voters are not double registered, and are included in the total.

State-by-State Section

¹ “Felony Disenfranchisement Laws in the United States,” The Sentencing Project. 2001.

² Aron Goetzl, “IRV Supporters Say Partisanship Sunk Alaska Ballot Measure,” *electionline Today*, August 2002

³ The Associated Press, however, noted that the 10,000 vote figure was derived in part from ballots in which no choice was made – often times an intentional act by voters who prefer to cast a vote for one office but not for another.

⁴ Gov. Jane D. Hull, Veto Letter to The Honorable James Weiers, Arizona House of Representatives, April 24, 2001.

⁵ The suit was dismissed in September 2001.

⁶ State registrars point out that most of the state’s largest cities – except Hartford – use their own registration systems. They estimate between 20 to 30 percent of the state’s voters are currently not on the statewide voter registration database.

⁷ As a single voting jurisdiction, central control over voter registration and election administration must reside solely with the D.C. Board of Elections. The state-local tension evident in other parts of the country does not apply.



Endnotes CONTINUED

⁸ OIG Report of the Miami-Dade County Sept. 10, 2002 Primary Election, Office of Inspector General Christopher Mazzella, September 2002.

⁹ Bennett, David. "Diebold stumps for electronic voting deals," *Crain's Cleveland Business*, June 3, 2002.



Endnotes CONTINUED



Methodology

Information for this report was collected between June 2002 and October 2002. For information on legislation, state legislative Web sites and clerks' offices were used as sources of information. In addition, state election directors or their deputies were contacted in all 50 states and the District of Columbia.

Local officials, including umbrella organizations representing local officials, were contacted in the majority of states.

For Congressional information, *electionline.org* culled information from press reports and original content – primarily newsletter stories and Director's Notes. In addition, a number of Congressional staffers and lobbyists were contacted. In some cases, those sources are named. In others, those sources preferred to be anonymous.

For information on task force reports, original sources were used.

For information on major issues in election reform, reports produced between December 2001 and September 2002 were used. Information for those reports was collected by phone and through detailed analyses of state statutes. For a complete methodology, see *electionline.org's* and the Constitution Project's series of Election Reform Briefings, available at *electionline.org*.

For information on litigation, online sources, including Lexis/Nexis were used along with a summary of daily news articles posted on *electionline.org's* electionline Today.

Numerous other background sources contributed to the research as well. If used directly, those sources are mentioned in the text or endnotes. If used for background, most sources are listed in the Resources section (p. 92).

The opinions expressed by election officials, lawmakers or other interested parties do not reflect the views of the Election Reform Information Project, or its primary publication, *electionline.org*, which are nonpartisan and non-advocacy. All questions about research methods should be directed to Dan Seligson, communications director, 202-338-9320.

Resources

Government

Committee on House Administration, U.S. House of Representatives

www.house.gov/cha

The Committee on House Administration's jurisdiction extends to election of the President, Vice President, Members, Senators, Delegates, or the Resident Commissioner, examining corrupt practices, contested elections, credentials and qualifications and Federal elections generally.

Committee on Rules and Administration, U.S. Senate

rules.senate.gov

The Committee on Rules and Administration is referred all proposed legislation, messages, petitions, memorials and other matters pertaining to federal elections generally, including the election of the President, Vice President and members of Congress.

Federal Election Commission

www.fec.gov

The Federal Election Commission (FEC) is an independent regulatory agency charged with administering and enforcing the federal campaign finance law. The FEC has jurisdiction over the financing of campaigns for the U.S. House, the U.S. Senate, the Presidency and the Vice Presidency.

Federal Voting Assistance Program

www.fvap.ncr.gov

The Federal Voting Assistance Program was established to provide U.S. citizens worldwide a broad range of nonpartisan information and assistance to facilitate their participation in the democratic process.

General Accounting Office

www.gao.gov

The General Accounting Office (GAO) is the independent and nonpartisan research arm of Congress.

THOMAS: Library of Congress' Source for Federal Legislation

thomas.loc.gov

THOMAS provides Internet access to federal legislation.

U.S. Department of Justice - Civil Rights Division, Voting Section Home Page

www.usdoj.gov/crt/voting/index.htm

The Voting Section conducts administrative review of voting practices and procedures and undertakes investigations and litigation throughout the United States and its territories.

U.S. Commission on Civil Rights

www.usccr.gov

The U.S. Commission on Civil Rights is an independent, bipartisan, fact-finding agency of the executive branch established under the Civil Rights Act of 1957.

Commissions and Task Forces

Caltech-M.I.T./Voting Technology Project

www.vote.caltech.edu

The Caltech-M.I.T./Voting Technology Project was established by Caltech President David Baltimore and M.I.T. President Charles Vest to evaluate the current state of reliability and uniformity of U.S. voting systems, establishing uniform attributes and quantitative guidelines for performance and reliability of voting systems, and proposing uniform guidelines and requirements for reliable voting systems.

Constitution Project's Election Reform Initiative

www.constitutionproject.org

The Constitution Project's election reform initiative was created to promote bipartisan consensus on election reform. A task force report produced in 2001 is available at the Web site.

National Commission on Federal Election Reform

www.reformelections.org

The National Commission on Federal Election Reform, organized by the Miller Center of Public Affairs and The Century Foundation, recommended ways to improve the accuracy and fairness of federal elections. It was chaired by former Presidents Jimmy Carter and Gerald Ford.

Select Task Force on Election Reform in Florida, Collins Center

www.collinscenter.org/initiatives/initiatives_show.htm?doc_id=105009

This task force appointed by Florida Gov. Jeb Bush issued a 78-page report that recommended 35 changes to improve Florida's election process just in time for the 2001 Florida legislative session. Members in both parties of the Florida Legislature introduced legislation that reflected many of the bipartisan task force's recommendations.

U. S. House Democratic Caucus Special Committee on Election Reform

democraticleader.house.gov/electionreform/index.html

Established by Democratic Majority Leader Richard Gephardt, R-Mo., the Special Committee was created to develop recommendations for federal legislation.

Resources CONTINUED

Organizations

American Association of People with Disabilities Vote Project

www.aapd-dc.org

The American Association of People with Disabilities' (AAPD) Vote Project focuses polling place and voting system access for people with disabilities, encouraging disability service providers to comply with the provisions of the National Voter Registration Act, and encouraging people with disabilities to run for office and to get involved in the political process.

Brookings Institution's Study of Election Reform

www.brook.edu/dybdocroot/gs/projects/electionreform/ElectionReform.htm

As a part of the Governmental Studies program, the Election Reform section provides resources including case law, legal and policy materials and legislative developments on election reform.

Center for Voting and Democracy

www.fairvote.org

The Center for Voting and Democracy conducts research, analysis, education and advocates instant runoff voting and forms of proportional representation as alternatives to winner-take-all plurality elections.

Election Center

www.electioncenter.org

The Election Center is a professional organization of voter registrars, election supervisors, election directors, city clerk/city secretary, county clerk, county recorder, state election director and secretary of state for each of the individual states, territories and the District of Columbia. An election reform task force report produced by the Center is available on its Web site.

Internet Policy Institute Voting Project

www.internetpolicy.org

The Internet Policy Institute is an independent, nonprofit research and educational institute that investigates issues affecting the global development and use of the Internet. A report on the prospects of Internet voting in America is available at the Web site.

League of Women Voters

www.lwv.org

The League of Women Voters is a nonpartisan, locally-based voice on elections. Leagues across the country promote election reforms at the state and local levels.

NAACP

www.naacp.org

The NAACP is the oldest civil rights organization in the country. The NAACP filed a number of lawsuits around in the country in the aftermath of the 2000 election, most recently reaching a settlement with the state of Florida. It also produced election reform "report cards" for all 50 states. Both the settlement details and the report cards are available at the organization's Web site.

Resources CONTINUED

Note: These descriptions and links are provided as a reference tool for reporters, organizations and others interested in election reform issues. The descriptions come from the organizations themselves. The Election Reform Information Project and electionline.org does not endorse, guarantee or otherwise promote the statements, recommendations or data contained therein.

National Association of Counties

www.naco.org

The National Association of Counties' (NACo) membership totals more than 2,000 counties, representing over 80 percent of the nation's population. The organization produced an election reform task force report, which is available at the Web site.

National Association of County Recorders, Election Officials and Clerks

www.nacrc.org

The National Association of County Recorders, Election Officials and Clerks is a professional organization of elected and appointed county administrative officials.

National Association of Secretaries of State

www.nass.org

The National Association of Secretaries of State (NASS) seeks to lead the debate on improving voter registration processes, increasing government services available over the Internet and promoting election reform policies at the state and national levels.

National Association of State Election Directors

www.nased.org

Members of the National Association of State Election Directors (NASED) meet annually to share information, hear from pertinent speakers on the issues of the day, and to develop a network among those in the election community.

National Conference of State Legislatures

www.ncsl.org

The National Conference of State Legislatures (NCSL) promotes the views of state lawmakers from around the country. The Web site's elections section provides the user with regular updates of election reform activity in the states.

Paralyzed Veterans of America

www.pva.org

The Paralyzed Veterans of America supports comprehensive election reform legislation that ensures accessibility, privacy and integrity for all registered voters, including voters with disabilities.

Stateline.org

www.stateline.org

Stateline.org, which like *electionline.org* is supported by The Pew Charitable Trusts, was founded in order to help journalists, policymakers and engaged citizens become better informed about innovative public policies.

Voter March

www.votermarch.org

The Voter March is a nationwide organization for voter rights and electoral reform with 60 chapters across the United States.



Advisory Board

Ed Fouhy - Chair

Pew Center on the States/stateline.org
Washington, D.C.

David Broder

The Washington Post
Washington, D.C.

Jennie Drage Bowser

National Conference of State Legislatures
Denver, Colorado

Ernest Hawkins

Sacramento County Registrar of Voters
Sacramento, California

Doug Lewis

The Election Center
Houston, Texas

Thomas Mann

Brookings Institution
Washington, D.C.

Robert Montjoy

Auburn University
Auburn, Alabama

Lee Page

Paralyzed Veterans of America
Washington, D.C.

Jim Pickman

Consultant
Washington, D.C.

The Hon. Sharon Priest

Secretary of State of Arkansas
Little Rock, Arkansas

Richard Smolka

Election Administration Reports
Washington, D.C.

Tim Storey

National Conference of State Legislatures
Denver, Colorado

The Hon. Ron Thornburgh

Secretary of State of Kansas
Topeka, Kansas

Tom Wilkey

New York State Board of Elections
Albany, New York



electionline.org, administered by the Election Reform Information Project, is the nation's only nonpartisan, non-advocacy website providing up-to-the-minute news and analysis on election reform.

After the November 2000 election brought the shortcomings of the American electoral system to the public's attention, The Pew Charitable Trusts made a three-year 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.

electionline.org hosts a forum for learning about, discussing and analyzing election reform issues. The Election Reform Information Project also commissions and conducts research on questions of interest to the election reform community and sponsors conferences where policymakers, journalists and other interested parties can gather to share ideas, successes and failures.

1101 30th Street, NW, Suite 210
Washington, DC 20007
www.electionline.org

