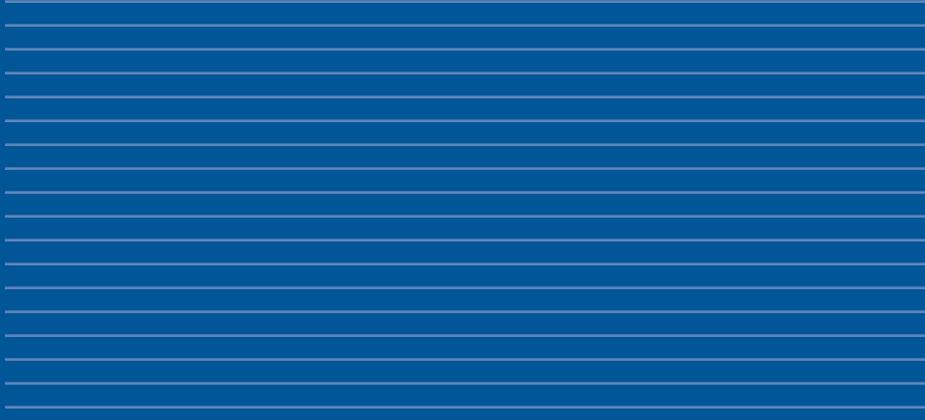


Election Preview 2004

What's Changed,
What Hasn't and Why



electionline.org



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On behalf of all of us at *electionline.org*, I am pleased to bring you “Election Preview 2004: What’s Changed, What Hasn’t and Why?” an update to our annual report on the state of election reform.

The goal is to set the “state of play” immediately before Election Day. By now machines have been purchased, laws and regulations set and registration closed in many states. In many parts of the country and abroad voting has already begun. This report is intended to serve as both retrospective and reference on “*Election Reform 2004: What’s Changed, What Hasn’t and Why*” two weeks before Americans go to the polls on November 2.

As the report will indicate, the past year has been an eventful one for election administration, as states and localities across the nation sought to implement the mandates of the Help America Vote Act of 2002 (HAVA) while preparing to conduct what looks to be another closely contested presidential election.

In 2004, the road to reform continued to be uneven and filled with obstacles, as election officials struggled with the federal government’s slow pace in establishing the new Election Assistance Commission and releasing promised funds to pay for HAVA mandates. Complicating these efforts was a raging debate over the security of new electronic voting machines – a conflict that was influenced by the increasingly heated partisan environment nationwide – and looming concerns over the physical security of polling places in an increasingly dangerous world.

Now, on the eve of Election Day 2004, these larger issues have been joined by other, more narrow concerns as individual voters prepare to cast their ballots. Specifically, debates have erupted across the country about which voters should be required to show identification and how states and localities will implement HAVA’s requirement that all voters be given the opportunity to cast a provisional ballot.

Moreover, all of this activity takes place in an environment where nearly everyone believes that the outcome of the presidential election – not to mention several state elections – could turn on a small number of votes. No precaution is thought too insignificant; no investment of funds or effort wasteful. Consequently, polling places across America will host hordes of poll watchers, advocates and media all dedicated to detecting, preventing, reporting and (if necessary) reversing any errors that arise on Election Day.

At the heart of it all, American voters return to the polls a changed breed – better informed, wiser to the strengths and weaknesses of the electoral process and more willing to ask questions and/or complain when things fail to go right. This change in voter awareness could have tremendous impact on the perceived success or failure of election reform since 2000.

As always, this report is the end result of hard work and dedication by an incredibly talented and dedicated group of people. I would particularly like to thank:

My *electionline.org* colleagues Dan Seligson, editor; Sean Greene, research director; Elizabeth Schneider, writer; Suzeth Pimentel, administrative assistant; and Alyson Freedman, researcher;

Our outstanding interns Jessica Woods, Andrew Ryan and Daniel Shuey;

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The Pew Charitable Trusts, especially program officer Lori Grange; and

All the women and men who serve their communities as election officials, and whose information and insights are essential to *electionline.org* and its mission.

It has been a pleasure preparing this report; on behalf of all of us, I hope you find this report informative. If you have any questions or comments, contact us at: feedback@electionline.org.

Doug Chapin
Director
October 2004

Will Florida happen again?

Millions of Americans will return to the polls in two weeks to cast ballots that will decide the officeholder of the most important position in the world.

It will also be a day that measures how far the country has come in improving upon the many weaknesses revealed four years ago, when a confluence of poor ballot design, flawed procedures, voter disenfranchisement, an absence of recount standards, and of course, a razor-thin margin of victory delayed democracy until the Supreme Court intervened.

This report finds that some of the factors that led to the Florida debacle of 2004 have been addressed; many others have not.

The expectation that the entire American election system would be overhauled in time for November 2 has clearly not been met. Antiquated voting systems remain and our system of managing elections for Americans stationed or living abroad are virtually unchanged. Federal funds for election improvements arrived late.

Yet, as the election approaches, some critical changes have been made to the administration of elections around the country that could head off the type of problems that caused chaos four years ago.

Federal protections mean voters will not be turned away at the polls without the ability to

cast a provisional ballot. Yet questions concerning how or whether those ballots will be counted at all remain unanswered as the vote approaches.

Many states have implemented counting standards for each type of voting system and automatic recount triggers to ensure uniform, statewide standards.

New machines in many states will allow voters with disabilities to cast independent and secret ballots, many for the first time in their lives.

Voters will see a list of their rights in every polling place and have access to federally-mandated administrative complaint procedures if they feel their rights are being violated.

Some unresolved issues could be significant, however:

- Punch cards continue to be used in a number of states, with more than 70 percent of registered voters in the critical battleground state of Ohio punching chad to cast votes.
- Doubts about the accuracy and reliability of electronic voting systems which first emerged two years ago have eclipsed almost all other election concerns. E-voting fears in California mean those living in counties with electronic voting machines will have the option of casting paper ballots, while in Nevada, voters will be the first in the

country to use a statewide electronic voting system that prints out paper records of each vote cast to be verified by the voter.

- Varied rules concerning provisional voting could trigger lawsuits in a close election. Some states will only count ballots cast in the correct precinct while others will count state and federal offices on ballots cast in the correct jurisdiction.
- A poll worker shortage continues to plague nearly every state, despite efforts by the federal government and states to include high school and college students in the process.
- With 35 states allowing early voting or in-person absentee voting, the number of ballots cast well before Election Day could be higher than ever.
- To comply with the Help America Vote Act's mandates, all states will require first-time voters who registered by mail but did not include verification with their application to show ID at a polling place before they vote. Further, more states than ever (17) will require all voters at polling places to show identification before they vote.

The 2000 election has been compared to a spectacular storm. A number of factors must be present for serious problems to occur. The last time the White House was at stake, they included a close election, a controversial result and questionable or unclear procedures. It was a unique event in history that, in all likelihood

will not be repeated. But some of the problems that plagued 2000 remain, and new questions could emerge.

Some questions heading into Election Day:

- ① **Poll workers:** Election officials across the country have expressed concerns over the shortage of poll workers. Some states have begun to offer extra pay to precinct workers as an incentive and in early October, the federal Election Assistance Commission announced its plans to spend more than \$1 million to recruit poll workers nationwide. Will polling sites be fully staffed? Will poll workers receive adequate training to handle the new provisions under HAVA, including voter ID for some voters and provisional voting?
- ② **Voting machines:** Direct-recording electronic (DRE) voting machines, once thought to be effective replacements for punch card and lever voting machines, have become more controversial. If elections are close in states with DRE or punch-card voting technology, will the results be challenged? With questions about the reliability of voting machines, will voters have confidence that their vote will be counted?
- ③ **Registration databases:** More than a dozen states have unified, statewide voter registration databases in place. By 2006, all states are required by HAVA to have such a system in place. Creating these databases is a major undertaking – both technologically and financially. Many argue that the databases help clean up voter rolls, reduce

the need for provisional ballots and generally help elections run smoothly. However, several states, including Rhode Island, Pennsylvania and Minnesota have run into a variety of problems in rolling out these new databases. Will more glitches surface during the election?

- ④ **Provisional Voting:** HAVA mandated all voters who show up at the polls and whose names do not appear on the voter rolls but believe that they are registered are entitled to cast provisional ballots. A number of states have decided not to count provisional ballots cast in the wrong precinct. Lawsuits have been filed in Colorado, Florida, Michigan, Missouri and Ohio. Could provisional ballot counting procedures spark post-election lawsuits?
- ⑤ **Absentee and early voting:** More states have relaxed their rules about who can vote absentee. Supporters say it cuts costs and increases turnout, while detractors argue absentee voting is vulnerable to fraud. The number of voters expected to cast their ballots before Election Day is expected to reach an all-time high. With several battleground states receiving a large number of absentee ballots, will results be delayed?
- ⑥ **Voter ID:** Problems implementing HAVA's voter ID requirement arose during presidential primaries in several states when some voters were incorrectly asked to show

ID. Have poll workers been trained properly about who needs to show ID and what forms of ID are acceptable at the polls? Will those voters lacking verification be offered provisional ballots?

- ⑦ **Litigation:** Since the 2000 election, numerous lawsuits have been filed regarding early and provisional voting, voter identification, voting technology and the voting rights of ex-felons. Both President George W. Bush and Sen. John Kerry have assembled legal teams in case of another contested election. Will close races and/or questioned results lead to post-election lawsuits?

Despite the questions, there is some certainty as Election Day approaches: this will be the most closely watched election in American history. Groups from across the political spectrum will station poll watchers around the country. Lawyers from both presidential campaigns will be at the ready in battleground states and beyond, not to mention national and international media.

Under that microscope, there might not need to be another Florida to cause controversy. After all, seasoned election officials will confess, there are no perfect elections. A wide margin of victory could likely cover many flaws, but a close race appears all but certain to expose even the most minor mishap on November 2.

In the four years that have passed since November 2000, touch-screen machines have been through a strange evolution. Once touted as the solution to most of the problems that dogged the vote four years ago, they are now one possible cause of election-day troubles.

Direct-recording electronic (DRE) machines replace pen marks or chad with digital representations of votes. Voters cast ballots on machines that behave much like ATMs, and, in one notable case, are made by the same company.

In the current debate over the security and reliability of electronic voting, their advantages are frequently ignored or forgotten. Voters with disabilities can use audio prompts to cast independent and secret ballots; those for whom English is a challenge can use audio or vote in their own language. Different character sets are easily displayed, results come in faster and over-voting is impossible.

But those assets have recently been overshadowed by problems real or hypothesized.

E-voting fears not going away

Worries about the punch cards used in Florida, Georgia, Ohio, California and elsewhere have given way to new concerns about the high-tech machines that have or will replace them. E-voting has been under almost constant assault in editorial pages, Web sites published by computer scientists and in books and articles authored by investigative reporters and conspiracy theorists alike.

Recent incidents have not assuaged any fears either. In 2004, a Florida special election yielded a margin of victory of less than a dozen votes. Yet, on the single-question election, there were 134 more voters than there were votes.¹ Did the machines fail to record their choices, or did voters want to express their displeasure with both candidates by coming to a polling booth, checking in, walking up to a voting machine and then choosing not to cast a ballot?

Without a choice specifically marked "no preference," the paperless machine eliminates the possibility of determining the intent of those votes. The vilified punch-card system allows polling judges to check each ballot for dimples, hanging or pregnant chad, trap-door chad or all of the other terms used to describe the ballot-counting confusion in Florida in 2000.

Concern over DREs has only grown as the election approaches. In California this April, Secretary of State Kevin Shelley (D) ordered that all counties using DREs provide each voter with the option of casting a paper ballot. The same order outlawed the use of one type of Diebold touch-screen system and required all DREs to receive re-certification before they could be used in elections.²

A group opposed to Maryland's statewide system of touch-screen machines (one opponent called electronic voting "Jim Crow in cyberspace") took their case to the state's highest court to stop the use of the paperless e-voting system on November 2.³

They failed. In a two-paragraph order, judges from the Court of Appeals upheld a lower court ruling affirming the state's position that it has taken every necessary step to ensure a secure election on the touch-screen machines. Members of the Campaign for Verifiable Voting in Maryland said they would continue to try and force the state to adopt voter-verified paper audit trails, but acknowledged they had lost in their efforts to make any changes in time for November.⁴

The Election Assistance Commission (EAC) released a list of best practices for each type of voting system after holding a hearing in May 2004 on the use of electronic voting machines. While the EAC has not made any statements to discourage e-voting, Chairman DeForest Soaries acknowledged, "security concerns that the [we] must address."

Nevada's Paper Preview

They will not be addressed this year, save in one state. Nevada voters will be able to view a paper representation of their ballots in the upcoming election, using a system of DRE machines retrofitted with printers. The system, manufactured by Sequoia, was first used in September's primary, an election with far fewer voters than are anticipated to turnout in November.

Nevada Secretary of State Dean Heller told The Associated Press that the \$9 million system,

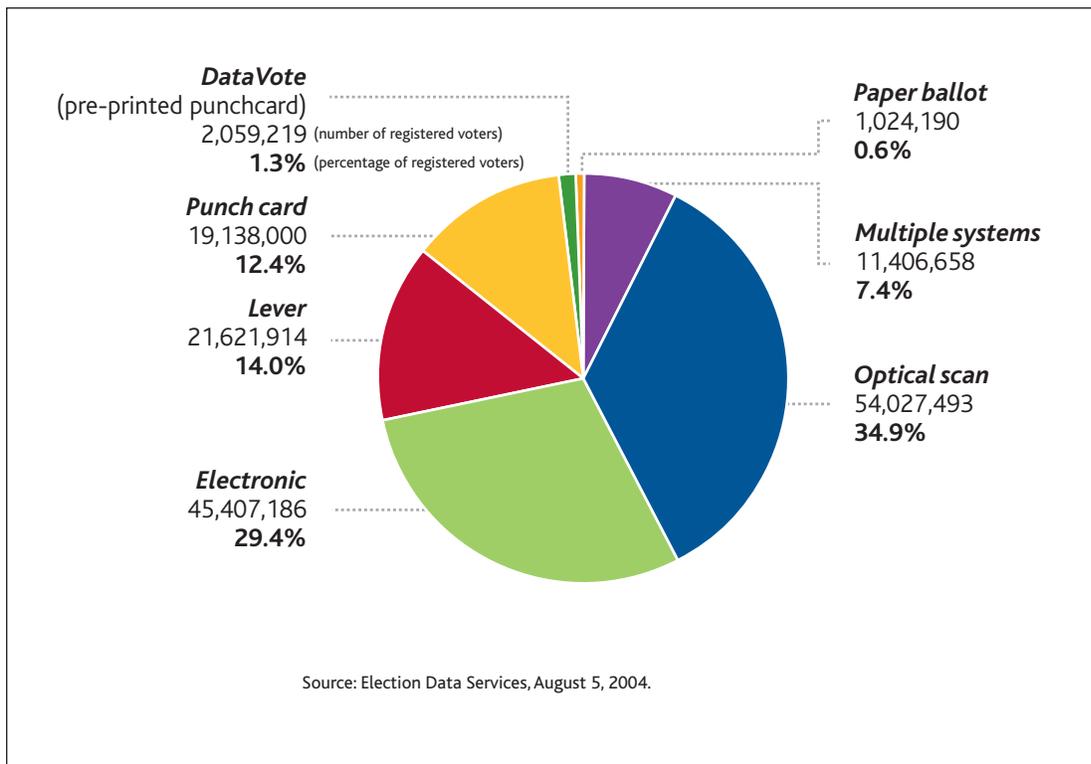
employed statewide, worked "flawlessly" in its first significant test.⁵ As a relief to some concerned about paperless results, Heller reported in late September that the electronic tally and the paper trails – viewed by voters behind glass – matched perfectly.

"Although the audit was not a statutory requirement, as the state's Chief Elections Officer, I wanted to assure all Nevadans that, in fact, voting results in the Silver State are the most accurate, most secure and most valid in the nation," Heller said in a statement.

Nevada's voter-verified paper trails will soon be the norm in a handful of other states. California and Ohio have laws requiring their use with any electronic voting system by 2006, while Missouri, New Hampshire, Illinois and Oregon require the ability to perform manual recounts, requiring the use of a paper attachment with the use of any electronic voting system.

Legislation to require paper trails were debated in 19 states in 2004. If problems occur with electronic machines in November, or if paper trails perform well and boost voter confidence in Nevada, there will likely be a renewed emphasis in state capitals next year.⁶

Congress is considering bills on the same subject, though progress was halted with the election approaching. Rep. Rush Holt, D-N.J. introduced H.R. 2239, "The Voter Confidence and Increased Accessibility Act of 2003," in May 2003. A proposed amendment to the Help America Vote Act (HAVA), Holt's bill would require all electronic machines to provide a paper record of every vote.



Low Tech Vote in Much of the Country

The debate over the security and reliability of electronic voting, coupled with funding issues, led Ohio leaders to scrap their plans to overhaul widely-used punch-card voting systems in time for the November vote. Instead, more than 70 percent of the state's registered voters will punch chad if they vote at polling places.

New York and Connecticut voters will use statewide fleets of 700 pound metal lever machines. A paperless machine no longer manufactured, the antiquated levers have been mainstays in American elections for more than 100 years. Many have only one presidential election left as they are destined for replacement by 2006 in eight of the states where they will be used in November.

Voters will also pull levers in Pennsylvania, Mississippi, Kentucky and Virginia.

While the lever machines have a low percentage of residual votes for president, 1.5 percent between 1988 and 2000, error rates soared to 7.6 percent for the next races down the ballot, governor and U.S. Senate, a report from researchers at the Massachusetts Institute of Technology and the California Institute of Technology found.⁷

Political Ties?

While machines have proven reliably controversial since the 2000 election, more recently the companies that manufacture them have found themselves on the defensive about partisan leanings, campaign contributions, secret source codes and certification procedures, to name a few.

Myth: All punch cards and lever machines have to be replaced by 2006.

Fact: The Help America Vote Act targeted punch card and lever machines for replacement with \$325 million in replacement funds for the state. However, the program is not mandatory. A state accepting the money has to replace all punch card and lever machines by 2006. If they choose not to, they can institute voter education programs instead of upgrading machines.



The watershed event that significantly raised the public awareness of the connections between voting machine companies and political parties was undoubtedly a now-infamous 2003 fundraising letter penned by Walden O'Dell, CEO of banking and election-machine giant Diebold, Inc. In it, O'Dell invited guests to a Republican fundraiser and pledged, "to deliver Ohio's electoral votes to the President."

Fallout from the letter – and the revelation of O'Dell's rank as a "pioneer" in the president's fundraising hierarchy, meaning he raised at least \$100,000 for Bush's re-election campaign – continues almost unabated more than a year later.⁸

Since that time, O'Dell, along with the rest of Diebold's board and the entire staff at Texas-based Diebold Election Systems, has enacted a policy not to contribute anything but votes to political candidates.

O'Dell's activity aside, an examination of political contributions conducted by *electionline.org* in summer 2004 found that voting machine manufacturers were more pragmatic than partisan.

Diebold's primary industry, banking, made the company politically active years before the 2001 acquisition of Global Election Systems. Between 2001 and 2004, the company's board members contributed just over \$400,000 to Republicans and \$2,500 to Democrats. Other companies divided their contributions almost evenly between Democrats and Republican candidates and the parties themselves. (Information on Diebold is much easier to find than its competitors as it is publicly traded.)

Nebraska-based Election Systems & Software contributed \$24,550 to Democrats and just under \$22,000 to Republicans. California-based Sequoia gave \$18,500 to Democrats and \$3,500 to Republicans.⁹

The federal government – which established itself as an equal partner in election reform with the passage of the Help America Vote Act of 2002 (HAVA) – remained largely a silent partner this year.

Election Assistance Commission

As 2004 saw a new federal agency struggle to find footing and funding to do its work, and Congress continued to “wait and see” about HAVA’s effects before taking any further action, the year’s biggest federal story revolved around how voters abroad would be able to cast their ballots in the 2004 election.

In January, the U.S. Election Assistance Commission (EAC) finally formed in Washington to take its place as the federal presence envisioned under HAVA. The four commissioners – Chairman DeForest “Buster” Soaries (R), Vice Chair Gracia Hillman (D), Paul DeGregorio (R) and Ray Martinez (D), said they would see to it that states and localities received the federal funding and guidance they had been promised under HAVA.¹⁰

But the task proved difficult.

Congress appropriated \$2 million (out of an authorized \$10 million a year) to the EAC for its operations through the end of fiscal year 2004, of which about \$1.2 million were available after personnel costs at the new agency.¹¹ As a result, the EAC – already almost a year behind in its establishment – was forced to find a way to accomplish its mission without the resources it had expected to find upon arriving in the Nation’s Capital.

More than once in 2004, Soaries, a former Baptist minister, drew upon Scripture, referring to the EAC’s task as trying to, “mak[e] brick without straw.”

The EAC’s first “brick” was to publish state HAVA plans in the Federal Register – a requirement for states to receive federal funds that had been delayed by Congress’ and the White House’s slow pace in appointing and confirming the EAC in 2003.

Although the EAC managed to secure rent-free office space and had employees loaned from other agencies, it still faced financial obstacles to achieving its goal. The publication of state HAVA plans would cost hundreds of thousands of dollars – a significant portion of the agency’s available funds.

After lengthy negotiations with other federal agencies, the U.S. General Services Administration (GSA) agreed to cover the costs of publication. The plans were published in March.¹² In June, the EAC released the first \$861 million of HAVA funds to 25 states.¹³

Those states receiving funds had certified compliance with certain HAVA requirements and appropriated a required percentage of matching funds for election reform.

Despite the constant problems related to the lack of sufficient funding, the EAC nonetheless

pursued a strategy of highly-visible, yet low-cost initiatives aimed at keeping the agency at the center of attention on election reform. In May, the agency held its first public hearing in Washington on the topic of electronic voting. Interest in the issue was so intense that would-be attendees were turned away because of an overflowing crowd.¹⁴

The EAC followed the hearing with a number of others throughout the summer dedicated to studying “best practices” in election reform. The end result was an online tool kit of best practices that the EAC made available on its website in August.¹⁵ The agency also sponsored a national pollworker recruitment initiative aimed at encouraging employers to contribute a day at the office for a day working at polling places, either through paid vacation time or excused absences. Commissioners also made numerous trips to observe state elections during primaries.

The EAC also began to address its own responsibilities under HAVA, including establishment of three bodies essential to its mission:

- The 15-member Technical Guidelines Development Committee (TGDC), which will coordinate a new system of standards and testing for voting technology in conjunction with the National Institute of Standards and Technology;
- The Board of Advisors, a 37-member committee with representatives from several federal agencies and other national organizations; and,

- The 110-member Standards Board, with two members from each state, territory and the District of Columbia.

The TGDC was established in July and has been meeting monthly ever since.¹⁶ The Board of Advisors and Standards Board convened in Houston in late June, but accomplished little due to procedural constraints and lack of consensus among the various partisan and organizational interests represented.¹⁷

Public attention to the EAC’s efforts took a negative turn later in the summer when *Newsweek* reported that the agency was seeking the authority to “cancel or reschedule” federal elections in the wake of a terrorist attack.

Subsequent reporting – including research by *electionline.org* – found no evidence of such an effort. Soaries, however, did write to Homeland Security Secretary Tom Ridge to offer the agency’s assistance with any contingency plans for dealing with Election Day terror but neither sought nor received any authority to alter Election Day.

Nonetheless, the EAC was briefly the subject of intense and unfavorable attention that served to introduce it to a wider national audience in an unflattering light.¹⁸

Congress

Two years after the passage of HAVA, Congress continued to wait for evidence of the law’s impact before acting further. National interest in H.R. 2239, a bill sponsored by U.S. Rush Holt (D-N.J.) that would require electronic machines to

have a verifiable paper trail, stalled in the face of resistance from HAVA's co-sponsors, Rep. Steny Hoyer, D-Md., and Rep. Bob Ney, R-Ohio. Other bills with similar goals met similar fates.

Similarly, Congressional funding for HAVA's mandates moved slowly when it moved at all. Congress enacted \$1.5 billion for HAVA in late January 2004 as part of the omnibus appropriations bill – nearly four months after the beginning of the fiscal year.¹⁹ The delay, coupled with the postponement in appointing the EAC, meant that most states were receiving their HAVA funds over a year after they had expected such funds to arrive.

For election officials, the delay began to feed upon itself. President Bush's 2005 budget included only \$65 million out of a total authorization of about \$800 million for election reform, partly because states were not deemed to need any further funding because they had yet to receive the initial grants.²⁰ After the EAC requested a fiscal 2005 budget of \$20 million for its work, House and Senate versions of the Treasury-Postal appropriations bill included \$15 million and \$10 million respectively for the EAC, but offered no additional funding because not all the previous appropriations had yet been released to states.²¹

After Congressional appropriators were unable to agree on any 2005 funding bills, Congress passed a continuing resolution that provides \$7.8 million for the EAC's activities related to Election Day 2004.²² The balance, if any, of election reform funding will be determined after the election, either in a lame-duck session or when the new Congress convenes in January 2005.

Overseas/Military Voting

The other major issue at the federal level was how to guarantee voters abroad access to the ballot in a year with hundreds of thousands of military personnel deployed overseas and thousands more civilians indicating dramatically increased interest in voting in 2004.

Overseas and military ballots were at the center of many of the controversies four years ago, as ballots arriving late or without a postmark were not counted. In response, Congress encouraged election officials as well as the EAC to improve overseas voters' access to the ballot.²³

The Department of Defense was planning to offer overseas voters in targeted jurisdictions the opportunity to cast their ballots via the Internet as part of the Secure Electronic Registration and Voting Experiment (SERVE). In February 2004, the Pentagon scrapped SERVE after a minority of the project's advisory board – many of them the same technologists leading the charge against paperless e-voting systems here at home – issued a report critical of perceived security flaws in the system.²⁴

In the wake of SERVE's demise, attention returned to the traditional mail-based voting process for overseas voters. In September 2004, the EAC and the Pentagon's Federal Voting Assistance Program jointly released another "best practices" report on overseas voting that suggested, among other things, that states "[e]ncourage further use of faxing and e-mail in the distribution of absentee ballots."²⁵

Several states have gone further to allow overseas voters to return their voted ballots by fax or e-mail. The first was Missouri, where Secretary of State Matt Blunt – also the GOP candidate for governor – announced a plan to allow military voters to email scanned ballots if they are willing to waive their right to privacy.²⁶ North Dakota followed suit, as did Utah, which will allow soldiers in “hostile fire zones” to send their ballots electronically if they provide a waiver.²⁷

Reaction to the plan has been mixed. Some opponents of the Missouri plan expressed fear that the lack of a secret ballot could result in vote manipulation, while North Dakota Secretary of State Al Jaeger (R) defended his state’s practice against similar charges by noting that military personnel need to have access to the process.²⁸ “If [e-mail] is the way it needs to be done, so that the ballot can be counted, I think we really have to extend ourselves, and make sure the soldiers have every opportunity to have their vote counted,” Jaeger said.²⁹

Election Reform and the Courts

Since the 2000 election, judges across the country have heard arguments from minority groups, civil rights organizations, state officials and organizations representing voters with disabilities regarding early and provisional voting, voter identification, voting technology and the voting rights of ex-felons.

In the final months leading up to the November 2 election, a surge of lawsuits spurred by state provisional balloting rules were filed by groups in

Missouri, Michigan, Colorado, Florida, and Ohio. Plaintiffs including state and Democratic parties and organizations traditionally aligned with them argued that provisional ballots cast by registered voters in the wrong precinct should be counted and not discarded as outlined in state law in 28 states.

While Missourians wait for a judgment, in September, a circuit court in Florida (*AFL-CIO et al. v. Secretary of State Glenda Hood*) upheld the state law requiring election judges to throw out provisional ballots cast in the wrong precinct. The plaintiffs plan to appeal.

Voter identification rules were the subject of a lawsuit in New Mexico (*Rep. Larry Larranaga et al. v. Secretary of State Rebecca Vigil-Giron et al.*). After debating the issue in the legislature, Republicans took the issue to court seeking to expand the state’s identification requirements beyond first-time voters who mailed in applications without any verification of their identity.

Republicans argued that all registered voters who did not register in person with a government official should be required to provide some form of identification at the polls to reduce the possibility of fraud, while Democrats stated that broader ID requirements would lead to confusion at the polls and disenfranchisement of new voters.³⁰

The State Supreme Court sided with Democrats in September, ruling that only voters who registered by mail would have to show ID when casting their ballots.

State courts this year settled several cases related to early voting and the re-instatement of felon voting rights in time for November 2.

Lawyering Up For the Election Aftermath

As millions of voters go to the polls for the first presidential vote since the disputed November 2000 election, lawyers across the country are preparing for the possibility of a return to another now-familiar venue for deciding elections: The courts.

Determined not to ignore the lessons of four years ago, Democrats already are recruiting counsel and assembling battle plans for the round of litigation that many expect to be an integral part of the 2004 campaign.

The Democratic National Committee (DNC) has established the Voting Rights Institute (VRI), chaired by veteran party operative Donna Brazile. According to the DNC's Web site, the VRI's goal is "to make sure that every legitimate ballot that is cast is counted." To accomplish this, the VRI plans "to deploy 10,000 lawyers across the country" this fall, according to the DNC Web site.

Vincent Fry, VRI's executive director, said the goal is "to do everything we can to expand the opportunities for people to vote" in November. To that end, Democrats are assembling litigation teams in every state – and in some states, in specific jurisdictions with a history of election problems. These teams should have the ability to file lawsuits or seek injunctions should the need arise during the vote. The party is getting information specific to each state that these teams can use on the ground on or before Election Day, Fry added.

To prevent problems before they occur, the VRI has also developed a family voting plan toolkit designed to assist Democratic voters with registering to vote and casting their ballots successfully.

For his part, Democratic presidential nominee U.S. Sen. John Kerry isn't waiting

for Election Day. He told a Florida audience earlier this year that his campaign will research which precincts were problematic for Democrats in 2000 and will take action before the vote if necessary.

"We're going to pre-check it, we're going to have the legal team in place," Kerry said in Florida. "We're going to take injunctions where necessary ahead of time. We'll pre-challenge if necessary."

Those plans took further shape in early July when Kerry, appearing for the first time in Florida with running mate U.S. Sen. John Edwards, D-N.C., announced that his campaign had retained Miami attorney Steve Zack, a veteran of the 2000 Florida recount battle, to coordinate the campaign's 2004 efforts in the Sunshine State.

"We just want to make sure nothing like 2000 happens again," Zack told the *Miami Herald*, adding that the campaign had already received pledges from 75 attorneys statewide to donate their services leading up to the election. Kerry subsequently told the Hearst Corporation in an interview that he had retained Robert Bauer, a senior Democratic attorney, to coordinate similar "SWAT teams" of lawyers nationwide.

Republicans are also making plans for November, said Benjamin Ginsberg, a senior attorney who has worked with both the Republican National Committee (RNC) and the campaign. Ginsberg said that the large number of new voters being registered by both parties, when combined with the implementation of the Help America Vote Act (HAVA) of 2002, will place an unprecedented burden on lawyers. Consequently, Ginsberg notes, "There are opportunities for lawyers in greater numbers than ever before, and

[Republicans] are recruiting lawyers to help in these efforts as never before."

An indication of the high stakes involved in these preparations is the recent round of opening arguments in another important venue: The court of public opinion.

In June, RNC Chairman Ed Gillespie sent a letter to DNC Chair Terry McAuliffe proposing that the parties dispatch bipartisan teams of poll watchers to identify and investigate voting irregularities.

In early July, McAuliffe and Brazile wrote back, lauding Gillespie for his "novel means" of protecting voters but suggesting that rather than a "public relations gambit by the two political parties," what is necessary is a "commitment ... that the laws will be enforced by those federal and state agencies charged with protecting the constitutional and statutory rights of all our citizens." They also tweaked the Bush administration for not fully funding the new Election Assistance Commission, which has a key role in coordinating progress under the recently enacted Help America Vote Act of 2002.

So with lawyers ready on both sides and political parties already wrangling over the issue, don't be surprised if the election goes on past Election Day.

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In August, a suit filed by Missouri lawmakers against GOP Secretary of State Matt Blunt (*Missouri Democratic Party et al. v. Secretary of State Matt Blunt*) over the state's ban on early voting was dismissed. The plaintiffs, who sought a court order to allow for an early voting period before the Nov. 2 election argued that a 2002 law required advance voting for general elections. A Cole County circuit judge ruled that the law simply requires election officials to plan for, not implement, the practice.

Shortly after the ruling, Jeff Rainford, chief of staff for St. Louis Mayor Francis Slay, said that early voting will be one of the "mayor's top priorities" in the next legislative session.³¹

A number of long-standing cases related to ex-felon voting rights reached the higher courts this year. A suit filed in 2000 by New Yorker Joseph Hayden, (*Hayden v. Gov. George Pataki*) who was at the time incarcerated on a felony charge, challenged the state law denying the right to vote to convicted felons while incarcerated or on parole on the basis that it was unconstitutional and discriminatory, specifically against African Americans and Latinos. He lost, and appealed the case to the U.S. Court of Appeals, Second Circuit.

The Hayden decision was the second opinion in 2004 issued by a federal court in New York rejecting challenges to the state's felon enfranchisement statutes.

Two other felon disenfranchisement cases may ultimately be decided by the U.S. Supreme Court.

In April, the U.S. Court of Appeals for the Second Circuit denied the Voting Rights Act

claims in the 1994 case (*Muntaqim v. Coombe*), a felon disenfranchisement lawsuit that was appealed after being dismissed by the federal district court.³²

Another lawsuit (*Farrakhan v. Locke*) filed in 1997 contended that felony disenfranchisement in Washington denies the right to vote on account of race.

The U.S. Supreme Court will decide on whether to hear either of these cases during the October 2004 term.

One of the most significant cases filed on behalf of ex-felons came before a Florida court in 2000 (*Johnson v. Gov. Jeb Bush*). The suit, filed on behalf of more than 600,000 Floridians who have been convicted of felonies and completed their sentences but remained ineligible to register or vote, has bounced around the state court system for four years.

The lawsuit challenged the validity of the state law stripping felons of voting rights after they have completed their prison sentences and parole.³³

In December 2003 a federal appeals court ruled in favor of the plaintiffs.

In July 2004, the United States' 11th Circuit Court of Appeals in Atlanta granted a petition for a rehearing before the full panel of the circuit court.

The first lawsuit (*John Doe and Jane Doe v. Secretary of State Susan Bysiewicz*) in the United States to seek Election Day registration was filed in Connecticut by several citizen advocacy organizations this month.

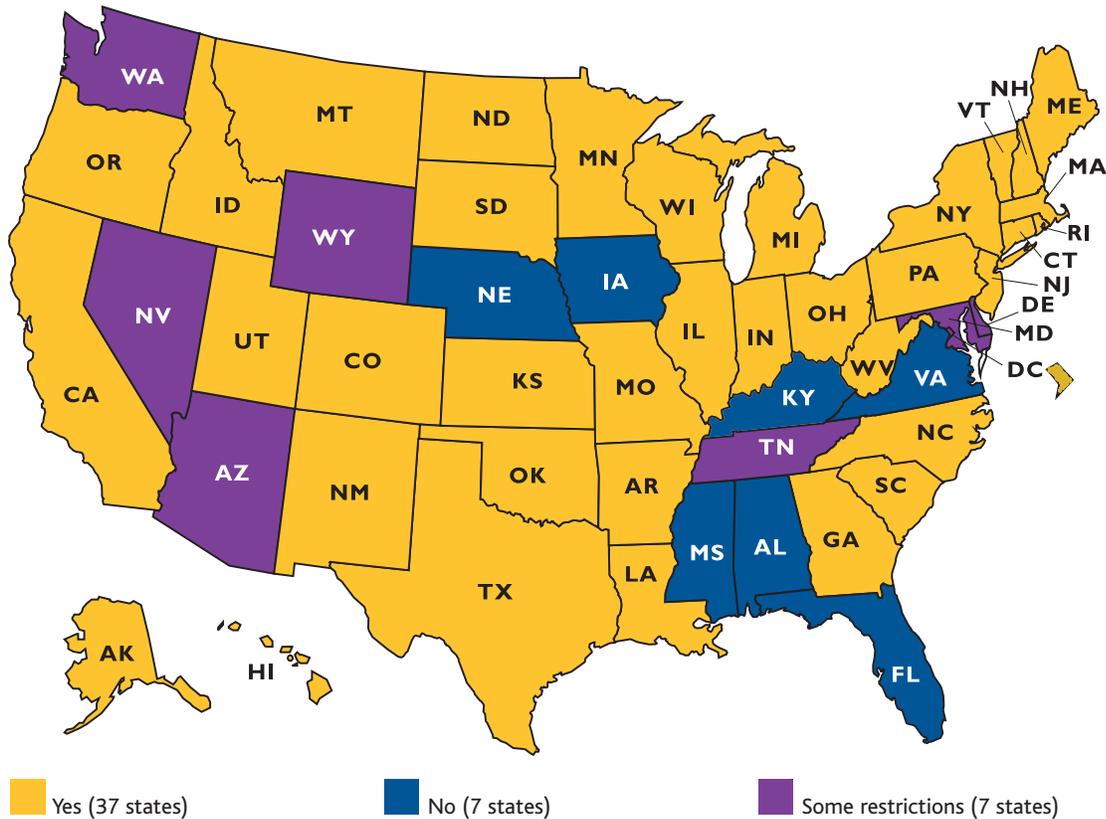
The state's current rules allow people to apply to cast a presidential ballot on Election Day but not in other federal, state or municipal elections.³⁴

The suit asserts that the state is in violation of the Constitution by requiring citizens to register at least 14 days before Election Day. The plaintiffs call for the state legislature to create an Election Day registration system for all of the state's elections.

Democrat and Republican lawyers have predicted that a host of lawsuits, including those centered on problematic voting machinery, allegations or a recent history of troubled election procedures, and state election laws that allow post-election challenges, could follow the November elections.³⁵

Ex-Felon Voting

This map provides information on whether states allow ex-felons to vote.



Seven states effectively prohibit ex-felons from voting and seven more states prohibit some ex-felons from voting. Thirty-six states and the District of Columbia restore the voting rights of ex-felons, but at what stage in the process – on parole, probation – and whether the re-enfranchisement is automatic or requires more effort on the part of the ex-felon varies from state to state. Two states – Maine and Vermont – allow inmates to cast ballots from prison.⁴¹

As with many other election issues, Florida’s treatment of current and ex-felon disenfranchisement has been the most controversial nationally. In 2000, a faulty purge list of current and former felons disenfranchised thousands of eligible voters who happened to share some information with non-eligible voters. Thousands of voters were incorrectly identified as felons and barred from voting.

This year, the state essentially abandoned a similar effort to compile a list after organizations, newspapers and activists found flaws. The state has now told counties to deny the

vote, “only if you have independently confirmed that the person is a felon who has not had their civil rights restored.”⁴²

And this time around, those not on registration lists will have provisional ballots to cast, rather than face being turned away as they were four years ago.

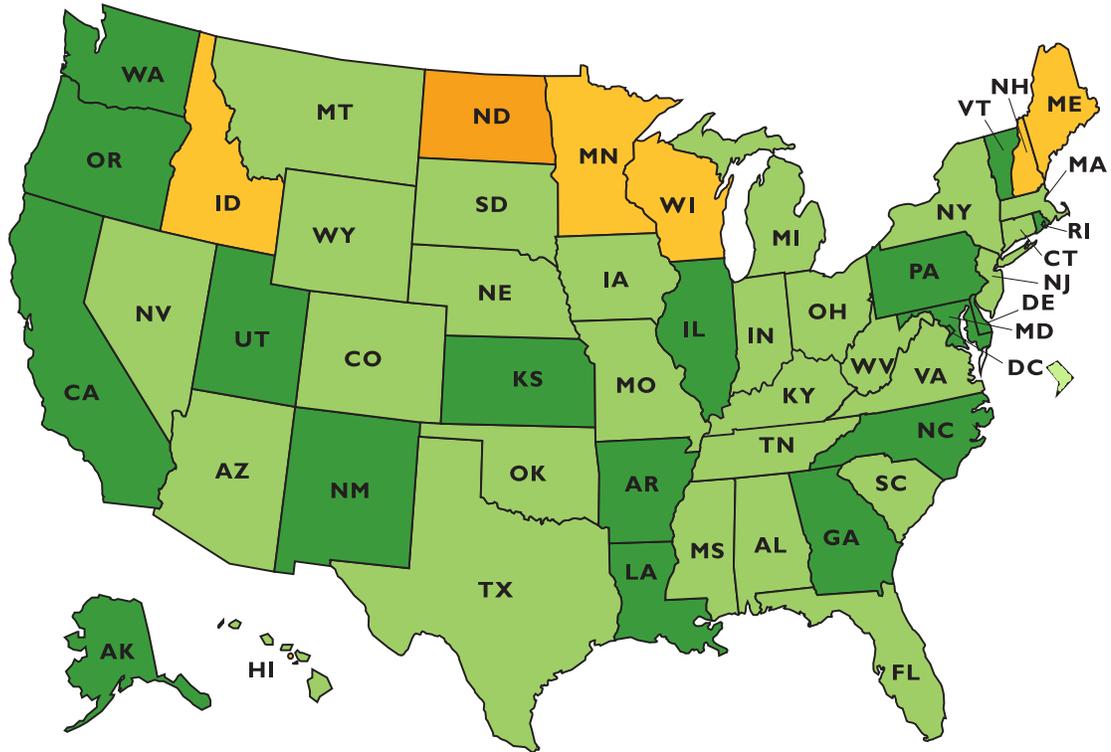
Florida is not the only state where problems have arisen with ex-felon voting rights.

In Ohio, a report by the Prison Reform Project stated that some counties failed to fully inform felons about their ability to have their rights restored. The study found that 21 of 88 Ohio counties gave felons incorrect registration information. In many cases, ex-felons were asked for documentation they did not need to provide.⁴³

A similar report from Rhode Island cited some of the difficulties ex-felons face in restoring their voting rights.⁴⁴

Provisional Voting

This map provides information on eligibility for provisional ballots to be verified.



- Eligible for verification if cast in correct precinct (28 states)
- Eligible for verification if cast in correct jurisdiction (17 states)
- Election-Day registration (5 states)
- No voter registration - available only if poll hours extended, affidavit completed

With the passage of the Help America Vote Act, all voters who show up at the polls and whose names do not appear on the voter rolls but believe that they are registered are entitled to cast provisional ballots. Provisional ballots are segregated from regular ballots, counted only if the eligibility of the voter can be determined. The voter must be able to find out through a Web site or toll-free phone number whether their ballot was counted, and if not, why.

HAVA was intended to ensure no qualified voter would be turned away at the polls. With the election fast approaching and lawsuits filed over provisional ballots in a number of states, some are instead calling provisional ballots "the hanging chad" of 2004.

The problem lies in the different ways states have implemented the HAVA-mandates. Twenty-eight states – including Florida – will not count provisional ballots if they are cast by a voter in the wrong precinct.

A lawsuit by labor unions sought to overturn Florida's rule, arguing thousands of registered voters' ballots will not get counted, but a judge upheld the law. Similar lawsuits were filed in Colorado, Michigan and Missouri.

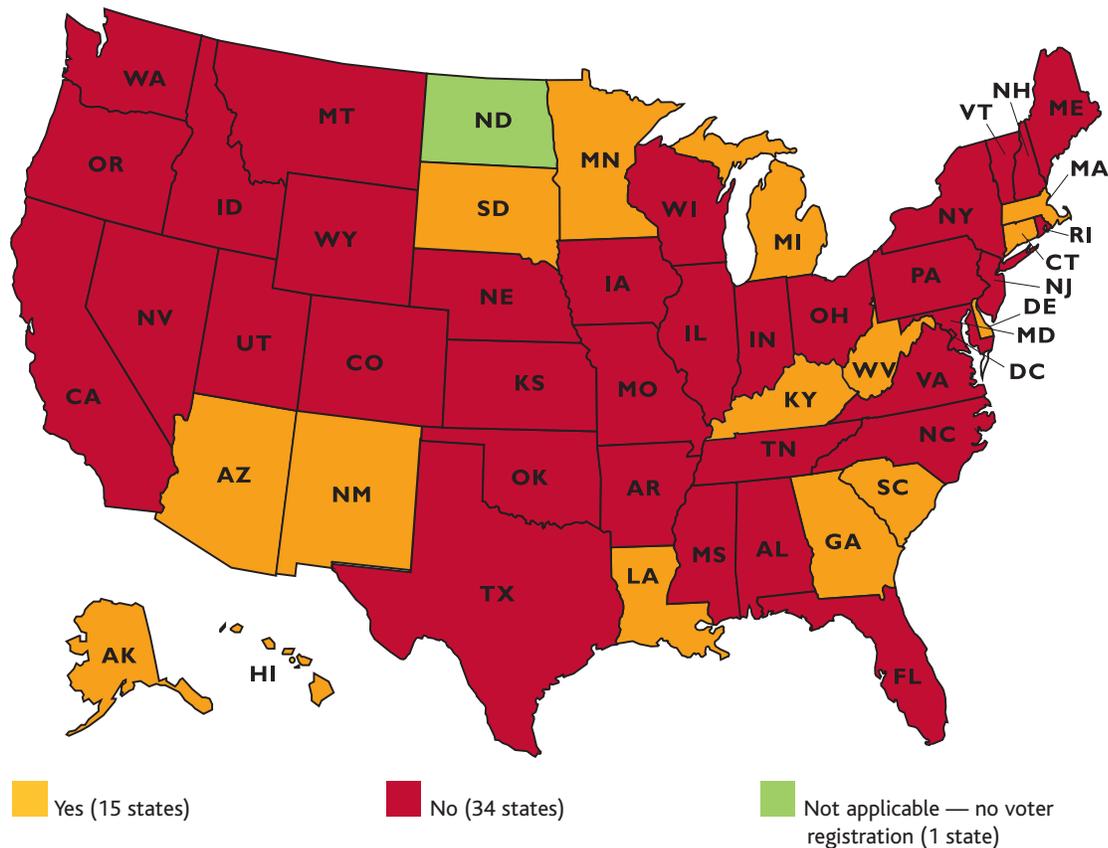
Florida officials say poll workers are trained to send voters to the right polling place and good information will eliminate many of the anticipated problems.⁴⁵

Seventeen states will count partial ballots cast by voters in the wrong precinct. Votes for federal, statewide and in some cases countywide offices, statewide initiatives and amendments will be counted. The rule does not apply in the five states with Election-Day registration. In North Dakota, the only state with no voter registration, voters will cast provisional ballots only if a court orders polling places to remain open longer than normal hours.

Note: While Wyoming permits Election-Day registration, there are circumstances when a voter may cast a provisional ballot and state law requires the ballot be cast in the correct precinct.

Registration Databases

This map provides information on whether states have a statewide voter registration database in place for the November 2 election.



One of HAVA's most extensive (and expensive) mandates was for the creation of statewide registration databases. Statewide databases, many voting experts say, can help ensure voters are not left off the rolls, prevent fraud by identifying double registrations or wrongful registrations and prevent bloated, out-of-date voter lists by better tracking the movement of voters within a state and, in some cases, between states.

For the November election, 15 states have statewide systems up and running. HAVA allowed states to waive fulfilling this requirement until 2006. States including Delaware, Kentucky and South Carolina have had such systems in place well before the 2000 election.

West Virginia put its statewide registration database online in January of this year and heard complaints from some county election officials. Almost half of the state's 55 counties had some difficulty with the new system.⁴⁶

Note: The District of Columbia is a single jurisdiction.

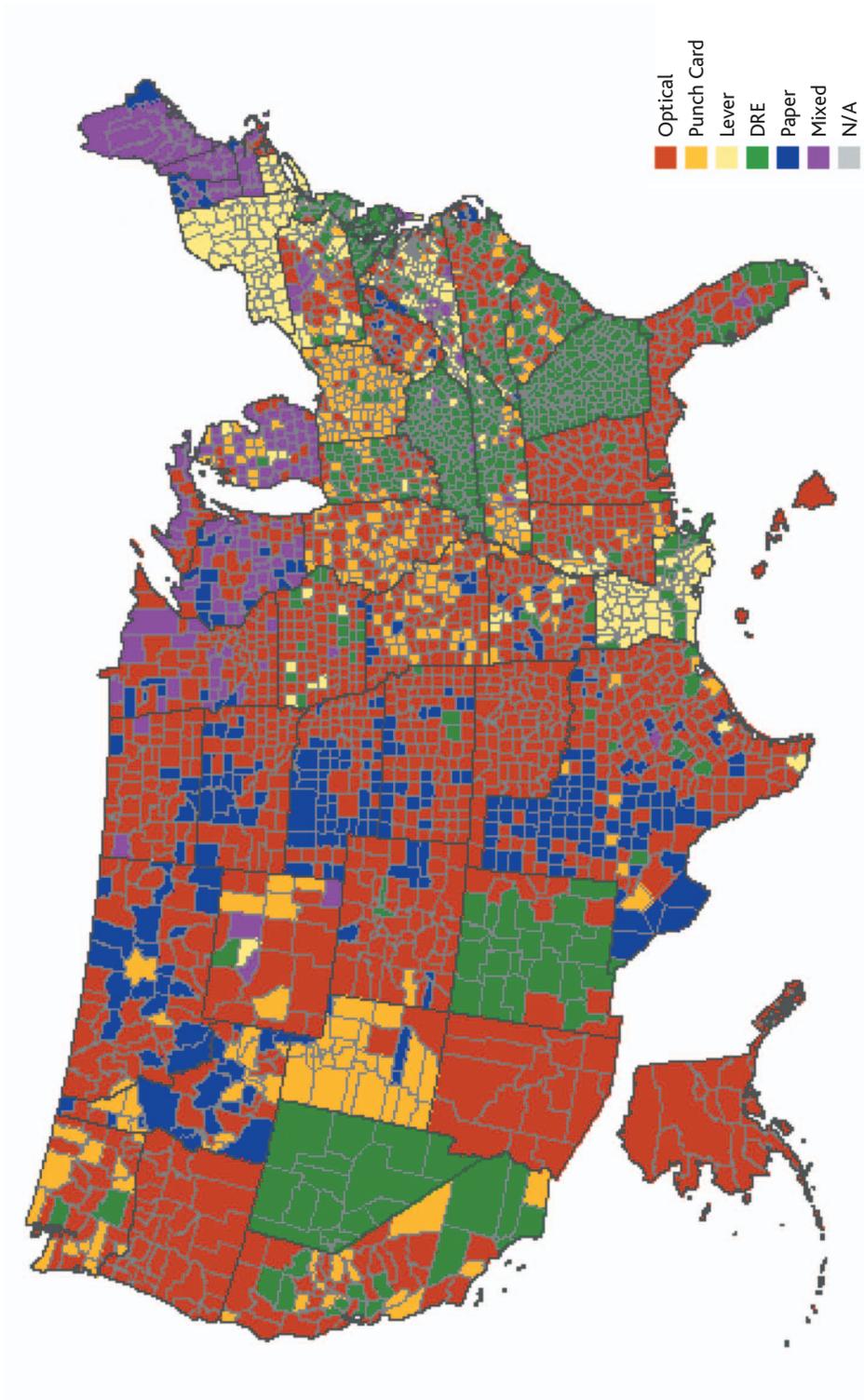
Complaints have also arisen in Minnesota over the state's new database. Local officials said they were concerned about the rate and scope of change. A state senate panel heard testimony from county auditors and others about glitches with the new voter list during an August special election.⁴⁷

Rhode Island officials said they were hoping to have a database in place by November, but experienced problems when it discovered while building the new system that thousands of voters were registered in the wrong ward or town. With some town election officials concerned about using the new list, the secretary of state dropped the mandate that all jurisdictions join the list by the November election.⁴⁸

Fifty-six of Pennsylvania's 67 counties are on the state's Statewide Uniform Registry of Electors (SURE). Like West Virginia, some counties reported problems with the new system.⁴⁹

Voting System Used

This map provides information on states' voting system used in November 2004.



For more detailed information, see the interactive map at www.electionline.org.



Alabama

REGISTERED VOTERS:	2,573,989 (June 2004)
ELECTORAL VOTES:	9
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, DRE
VOTER ID:	Required for all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	No

OVERVIEW ► Alabama plans to move to a statewide system of optical scanners, though some electronic machines will remain in use for the 2004 vote. Questions that were raised over the handling of absentee ballots in some jurisdictions during an August primary were being investigated.⁵²

The state decided to disallow the use of Internet ballots for Alabama military personnel stationed overseas after Attorney General Troy King said the law prohibited it. The opinion shelved the plan put forth by Secretary of State Nancy Worley, who wanted a more timely way to deliver ballots home from combat areas. Eventually, Worley said, the state will embrace Internet voting.⁵³

THINGS TO LOOK FOR ► **Provisional voting:** State provisional voting rules require voters to be in the correct precinct to have their ballots considered. Have poll workers been adequately trained in their use? Are voters directed to the correct precinct? How many provisional ballots are discarded?



Alaska

REGISTERED VOTERS:	461,059 (September 2004)
ELECTORAL VOTES:	3
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEM:	Optical scan
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► A number of Alaska voters complained bitterly when the state this year moved to a closed primary, disallowing some of the state's independent-minded voters from crossing party lines to cast ballots in other party's races.⁵⁴

While wholesale changes have not come to the state, the potential for added scrutiny exists as an anticipated close race for the U.S. Senate will likely attract national attention.

THINGS TO LOOK FOR ► **Poll worker training:** Alaska's vast size has made it a challenge to train poll workers in rural parts of the state. Rural poll workers might have to be trained far in advance of the election, sometimes well before final preparations for the election have been made. With an anticipated tight race for the U.S. Senate, how do the poll workers perform?



Arizona

REGISTERED VOTERS:	2,440,144 (September 2004)
ELECTORAL VOTES:	10
POLLING PLACE HOURS:	6 a.m. to 7 p.m.
VOTING SYSTEM:	Optical scan
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	If convicted of two or more felony offenses, an individual must petition the court that sentenced them for restoration of voting rights.

OVERVIEW ► As Congress debated legislation that would eventually become the Help America Vote Act, Arizona was the site of a contentious battle over the future of punch cards. That fight was settled more than a year ago, when the last nine counties using the maligned system converted to optical-scan ballots.

Early this year, Gov. Janet Napolitano (D) – a veteran of the punch-card fight as the state’s attorney general in 2001 and 2002 – vetoed a Republican-backed bill that would have required identification of all voters at polling places. Press reports at the time said Napolitano “mocked the claim by supporters of the measure that the lack of an identification requirement made voter fraud easy” and instead insisted that those who supported voter ID want to make it more difficult for minority voters to cast ballots.

“Then the governor grabbed her red self-inking stamp and, right in front of the audience [of Latino elected officials] vetoed the measure to the cheers of conference participants. ‘Welcome to the new Arizona,’ she said.”⁵⁵

THINGS TO LOOK FOR ► **Voter ID:** State officials said they are so confident in their database to identify and match Social Security numbers and motor vehicle records with voter registration records that they “will not need to ask any voter for ID.” Does the state’s plan for meeting HAVA’s ID requirement comply with the rules?

Voting machines: A number of jurisdictions have replaced voting systems. Are poll workers and voters trained on their use?



Arkansas

REGISTERED VOTERS:	1,619,207 (January 2003)
ELECTORAL VOTES:	6
POLLING PLACE HOURS:	7:30 a.m. to 7:30 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card, lever, and hand-counted paper ballots
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING RIGHTS:	Yes

OVERVIEW ► Arkansas voters will cast ballots on a variety of different machines in 2004, though this will likely be the last federal election in which punch cards and lever machines are used in some locations around the state. Arkansas accepted federal money to purchase replacement equipment, which is required to be in place by 2006.

THINGS TO LOOK FOR ➤ **Voting machines:** Older machines will be used in a number of jurisdictions around the state. How do they perform in the presidential election?



California

REGISTERED VOTERS:	15,091,160 (March 2004)
ELECTORAL VOTES:	55
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, DRE, DataVote (pre-printed, pre-scored punch-card system)
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ California was one of the first states to replace punch-card voting systems after the 2000 election – and the leader in acrimonious debate over the accuracy, security and reliability of their replacements. Concerns over electronic voting sprung from California’s universities two years ago. None of the passion and anger has dissipated as the election nears.

After a provisional decertification of voting machines by Secretary of State Kevin Shelley last year, the state’s voters in the nine counties with direct-recording electronic voting systems will have the option to cast a paper ballot if they are concerned about the security of their vote.

How this controversy over e-voting will impact voter confidence – and voter turnout – is one of the most pressing national questions heading into Election Day.

Another controversy – also with Shelley at its center – concerns the state’s portion of federal election reform funds. Gov. Arnold Schwarzenegger froze \$25 million earmarked for voter education after a number of reports surfaced accusing Shelley of using the money to hire political allies and Democratic Party activists.⁵⁶ Shelley, who has denied wrongdoing, asked the state to release some money to print voter information posters and to hire extra staff to handle voter complaints. As of early October, the money had not yet been approved.

THINGS TO LOOK FOR ➤ **Voting systems:** While questions about DREs have dominated discussions over voting machines in the state, a number of counties will be using optical-scan systems for the first time in a presidential election. Los Angeles County will use an interim voting system that looks and acts like a punch card, except the ballots are scanned optically and no punching is required. Have counties trained and educated poll workers and voters on the use of all of the state’s new voting systems?

Voting systems, part II: California voters in DRE counties can cast paper ballots. How do local election officials manage polling places and tabulations with multiple voting systems in place? Are the results delayed?

Voter identification: First-time voters who registered by mail and did not provide verification with their applications will be required to show ID at the polls. Are poll workers properly trained in the state’s procedures?

Voter confidence: Questions about the accuracy and reliability of e-voting machines have dominated pre-election news coverage. Has the DRE controversy sapped voter confidence?

Voter information/complaints: An investigation into the Secretary of State’s handling of federal election reform funds for voter education has resulted in millions of dollars being frozen, meaning little money is available to hire workers to handle voter complaints or to print voter information posters. How does this affect the administration of the election?



Colorado

REGISTERED VOTERS:	1,965,849 (October 2003)
ELECTORAL VOTES:	9
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, DRE, hand-counted paper ballot
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► The 2004 election will mark a number of significant changes at the polling place compared with four years ago, including a new requirement for voter identification, new voting machines in a number of jurisdictions and a federally-compliant provisional voting program that has proven controversial in some local recounts.

Voters will decide on ballot initiative Amendment 36, that would divide the state's Electoral College votes based on the popular vote tally. If successful, it is likely to trigger post-election lawsuits, particularly if the presidential race is close.⁵⁷

THINGS TO LOOK FOR ► **New voting machines:** A number of jurisdictions have switched voting systems. Are poll workers and voters adequately trained in their use?

Voter ID: This year marks the first federal election in which all state residents will be required to show identification at polling places. Do new voter ID rules increase the number of provisional ballots? Are poll workers properly trained in state rules?

Ballot counting: Provisional ballots delayed results in some localities in this year's primaries. One county will offer a central voting center for those who need provisional ballots while most will require the voter to find their correct polling place. Do provisional ballots delay election results or confuse voters?

Electoral College split: If voters approve Amendment 36, the state will immediately divide its electoral votes based on the popular vote. In a close presidential race, does Colorado's popular-vote system spark post-election lawsuits and delay the national results?



Connecticut

REGISTERED VOTERS:	1,965,849 (March 2004)
ELECTORAL VOTES:	7
POLLING PLACE HOURS:	6 a.m. to 8 p.m.
VOTING SYSTEMS:	Lever machines
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ► Connecticut has flirted with changing its fleet of lever machines – including real-world polling place tests of different kinds of electronic machines in a number of localities – but will not do so in time for November's vote. As a result, the 3,300 mechanical machines will be used for one final presidential election as the state is scheduled to change to a new system by 2006.

The state will also institute provisional voting for the first time in a presidential election, allowing those voters who believe they are registered and are not on rolls to cast ballots and check later whether they were, in fact, qualified and their votes were counted.

THINGS TO LOOK FOR ► **Voting machines:** Congress singled out lever machines for replacement with more modern voting systems. Connecticut’s statewide system will likely be under more scrutiny than elections past. Will there be voting machine problems on Election Day?

Provisional voting: State provisional voting rules – which will be used for the first time in a general election in November – require voters to be in the correct precinct to have their ballots considered for counting. Have poll workers been adequately trained in their use? Do voters know their rights and are they directed to the correct precinct to cast provisional ballots? How many provisional ballots end up discarded?



Delaware

REGISTERED VOTERS:	525,806 (June 2004)
ELECTORAL VOTES:	3
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	DRE
VOTER ID:	Required for all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Felons convicted of violent crimes, abuse of office, bribery are not eligible to have rights restored. Rights restored for qualified ex-felons five years after expiration of sentence.

OVERVIEW ► While the Help America Vote Act’s requirements for statewide registration databases limited voter identification and provisional voting, it placed significantly more responsibility in the hands of states rather than localities. Delaware was already there.

The state purchased voting machines, maintained a statewide database, and oversaw poll worker training before the passage of HAVA. Recently-adopted rules will allow 16 and 17-year-old teens to work at the polls.

THINGS TO LOOK FOR ► **Voting machines:** Delaware employs an older version of the touch screen – a full-faced unit that lights up candidates’ names when buttons are pushed. State officials concerned about negative press for e-voting sought to reassure voters in August that the older-generation machines are reliable and maintain paper records of each vote cast.⁵⁸ Are voters confident in the machines?



District of Columbia

REGISTERED VOTERS:	368,477 (September 2004)
ELECTORAL VOTES:	3
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, DRE
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► The District continues to operate a dual system for voting technology – optical scan for the majority of the city’s voters with a single DRE machine in each precinct for voters with disabilities.⁵⁹ This dual system created confusion during the District’s



September 14 primary, as results from DRE machines were delayed while vote cartridges were delivered to a central counting location.⁶⁰

Similarly, voters across the city may have some difficulty in identifying their correct polling place in November following the discovery that the city’s Board of Elections and Ethics mailed 100,000 households a voter guide that omitted information on voter’s polling places.⁶¹ The Board quickly mailed voters follow-up post cards to correct the error.⁶²

THINGS TO LOOK FOR ➤ **Voting machines:** Will the city’s dual technology system create similar Election Night delays? Will it matter in this reliably Democratic city?

Voter education: Will voters confused by the incorrect voter guide be misdirected on Election Day, leaving the city with a larger-than expected provisional ballot total to verify after November 2?

Florida

REGISTERED VOTERS:	9,333,469 (February 2004)
ELECTORAL VOTES:	27
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan and DRE
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	No

OVERVIEW ➤ All eyes will be on Florida as the state is again poised to be one of a handful expected to decide the fate of the Presidential election. It will also be the measuring stick for election reform around the country. The state’s voting machines, particularly the touch-screen systems in heavily-populated Palm Beach, Miami-Dade and Broward counties will be a indication of the health of elections around the country and a measurement for the rest of the country – and the world – to see if the fiasco of 2000 was an aberration.

The months leading up to Florida’s critical vote give reason for concern. An attempt to remove the names of felons from the state’s voter registration rolls earlier this year was eerily reminiscent of Florida’s erroneous purge in 2000 that removed thousands of qualified, mostly black voters, from poll rosters. This time around, the state’s list – generated by Republican Secretary of State Glenda Hood – was suspiciously lacking names of Hispanic voters, a group more likely to vote Republican, some in the state contended.⁶³ An honest mistake? A federal inquiry might decide.

Election monitors from around the country and around the world will be on hand for the vote, as will teams of lawyers from both the Bush and Kerry campaigns. But they might miss quite a bit of voting, which will start in mid-October and last through Election Day. Some estimate as many as 35 percent of the state’s voters will cast absentee ballots or vote early in person.⁶⁴

The state’s August primary went smoothly, although there were scattered reports of machine errors, lost votes and mishandling of primary ballots.⁶⁵ With the stakes raised, expect more attention to be focused on the possibility of recounts, and renewed criticism of the state’s policy that essentially prohibits recounts of votes cast on electronic machines.⁶⁶

THINGS TO LOOK FOR ➤ **Voting machines:** Paperless e-voting machines will collect and tally votes in 10 Florida counties. Widespread problems arose in 2002, with confused poll workers, slow start up times and long lines. Those issues have been largely corrected. In a close vote, however, the absence of any ability to perform a ballot-by-ballot recount of electronic votes could spark new legal troubles in the state. How do the machines perform? In a close race, will blank ballots and an inability to perform ballot-by-ballot cause post-election problems?

Voter confidence: The trustworthiness of electronic voting systems has been challenged by a barrage of media attention on the issue of voter-verified paper audit trails, lost votes, allegations of weak security and political ties between machine makers and political parties and candidates. Further, some Florida voters might still be smarting from the problems of 2000. Do voters express confidence in this year’s result?

Provisional voting: State provisional voting rules require voters to be in the correct precinct to have their ballots considered for counting. Have poll workers been adequately trained in their use? Are voters directed to the correct precinct? How many provisional ballots end up discarded?

Absentee ballots/early voting: More than a third of Floridians are expected to cast ballots before Election Day using in-person early voting or mail-in ballots. Are results in the state delayed because of a large number of absentee ballots?



Georgia

REGISTERED VOTERS:	4,717,603 (July 2004)
ELECTORAL VOTES:	15
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	DRE
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ One of the pioneering states in post-2000 election reform, Georgia voters will cast electronic ballots at all of the state’s polling places. The statewide system of Diebold touch-screen machines, however, has come under fire in the past two years after a series of reports detailed potential security flaws.⁶⁷

Close ties between Diebold CEO Walden O’Dell and President Bush – detailed in a fundraising letter from 2003 in which O’Dell pledged to “deliver Ohio’s electoral votes” to the incumbent – further eroded public confidence in the company and its machines.⁶⁸

Georgia officials, led by Secretary of State Cathy Cox (D), are among the most steadfast defenders of the touch-screen system. Cox, after all, led the charge to convince the state legislature and governor to appropriate \$54 million to replace the state’s punch cards after high error rates were discovered in Georgia’s 2000 presidential election.⁶⁹

THINGS TO LOOK FOR ➤ **Voting machines:** Scrutiny over voting machines – and the companies that make them – has increased markedly since Georgia’s last federal election. Do voters continue to express satisfaction with the state’s Diebold machines? Is voter confidence shaken by reports of security lapses and company connections with the Republican party?



Hawaii

REGISTERED VOTERS:	676,242 (November 2002)
ELECTORAL VOTES:	4
POLLING PLACE HOURS:	7 a.m. to 6 p.m.
VOTING SYSTEMS:	Optical scan, DRE
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► Hawaii is among the first in the country to comply with the Help America Vote Act’s mandate for at least one accessible machine in each polling place. In a September primary, however, that roll-out was plagued with difficulties, including machines being dropped off at the wrong precincts, workers accidentally leaving machines behind and delaying vote totals. Still, less than 3 percent of Hawaii’s voters used the DRE machines.⁷⁰

More troubling, however, were reports of nearly 10,000 invalidated ballots in the same September primary. State officials said voters accidentally cast ballots for both parties in the closed primary, invalidating their votes. The 3.8 percent increase in tossed ballots is a sharp rise over previous years.⁷¹

THINGS TO LOOK FOR ► **Voting machines:** Error rates increased sharply on the optical scan system used in the state for the past six years. Election officials are reviewing instructions to voters to make sure errors decrease from the nearly 4 percent of ballots tossed in the September primary. Do error rates decrease?

Voting machines, part II: The state will have one accessible DRE voting machine per precinct. Republican and Democratic Party officials, along with the League of Women Voters, want to limit their use to voters with disabilities or those needing special assistance. State election officials want any voter to use the machines if they choose. Critics say they’re concerned about the absence of a paper trail on the scrolling-wheel voting system. Does the argument over paper trails and voting system security affect voter confidence and the state’s already lowest-in-the-nation turnout?

Provisional voting: State provisional voting rules require voters to be in the correct polling place to have their ballots considered. Have poll workers been adequately trained in their use? Are voters directed to their correct precincts? How many provisional ballots are discarded?



Idaho

REGISTERED VOTERS:	642,011 (May 2004)
ELECTORAL VOTES:	4
POLLING PLACE HOURS:	8 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, punch card, hand-counted paper ballots
VOTER ID:	Required for those registering on Election Day.
PROVISIONAL VOTING:	N/A - Election-Day registration.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► One of only a few states in the country that did not receive federal funds for replacement of punch-card machines, Idaho’s vote will be cast entirely on paper, though in three different forms. Most will cast ballots the same way in 2004 as in 2000, when an uncontroversial election yielded a lop-sided victory.

THINGS TO LOOK FOR ► **Voting systems:** How do the state’s punch cards perform?



Illinois

REGISTERED VOTERS:	7,137,954 (March 2004)
ELECTORAL VOTES:	21
POLLING PLACE HOURS:	6 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan and punch card
VOTER ID:	Required of all first-time voters who registered by mail and did not provide verification with their application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ Illinois opted for federal money to replace the system of punch cards still in use in the state. Complete replacement will not occur until 2006; however, much of the state has moved to newer voting systems, or at least improvements over existing punch cards.

In Chicago's Cook County, punch-card counters have ballot-rejecting technology that identifies over-votes, allowing voters an opportunity to correct mistakes. Suburban DuPage County replaced punch cards with optical-scan ballots.

Serious questions dog the state's provisional voting program after data from Chicago revealed a whopping 93 percent of the nearly 6,000 fail-safe ballots cast were discarded. Reasons for rejection included forms filled out incorrectly or provisional votes cast in the wrong polling place – both grounds for rejection under Illinois law.⁷² State officials now indicate ballots cast in the wrong precinct will be counted.

A legal appeal challenging the state's policy limiting absentee voting to those with excuses was being heard in mid-September. State officials say the rules limit fraud. Cook County clerk David Orr accused politicians of "throwing up roadblocks."⁷³

THINGS TO LOOK FOR ➤ **Voting systems:** A number of counties will use new or enhanced machines in November. Are poll workers and voters trained on their use?

Absentee ballots: Rules requiring voters to have excuses to cast absentee ballots are being challenged in court. Does a pre-election decision alter the rules?



Indiana

REGISTERED VOTERS:	4,162,606 (June 2004)
ELECTORAL VOTES:	11
POLLING PLACE HOURS:	6 a.m. to 6 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card and lever
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ Last November Johnson, Henry and Wayne counties used uncertified touch-screen voting machine software provided by Election Systems & Software (ES&S). The state has since made it illegal for voting system vendors to operate in Indiana without certification.⁷⁴

A \$2.4 million fleet of touch-screen voting machines purchased by Johnson County will not be used in this November's election after ES&S failed to get parts of the machines certified by state election officials. The county will use optical scan and paper ballots. Marion County has also decided not to use their electronic machines.

For the past year the FBI, state police and the Indiana attorney general have spent months looking into allegations of absentee voter fraud in the 2003 mayoral primary that gave Democratic candidate Robert Pastrick a narrow victory over George Pabey. Allegations of vote buying from limited English speakers were widespread. During the state's May elections personnel from the U.S. Justice Department's Civil Rights Division monitored polling place activities.⁷⁵

THINGS TO LOOK FOR ➤ **Provisional voting:** State provisional voting rules require voters to be in the correct precinct to have their ballots considered. Have poll workers been adequately trained in their use? Are voters directed to the correct precinct? How many provisional ballots end up discarded?

Poll workers: Election officials across the state are concerned over the shortage of poll workers. Marion County, for example, has 914 voting precincts and each is supposed to be staffed by five representatives each from each of the two parties. Will there be enough poll workers for Election Day and have they received adequate training?

Voter rolls: After a mass mailing to registered voters in Marion County, officials learned that more than 40 percent of the county's 450,628 voter registrations were in error because they contained outdated addresses.⁷⁶ Will the incorrect and outdated voter lists effect the Nov. 2 elections? Will the inaccurate lists invite voter fraud?



Iowa

REGISTERED VOTERS:	2,045,050 (September 2004)
ELECTORAL VOTES:	7
POLLING PLACE HOURS:	7 a.m. to 9 p.m.
VOTING SYSTEMS:	Optical scan, DRE, lever
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	No

OVERVIEW ➤ A state known for being early in the presidential primary and caucus season is also one of the first to get absentee ballots out to its voters. County auditors started mailing out the ballots in late September.

Several counties in Iowa are also switching from lever voting machines to optical-scan voting systems.

THINGS TO LOOK FOR ➤ **Voting machines:** A number of jurisdictions have replaced voting systems. How will voters in counties that have changed voting machines react to the new technology? Are poll workers and voters trained on their use?



Kansas

REGISTERED VOTERS:	1,591,428 (July 2004)
ELECTORAL VOTES:	6
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, DRE and hand-counted paper ballots
VOTER ID:	Required for all first-time voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► New machines to meet the Help America Vote Act’s requirement for accessible systems by 2006 will wait until after the election. Identification will now be required of all first-time voters, an expansion of HAVA’s mandate that would limit verification only to those who registered by mail and did not include a copy of identification with their application.

THINGS TO LOOK FOR ► **Voter ID:** New rules require all first-time voters to show ID. Are voters and poll workers trained in the state’s procedures? Is there an increase in the number of provisional ballots as a result?

Poll worker shortage: Reports from around the state indicate a critical shortage of poll workers for the November election. Can localities find enough qualified workers? Does the shortage affect the administration of the election?



Kentucky

REGISTERED VOTERS:	2,735,031 (August 2004)
ELECTORAL VOTES:	8
POLLING PLACE HOURS:	6 a.m. to 6 p.m.
VOTING SYSTEMS:	DRE, optical scan and lever
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	No

OVERVIEW ► In September, Governor Ernie Fletcher gave prosecutors more power to reject ex-felon voter registration applications. The governor now requires all felons who want to reinstate their voting rights to provide three character references and provide in writing why they should be allowed to vote. Only an order from the governor can restore voting rights. More than 600 applicants are waiting for Fletcher’s decision on whether their rights will be restored.⁷⁷

THINGS TO LOOK FOR ► **Provisional ballots:** This November will be the first time in Kentucky that provisional ballots will be used in a federal election. Many clerks have expressed concern that the mandate will increase the chance of voter fraud and cause delays at the polling places. Have poll workers been adequately trained in their use? Are voters directed to the correct precinct? How many provisional ballots end up discarded?

Voter ID: All voters are required to present some form of identification at the polls. Have voters been properly informed about identification requirements? Are poll workers properly trained in the state’s procedures?



Louisiana

REGISTERED VOTERS:	2,859,237 (September 2004)
ELECTORAL VOTES:	9
POLLING PLACE HOURS:	6 a.m. to 8 p.m.
VOTING SYSTEMS:	DRE and lever
VOTER ID:	Required of all voters (photo ID).
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ After replacing thousands of lever voting machines since 2002, the state still has \$30 million to \$50 million in federal money to spend to replace more antiquated voting machines. Lever machines will still be in use in November in counties across the state. Secretary of State Fox McKeithen has urged state officials to adopt a uniform voting system by 2006.

Because of the state's ongoing plan to replace voting systems, McKeithen warned employees of his office to avoid direct contact with election machines vendors who may provide the state with voting equipment in the future. McKeithen's decision was most likely a result of the conviction of Jeffery Fowler, former commissioner of the Department of Elections and Registration, who is now serving time in federal prison for taking kickbacks and other favors from machines vendors who did business with the state.⁷⁸

During Orleans Parish local elections in September voting machines for 52 polling places showed up late, prohibiting voters from casting their ballots. The state's election commissioner reported that 90 precincts were affected, which combined have 58,134 registered voters.⁷⁹

THINGS TO LOOK FOR ➤ **Voting machines:** Lever machines will continue to be in use in most of the state. However, a number of jurisdictions have replaced voting systems. Are poll workers and voters trained on their use?

Polling place problems: Late-arriving voting machines might have led to thousands of voters being disenfranchised in New Orleans in September. Have state and local election officials taken steps to ensure voting machines are delivered on time for the November vote?



Maine

REGISTERED VOTERS:	957,485 (January 2004)
ELECTORAL VOTES:	4
POLLING PLACE HOURS:	Polls open between 6 a.m. and 10 a.m. depending on the size of the town. All polls close at 8 p.m.
VOTING SYSTEMS:	Optical scan and hand-counted paper ballot
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	N/A – Election Day registration.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes. Maine is one of only two states that allow incarcerated felons (both state and federal convictions) to vote. Those incarcerated must vote by absentee ballot.

OVERVIEW ➤ While Maine does not use any electronic voting machines, Gov. John Baldacci has approved a bill requiring electronic voting machines to provide a voter verified paper audit trail.

THINGS TO LOOK FOR ➤ **Poll workers:** The effort to hire poll workers has been hindered by changing demographics, low pay and a state law that requires an equal number of Democratic and Republican poll workers.⁸⁰ Will the state be able to recruit enough poll workers? Will the state change the mandate requiring an equal amount of Democratic and Republican poll workers at each polling station?



Maryland

REGISTERED VOTERS:	2,876,242 (June 2004)
ELECTORAL VOTES:	10
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	DRE
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	Excuse required.
REGISTRATION DATABASE:	No
EARLY VOTING:	No
EX-FELON VOTING:	A first time offender for theft or infamous crime will have their right to vote automatically restored upon completion of their sentence. An individual who has been convicted of two or more such crimes must complete a three-year waiting period after the completion of their sentence.

OVERVIEW ➤ Maryland was among the first in the country post-2000 to adopt a statewide system of touch-screen voting. A report critical of DREs conducted by John Hopkins University has kept the state in an ongoing debate over the security and accuracy of electronic voting machines. The state launched a study and decided to stay with the electronic voting system.

In September, the State Court of Appeals refused to force election officials to make major security upgrades to the \$55 million statewide electronic voting system.⁸¹ A coalition of voting machine opponents filed suit against the state asking that the Diebold machines either be scrapped or require that the machines be equipped to provide a paper trail. The case was dismissed.

THINGS TO LOOK FOR ➤ **Voting machines:** The state's use of DRE's continues to draw fire from opponents. Will the state experience a repeat of past problems with touch-screen voting systems? Will a successful vote increase voter confidence in e-voting systems?



Massachusetts

REGISTERED VOTERS:	3,972, 651 (October 2002)
ELECTORAL VOTES:	12
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, lever and hand-counted paper ballot
VOTER ID:	Required by first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes



OVERVIEW ➤ Although the state decertified the use of punch cards in 1998, Massachusetts continues to lag behind other states in HAVA compliance. The state has not given specific figures yet on its HAVA budget. However, the state’s plan calls for only 15 percent of the money to go toward voting machines and 10 percent to upgrade its statewide voter registration database.

According to a survey by the Massachusetts Office on Disability, 60 percent of the state’s 1,488 polling places failed to meet accessibility regulations.⁸² The deadline for the state to meet accessibility standards is set for November 2, 2004. Communities can apply for an extension, but the state has never granted one.⁸³

THINGS TO LOOK FOR ➤ **Poling place accessibility:** Will polling sites be accessible for the November election? Will communities seek waivers? What will happen to the communities that do not meet the state’s standards by November 2?

Voter ID: First-time voters who registered by mail and did not provide verification with application will need to show ID at the polls. Are poll workers properly trained in the state’s procedures?

Poll workers: Boston’s 2003 municipal elections were controversial because of understaffing issues. Does the state have enough poll workers for the November 2 election?

Michigan

REGISTERED VOTERS:	6,797,293 (2004)
ELECTORAL VOTES:	17
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card, lever and hand-counted paper ballots
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ➤ Over the past year election officials and state legislators expressed concern over the late approval of the state’s election reform bill after partisan bickering between Democratic Gov. Jennifer Granholm and the state GOP. Michigan’s HAVA plan wasn’t approved until June, and in August, the state received its first federal funds, \$28 million, to continue with election reforms.⁸⁴

While the state has been slow to adopt touch-screen voting machines, optical scanners, already in use in about two-thirds of the state’s 5,305 precincts, are required to be in place statewide by 2006.

THINGS TO LOOK FOR ➤ **Voting machines:** Voters experienced a number of obstacles at the polls during the state’s August 3 election. Ballot shortages, voting machines glitches and problems with tabulating votes occurred in several counties. Are poll workers and voters trained on the use of new voting systems?

Absentee ballots: Allegations of mishandled absentee ballots cast by senior citizens have dropped elections in Detroit for more than a decade. Have new rules been set for the counting of absentee ballots?



Minnesota

REGISTERED VOTERS:	2,876,891 (January 2004)
ELECTORAL VOTES:	10
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan and hand-counted paper ballots
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	N/A – Election Day registration.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ State law prohibits the use of solely electronic voting systems, so voters cast ballots on systems that only use paper ballots that can be marked, though some are electronically counted. The state recently implemented a \$4 million statewide voter registration database that has caused concern among election officials, legislators and voter registration groups who have regarded the changes as worthwhile but too ambitious in a year with such a hotly contested presidential race.⁸⁵ Troubles with the system occurred during the state’s primary election when some voters were absent from the rolls and others were forced to register at the polls.

THINGS TO LOOK FOR ➤ **Voter registration database:** Has the state worked out glitches with the registration database?



Mississippi

REGISTERED VOTERS:	1,731,852 (April 2004)
ELECTORAL VOTES:	6
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card and lever
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	No

OVERVIEW ➤ This state’s election system is one of local control with no state certification of voting machines and no statewide database. The state legislature has been hesitant to back measures that shift any administrative control from counties to Jackson. As a result little has changed in time for November’s election.

A statewide study focusing on voting machines found that there are large discrepancies in the number of ballots cast and the number of ballots counted.⁸⁶

The most contentious election administration issue in the state is over the requirements for voter identification. The House and Senate fought over voter ID provisions, finally yielding legislation in April. The compromise legislation, which fell short of a goal by some lawmakers to require all voters to show ID, mandated that all first-time, mail-in registrants provide ID.

The debate over voter ID appears likely to continue at the legislature’s next session.

THINGS TO LOOK FOR ➤ **Voter identification:** The state government’s decision to implement voter ID for all first-time mail-in registrants was hailed as a success by the Justice Department after months of failed bills.⁸⁷ The new law will be in place for November’s election. Will poll workers be able to identify those voters who are required to provide ID? Will accusations of unfair voter ID practices become a major post-election issue?



Missouri

REGISTERED VOTERS:	3,511,894 (August 2004)
ELECTORAL VOTES:	11
POLLING PLACE HOURS:	6 a.m. to 7 p.m.
VOTING MACHINES:	Optical scan, punch card and hand-counted paper ballots
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ► While overshadowed by Florida, Missouri’s widespread election troubles in 2000 included allegations of election fraud and double voting, and a last-minute attempt to keep polling places open in St. Louis City after the rest of the state’s polls were required to be closed.⁸⁸ Sen. Kit Bond, R-Mo., pushed for anti-fraud provisions not only in the state but across the country. He succeeded on both counts. The state has adopted laws that require all voters to provide ID before they vote and successfully lobbied for an ID provision in HAVA that requires all first-time voters who register by mail to show ID if they do not include verification of their identity with their application.

In the past four years, the state has also enacted requirements for provisional ballots and created uniform vote-counting and recounting standards.

Numerous lawsuits filed against Secretary of State Matt Blunt (R) have been the result of partisan disagreements.⁸⁹ The parties continue to spar over the use of absentee voting, provisional ballots, early voting and military e-mail ballots. While Blunt’s office prevailed in a court challenge of its position to not allow early voting in St. Louis, a court challenge of Blunt’s position on provisional voting – which limits consideration of only those ballots cast in the correct precinct – is pending.⁹⁰

THINGS TO LOOK FOR ► **Voting machines:** Missouri voters will continue to use punch-card machines. How will the system perform in this battleground state?

Voter Identification: According to state rules updated in 2002 everyone in the state must show specific forms of ID. Are poll workers properly trained in the state’s procedures?

Voter Education: Has the state created a voter education program to help voters using punch cards to identify potential ballot-spoiling errors?

Litigation: What will be the outcome of lawsuits recently filed against the state? Will any court decisions be made before the election? And if so, how will those decisions effect the elections?



Montana

REGISTERED VOTERS:	624,548 (November, 2004)
ELECTORAL VOTES:	3
POLLING PLACE HOURS:	Open 7 a.m. to 12 p.m. (Depending on size of jurisdiction). Close 7 p.m. CST – 8 p.m. MT.
VOTING SYSTEMS:	Optical scan, punch card and hand-counted paper ballots
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ Montana lawmakers recently approved a law requiring all voters to show ID before they cast ballots at the polls. Since that time, officials say they have made a concerted effort to inform citizens of the need to bring proper identification to the polls this November.

THINGS TO LOOK FOR ➤ **Polling places:** New measures to consolidate polls have been put into place because of that state's small and widely-scattered population. Will the consolidation of the polls create confusion among voters?

Provisional voting: Will new voter ID rules increase the number of provisional ballots?

Voter Identification: The state requires all voters to provide some form of identification at the polls. Are poll workers properly trained in the state's procedures?



Nebraska

REGISTERED VOTERS:	1,087,842 (May 2004)
ELECTORAL VOTES:	5
POLLING PLACE HOURS:	8 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct only.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	No

THINGS TO LOOK FOR ➤ **Voter ID:** First-time voters who registered by mail and did not provide verification with their applications will be required to show ID at the polls. Are voters and poll workers trained in the state's procedures?



Nevada

REGISTERED VOTERS:	945,981 (August 2004)
ELECTORAL VOTES:	5
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	DRE with printer attached
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct only.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Only first-time nonviolent felons can vote after completing their sentence.

OVERVIEW ➤ A crucial battleground state, Nevada voters find significant changes when they go to the polls this November. Most visibly, the state has implemented a statewide electronic voting system that has a voter-verified paper audit trail (VVPAT) – the only state to do so for this election.

Sequoia AVC Edge Direct Recording Electronic (DRE) voting machines equipped with VeriVote printers which provide a VVPAT will be used in all counties for early voting and Election Day except Clark County. Clark County, in which 70 percent of Nevada's population resides, has been using Sequoia AVC Advantage DREs without a VVPAT for over 10 years, and won't replace all of them until 2006. However, all early voters in Clark County will cast ballots on the AVC Edge machines with a VVPAT and on Election Day there will be at least one per polling place.⁹¹



The state introduced this technology in its September primary with few complaints, although there were stories of voters who wanted to walk away with their printed ballots.

THINGS TO LOOK FOR ► **Voting machines:** While new voting machines had few problems in the September primary, will poll workers and voters be ready for the higher turnout November election? How would a statewide recount with a VVPAT be handled?

Voter ID: First-time voters who registered by mail and did not provide verification with their applications will be required to show ID at the polls. Are voters and poll workers trained in the state’s procedures?

Provisional voting: State provisional voting rules require voters be in the correct precinct to have their ballots considered. The ACLU of Nevada is concerned that state rules could potentially disenfranchise voters. Have poll workers been adequately trained in their use? Are voters directed to the correct precinct? How many provisional ballots end up discarded?

New Hampshire

REGISTERED VOTERS:	714,119 (January 2004)
ELECTORAL VOTES:	4
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, hand-counted paper ballots
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	N/A – Election-Day registration
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ► Existing state rules clearly define how to conduct a recount in the event of a close race. The state has dealt with many recounts of local races – about 25 percent of statewide elections are recounted every year.⁹²

A negative experience with touch-screen machines in the mid-1990s led to what amounts to a ban of paperless electronic voting by requiring a paper record of every ballot cast. This put the state well ahead of the computer scientists and academics who are now calling for a voter verified paper trail for all DRE machines.

THINGS TO LOOK FOR ► **Voting machines:** The state will have to change its rules prohibiting the use of electronic voting machines by 2006 in order to comply with HAVA requirements for one machine per polling place being accessible to voters with disabilities. Will a close race cause some in the state to challenge the use of older voting technology?

Voter ID: First-time voters who registered by mail and did not provide verification with their applications will be required to show ID at the polls. Are voters and poll workers trained in the state’s procedures?



New Jersey

REGISTERED VOTERS:	4,624,004 (June 2004)
ELECTORAL VOTES:	15
POLLING PLACE HOURS:	6 a.m. to 8 p.m.
VOTING SYSTEMS:	DRE and lever machines
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ➤ Several counties have recently moved to paperless DRE voting machines and some in the state are concerned about the lack of a paper trail.

The legislature and governor also debated voter identification provisions for several months in the first attempt to pass a bill putting the state in compliance with HAVA. Gov. James McGreevey conditionally vetoed a bill because he said it went beyond what HAVA required for voter identification. The entire bill eventually failed. A new bill was signed this year, but over the protests of several legislators who felt the law did not go far enough in voter identification requirements.⁹³

THINGS TO LOOK FOR ➤ **Voting machines:** A number of jurisdictions have replaced voting systems. Are poll workers and voters trained on their use?

Voter ID: First-time voters who registered by mail and did not provide verification with their applications will be required to show ID at the polls. Are voters and poll workers trained in the state's procedures?



New Mexico

REGISTERED VOTERS:	1,022,487 (September 2004)
ELECTORAL VOTES:	5
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan and DRE
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ An August investigation by *The Washington Post* found that in the 2000 presidential election, 678 voters who cast their ballots early on touch-screen voting machines in Rio Arriba County never had their votes counted because of a programming error. Gore won New Mexico by 366 votes.⁹⁴ State officials said the report was incorrect.

Some in the state, including incoming Sante Fe County Clerk Valerie Espinoza, are skeptical of touch screens. Espinoza said she does not want to purchase any machines without a paper trail. Elections director Denise Lamb backs the paperless DRE machines, telling the *New Mexican*, "New Mexico voters have been voting on ... electronic machines for 15 years."⁹⁵

State Republicans sued to require all first-time voters who did not register with a county clerk to show ID – a policy change that would have expanded identification requirements to include over 100,000 voters who registered at registration drives. Republicans said they were concerned about potential fraud after reports of suspect registration forms in Bernalillo County, including a case where a 13-year-old successfully registered. A judge



ruled in favor of the state’s current interpretation of the law, saying it was too late to make changes that could disrupt the election.⁹⁶

THINGS TO LOOK FOR ► **Voting machines:** Will voters have confidence in touch-screen voting machines that are in use in many of the state’s counties?

Voter ID: With Republicans and Democrats at odds over who should show ID at the polls, will a close election be questioned over how the ID rules are implemented? Will controversies over accusations of voter fraud cause post-election problems?

New York

REGISTERED VOTERS:	11,075, 460 (March 2004)
ELECTORAL VOTES:	31
POLLING PLACE HOURS:	6 a.m. to 9 p.m.
VOTING SYSTEMS:	Lever machines (DRE in one town)
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ► Activists in the Empire State say officials stumbled on election reform. Problems started with partisan bickering over the planning process to implement the Help America Vote Act. Democrats charged that the make up of the team to write the plan was not inclusive and that the plan did not receive input from many people outside of the elections office.⁹⁷

The situation hardly improved in the two years since.

The state legislature is still negotiating a complete bill to comply with HAVA. Lever machines – singled out for optional replacement by Congress – will still be used by virtually every voter in the state even though the state has accepted federal money to be rid of them by 2006.

Two surveys by the New York Public Interest Research Group and the Brennan Center for Justice found that many counties in the state might not be adequately prepared to implement the new voter ID rules. The survey of the counties found that many did not know which voters to ask for ID or what types of ID would be allowed.⁹⁸ For the September 14 primary, different counties asked for different types of ID.⁹⁹

THINGS TO LOOK FOR ► **Voting machines:** Almost 20,000 lever voting machines are in use in New York. Even though the presidential race is not expected to be close in the state, will some question the use of the older voting technology that some say has a higher error rate than other voting systems?

Voter ID: With groups already on the look out for the varying ways voter ID rules are implemented in different counties, will these groups cry foul in the November election?



North Carolina

REGISTERED VOTERS:	5,231,537 (September 2004)
ELECTORAL VOTES:	15
POLLING PLACE HOURS:	6:30 a.m. to 7:30 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card, lever, hand-counted paper ballot
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ Several groups in the state have expressed concerns about electronic voting machines, and the state decided to delay allowing counties to buy new e-voting machines until federal standards have been issued.¹⁰⁰

In Wake County in 2002, over 400 early ballots were lost due to a software problem on the county's ES&S voting machines.¹⁰¹

THINGS TO LOOK FOR ➤ **Voting machines:** With questions nationwide and within the state about the reliability of electronic voting machines, will some question the results on these machines?



North Dakota

REGISTERED VOTERS:	No voter registration – estimated voting age population 481,351.
ELECTORAL VOTES:	3
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan and hand-counted paper ballots
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	N/A – no voter registration.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ The only state with no voter registration – and therefore exempt from the federal requirement for a statewide voter registration database, North Dakota rolled out both new voting machines and new rules about voter ID.

In January, the state signed a \$5.3 million dollar contract with voting-machine maker Election Systems & Software to supply counties with optical-scan voting machines. The last county using punch card voting machines replaced the system in June.¹⁰²

All voters in the state must now present identification at the polls before voting. The state says that no eligible voter will be turned away – that voters without proper ID have two options: A poll worker can vouch for the ID of the voter, or the voter can sign an affidavit certifying their identity.¹⁰³

THINGS TO LOOK FOR ➤ **Voting machines:** A number of jurisdictions have replaced voting systems. Are poll workers and voters trained on their use?

Voter ID: First-time voters who registered by mail and did not provide verification with their applications will be required to show ID at the polls. Are voters and poll workers trained in the state's procedures?



Ohio

REGISTERED VOTERS:	7,204,856 (March 2004)
ELECTORAL VOTES:	20
POLLING PLACE HOURS:	6:30 a.m. to 7:30 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card and lever
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No.
EX-FELON VOTING:	Yes.

OVERVIEW ➤ Secretary of State Kenneth Blackwell hoped to implement electronic voting across the state by November. However, after several studies questioned the reliability of the machines and a contentious process of selecting companies to produce the machines, the state prohibited any county from going forward with rolling out new e-voting machines for this fall. (There are six counties that already have DRE machines in place). A law was also signed requiring that all DRE machines must be equipped with a VVPAT by 2006.

The majority of Ohio counties will be using the infamous punch-card machines that caused the controversy in Florida in 2000. The Secretary of State has even said the, "possibility of a close election with punch cards as the state's primary voting device invites a Florida-like calamity."¹⁰⁴ The ACLU and others have sued the state to discontinue use of punch cards on the grounds they are an unequal system of voting. The trial was delayed until November 1, too late to have an impact on this year's election.

The state also faces other potential problems. In the March primary, some voters in Cuyahoga County were incorrectly asked to show voter ID. And Ohio, like many other states, still has questions about counting provisional ballots that are cast in the wrong precinct. According to Blackwell, the ballots will only be issued to voters who give their address and appear to be voting in the correct precinct. This comes after there had been reports the state would soften the provisional ballot rules relating to voting in the correct precinct.¹⁰⁵

THINGS TO LOOK FOR ➤ **Voting machines:** Will a close election bring lawsuits over questions of the reliability of punch-card voting machines?

Voter ID: First-time voters who registered by mail and did not provide verification with their applications will be required to show ID at the polls. Are voters and poll workers trained in the state's procedures? Will problems emerge as they did in the primary election?

Provisional voting: The state appears to have reversed a decision on who will be allowed to cast provisional ballots and have their votes counted. Will this lead to confusion at the polls and in the vote-counting process?



Oklahoma

REGISTERED VOTERS:	1,938,377 (January 2004)
ELECTORAL VOTES:	7
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct only.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

THINGS TO LOOK FOR ► **Voter ID:** First-time voters who registered by mail and did not provide verification with their applications will be required to show ID at the polls. Are voters and poll workers trained in the state’s procedures?

Provisional voting: State provisional voting rules require voters be in the correct precinct to have their ballots considered. Have poll workers been adequately trained in their use? Are voters directed to the correct precinct? How many provisional ballots end up discarded?



Oregon

REGISTERED VOTERS:	1,885,917 (June 2004)
ELECTORAL VOTES:	7
POLLING PLACE HOURS:	N/A – all mail-in voting.
VOTING SYSTEMS:	Optical scan to count mail-in ballots
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required - all mail-in voting.
EARLY VOTING:	All mail-in voting
EX-FELON VOTING:	Yes

OVERVIEW ► Oregon is the only state in the nation that uses all mail-in voting. Officials are proud of the system, saying it has helped increase voter turnout and avoid security issues that face electronic voting machines.

Some Republicans, however, say the all mail-in voting system is vulnerable to fraud. They have voiced concerns that ballots can be opened up to seven days before Election Day, leaving them open to tampering. Secretary of State Bill Bradbury disagrees, saying the system is one of the most fraud-free in the United States.¹⁰⁶

When Oregon does purchase HAVA mandated accessible voting machines, they will be required to have a paper trail because state law says all recounts must be conducted by hand.

THINGS TO LOOK FOR ► **Voting machines:** While many people point to the potential for fraud on touch-screen voting machines, some are concerned about potential fraud with voting by mail. With Oregon likely to be a very close race, will some ballots be challenged?



Pennsylvania

REGISTERED VOTERS:	7,634,577 (April 2004)
ELECTORAL VOTES:	21
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card, lever and hand-counted paper ballots
VOTER ID:	Required of all first-time voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ➤ One of the most prized battleground states, Pennsylvania has faced some problems rolling out its statewide registration database. Fifty-six of the state's 67 counties are part of the Statewide Uniform Registry of Electors (SURE). Some have complained that SURE has problems such as duplicate voter registrations and an inability to deal with split precincts.¹⁰⁷

Unlike many states which ask first-time voters who register by mail to show ID, Pennsylvania will require all first-time voters to show ID at the polls, regardless of their method of registration.

THINGS TO LOOK FOR ➤ **Voter registration database:** Will any counties or precincts on the SURE system experience problems leading up to or on Election Day?

Voter ID: Will asking all first-time voters to show ID be easier for poll workers to handle than only certain first-time voters as is the case in many states?



Rhode Island

REGISTERED VOTERS:	639,459 (March 2004)
ELECTORAL VOTES:	4
POLLING PLACE HOURS:	7-9 a.m. to 9 p.m.
VOTING SYSTEMS:	Optical scan
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ➤ Officials creating a new statewide voter registration database discovered thousands of voters who were registered in the wrong ward, district, city or town. This could mean that people who have been voting in one town for years will now need to vote in another.

The snafu caused some problems at the polls in the September primary. Initially the state wanted to move all towns and cities to the database for the November election, but in September, Secretary of State Matt Brown decided the state will not force any jurisdiction to join the new statewide registry.¹⁰⁸

A recent report also questioned what they deemed overly restrictive state laws regarding ex-felons voting.¹⁰⁹

THINGS TO LOOK FOR ➤ **Voter registration database:** With a mix of cities and towns joining the new statewide registration database, will this lead to any confusion or problems at the polls?



South Carolina

REGISTERED VOTERS:	2,145,918 (April 2004)
ELECTORAL VOTES:	8
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Yes

OVERVIEW ► The road to new election technology hit several bumps in the Palmetto State, as the state's first award of a voting contract to Election Systems & Software was voided after a protest by home-state manufacturer Palmetto UniLect.¹¹⁰ Ultimately, however, ES&S prevailed and as a result the company's iVotronic voting machines will be used almost everywhere in the state on Election Day.¹¹¹

In anticipation of the switch, the state awarded a \$4 million contract to a local firm to place advertisements and schedule demonstrations in advance of this fall's vote.¹¹²

One county that is not moving forward with new technology is Sumter County, which voted in August to postpone the upgrade, opting to keep punch cards instead. "We know how to use punch cards. We're very good at it," said Carol Rogers of the county's Election Commission.¹¹³

THINGS TO LOOK FOR ► **Voter education:** Will South Carolina's voter education efforts prevent or reduce some of the problems other states have experienced when switching to touch-screen machines?

Voting machines: Will Sumter County experience some of the problems observers have come to expect with punch-card technology, or is the county's optimism justified?

Registration database: South Carolina has the oldest existing statewide voter database in the country. Will this database reduce the incidence of provisional voting and/or misdirected voters on Election Day?



South Dakota

REGISTERED VOTERS:	518,175 (May 2004)
ELECTORAL VOTES:	3
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, hand-counted paper ballot
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► More national attention than usual will likely be on the Mount Rushmore State this November as Senate Minority Leader Tom Daschle defends his seat against a strong challenge by U.S. Rep. John Thune.

A recently-passed law requiring voter ID was controversial in its first major roll out during the June primary, as voters in Native American precincts alleged that they were turned away during the election for lacking photo identification.¹¹⁴ While the law requires photo ID, it also allows voters to sign an affidavit if they do not have identification. Daschle formed his own Voting Rights Project to monitor the issue.¹¹⁵



In August, the State Board of Election approved new signs at all polling places clarifying the law.¹¹⁶

THINGS TO LOOK FOR ► **Voter ID:** Will the new signs alleviate confusion over the state’s ID law? More specifically, will allegations of selective enforcement in Native American areas be an issue again in November?

Tennessee

REGISTERED VOTERS:	3,118,316 (June 2003)
ELECTORAL VOTES:	11
POLLING PLACE HOURS:	Opening varies by jurisdiction – polls close 8 p.m. Eastern/7 p.m. Central.
VOTING SYSTEMS:	Optical scan, DRE, punch card, lever
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Varies by date of conviction – generally excludes individuals convicted of violent crimes.

OVERVIEW ► Tennessee will likely spend Election Day out of the spotlight, thanks to the absence of a favorite son on the national ticket as well as a relatively quiet run-up to Election Day 2004.

There were some local fireworks earlier this year, as Davidson County (Nashville) supervisor Michael McDonald was removed in July after his office failed to meet a deadline to mail ballots to overseas voters.¹¹⁷ McDonald was also faulted for not conducting the required voter address verification process for nearly a decade.¹¹⁸

THINGS TO LOOK FOR ► **Registration database:** Will the large number of inactive voters in Davidson County be a problem on Election Day? More specifically, will failure to update voters’ records result in a large number of invalid provisional ballots cast by voters in the wrong precinct?



Texas

REGISTERED VOTERS:	12,264,663 (March 2004)
ELECTORAL VOTES:	34
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card, lever and hand-counted paper ballots
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► The state’s biggest election story of the year was the bitterly-contested Democratic primary for the 28th Congressional District, which former Secretary of State Henry Cuellar won after a recount gave him a 203-vote victory over incumbent Ciro Rodriguez.¹¹⁹

Elsewhere in the state, Vietnamese-speaking voters in Harris County (Houston) will now have ballot materials provided in their native tongue after the county signed a settlement with the U.S. Department of Justice.¹²⁰

THINGS TO LOOK FOR ► **Voting machines:** Will electronic voting controversies surface? Texas has several counties, including Harris, that have been using DREs for several years, although such machines drew some criticism earlier this year as part of nationwide concerns about electronic voting. Will such concerns lead to delays or uncertainty in the result, or is the combination of “favorite son” status and familiarity with the technology enough to forestall trouble?



Utah

REGISTERED VOTERS:	1,125,868 (May 2004)
ELECTORAL VOTES:	5
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, punch card, hand-counted paper ballot
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► Mindful of the touch screen travails plaguing other states, Utah officials decided in late April to postpone any voting technology changes until after the 2004 election.¹²¹ As a result, many Utah voters will continue to use punch cards this November.¹²² Utah also recently joined the growing list of states that will allow military personnel stationed overseas to e-mail their ballots.¹²³ Under the program, personnel in “hostile fire zones” or other places where mail service is not reliable can use a fax or e-mail to request and then cast a ballot.¹²⁴

THINGS TO LOOK FOR ► **Voting machines:** Will Utah’s decision to forego immediate voting technology upgrades create the possibility of machine-related problems on Election Day?

Overseas voting: Will military votes cast electronically be secure and what impact, if any, will they have on Utah’s vote this fall?



Vermont

REGISTERED VOTERS:	401,238 (March 2004)
ELECTORAL VOTES:	3
POLLING PLACE HOURS:	Varies by jurisdiction - 7-10 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, hand-counted paper ballot
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes (also see below)

OVERVIEW ► The state is unique in a few aspects of its electoral process. First, a large proportion of the state still uses hand-counted paper ballots, whose “unsophisticated ... but useful” character is believed by many residents to “suit[s] Vermont.”¹²⁵

In addition, Vermont is one of the only two states in the nation (Maine is the other) that allows some incarcerated criminals to vote – a practice that has drawn criticism from victims’ rights groups.¹²⁶



Virginia

REGISTERED VOTERS:	4,387,413 (September 2004)
ELECTORAL VOTES:	13
POLLING PLACE HOURS:	6 a.m. to 7 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card, lever and hand-counted paper ballot
VOTER ID:	Required of all voters.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	No

OVERVIEW ► Virginia is one of the few states in the nation to have statewide general elections every year (the state conducts legislative elections in odd-numbered years and will elect a new governor in 2005); consequently, Virginia has already considered and digested many of the changes produced by the 2000 election.

Observers statewide will be watching jurisdictions with touch-screen machines to see if there is a repeat of some of the problems encountered in 2003, when several machines in Fairfax County malfunctioned and were taken off-line, leading to doubts about the final vote tallies in those precincts.¹²⁷ Despite such concerns, officials are still confident about touch-screen voting and see no reason to halt the spread of the newer technology across the commonwealth.¹²⁸

THINGS TO LOOK FOR ► **Voting machines:** Will the experience with electronic voting go more smoothly, and how will balloting in those jurisdictions compare to that in localities using older technology?



Washington

REGISTERED VOTERS:	3,282,777 (September, 2004)
ELECTORAL VOTES:	11
POLLING PLACE HOURS:	7 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct jurisdiction.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	No
EX-FELON VOTING:	Convicted felons must petition to have their civil rights restored before being eligible to vote. (Currently being challenged in U.S. Supreme Court – see litigation/legal update for details)

OVERVIEW ► The biggest election story in Washington this year was the demise of the state's traditional "blanket" primary, in which voters could cast ballots for a candidate of either party. Washington was forced to switch to a traditional partisan primary following a lawsuit. The new system survived its first test in September, despite widespread voter dissatisfaction.¹²⁹

Washington also joined the list of states that will require touch-screen voting machines to provide voter-verifiable paper trails, albeit not until 2006. Nevertheless, jurisdictions using such machines in 2004 will be using “parallel monitoring” – randomly testing machines on Election Day – to ensure that votes are being counted as cast.¹³⁰

THINGS TO LOOK FOR ➤ **Voting machines:** Will Washington avoid the controversy over touch screen voting that has plagued other states? Will parallel monitoring identify and/or prevent problems on Election Day?



West Virginia

REGISTERED VOTERS:	1,103,264 (May 2004)
ELECTORAL VOTES:	5
POLLING PLACE HOURS:	6:30 a.m. to 7:30 p.m.
VOTING SYSTEMS:	Optical scan, DRE, punch card, lever and hand-counted paper ballot
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	Excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ West Virginia’s new statewide voter registration database – launched in January by Secretary of State Joe Manchin (D) – generated complaints from local officials who said the new system made their jobs more difficult, not easier.¹³¹ Nevertheless, the system survived the state’s primary and will be in place this fall – making the Mountain State one of only a few nationwide to implement this HAVA mandate in time for the 2004 election.

THINGS TO LOOK FOR ➤ **Registration database:** Will West Virginia’s voter database reduce the number of provisional ballots cast on Election Day by reducing the number of lost registrations and/or directing voters to their proper precinct on November 2?



Wisconsin

REGISTERED VOTERS:	Election Day registration. About 4 million eligible voters.
ELECTORAL VOTES:	10
POLLING PLACE HOURS:	Varies by jurisdiction based on size – 7-9 a.m. to 8 p.m.
VOTING SYSTEMS:	Optical scan, DRE, lever hand-counted paper ballots
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	N/A - Election-day registration.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ➤ As one of the states that permit Election Day registration, Wisconsin has some unique challenges in dealing with some HAVA requirements. For example, during the state’s February presidential primary, at least 4,500 Milwaukee voters registered to vote but were not asked for proper identification, meaning that they were required to bring ID with them the next time they appeared to vote – whether that was the state primary in April or this fall.¹³²

Young people are also a focus in Wisconsin’s elections, evidenced by the growing trend toward young voters as poll workers, as urged by the State Board of Elections. Students 16



and older are permitted to work at the polls if they have good grades and parental permission.¹³³ Similarly, college students at the University of Wisconsin-Green Bay campus will come together to staff a precinct near the campus this fall.¹³⁴

THINGS TO LOOK FOR ► **Voter ID:** Will Wisconsin continue to experience difficulties with voter identification requirements? Will election officials and poll workers properly register and identify voters in accordance with HAVA and state law?

Wyoming

REGISTERED VOTERS:	215,374 (August 2004)
ELECTORAL VOTES:	3
POLLING PLACE HOURS:	7 a.m. to 7 p.m.
VOTING SYSTEMS:	DRE, optical scan, punch card, lever
VOTER ID:	Required of first-time voters who register by mail and do not provide verification with application.
PROVISIONAL VOTING:	Eligible for verification if cast in correct precinct.
ABSENTEE VOTING:	No excuse required.
EARLY VOTING:	Yes
EX-FELON VOTING:	Yes

OVERVIEW ► Wyoming, like its neighbor Utah, will postpone any decision about new voting technology until after the 2004 election. The state is holding off on its purchase decisions because of electronic voting controversies in Georgia, Maryland and elsewhere, leaving the national picture "in a state of disarray all over," Secretary of State Joe Meyer said earlier this year.¹³⁵

The state is upgrading its election reporting procedures, however. Wyoming will now report write-in totals after media reports seemed to discover thousands of lost presidential votes in the 2000 election – write-in votes that actually went to Ralph Nader and others.¹³⁶

THINGS TO LOOK FOR ► **Voting machines:** Will Wyoming's decision not to upgrade voting technology in most areas result in problems with older equipment on Election Day?

- 1 "Congressman sues, wants voting machines to create paper printouts," *The Associated Press* as published in *The Miami Herald*, January 17, 2004.
- 2 Shelley, The Honorable Kevin. Executive Order, "Decertification and Withdrawal of Approval for Certain DRE Voting Systems and Conditional Approval of the Use of Certain DRE Voting Systems," State of California, Office of the Secretary of State, April 30, 2004.
- 3 Press Release: "Maryland's Highest Court to Hear E-Voting Case," Campaign for Verifiable Voting in Maryland, September 13, 2004.
- 4 "Court rejects electronic voting lawsuit," *The Associated Press* as published in *The New York Times*, September 15, 2004.
- 5 "In Nevada, touch-screen voting leaves a paper trail," *The Associated Press* as published in *USA Today*, September 8, 2004.
- 6 For more information, see: Election Reform Briefing #7, "Securing the Vote," *electionline.org*, April 2004.
- 7 For more information on the CalTech-MIT endeavor, visit: www.vote.caltech.edu.
- 8 Eight newspapers and MSNBC published online stories specifically citing O'Dell's fundraising letter in the week of September 27 to October 1, 2004. Those included articles in major newspapers, *The Miami Herald*, *The Charlotte Observer* and *The Philadelphia Inquirer*. In addition, one newspaper from Russia mentioned O'Dell's ties with Bush.
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- 22 H.J. Res. 107.
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Methodology

Information for this report was compiled between April 2004 and October 2004. For information on litigation, state legislation and questions of state-by-state election administration, state Web sites were used. Previous research collected by electionline.org in the publication of Election Reform Briefings and *Election Reform 2004: What's Changed, What Hasn't, and Why?* was used as well. Specific references are cited in the endnotes.

Data for maps and state-by-state data was collected using state election primary sources. In some cases, information was verified by state and local election officials.

Other sources, including newspaper articles, are cited in the endnotes section. Information from Lexis/Nexis was used to update court cases mentioned in the "Litigation" section. The opinions expressed by election officials, lawmakers and other interested parties in this document do not reflect the views of non-partisan, non-advocacy electionline.org or the Election Reform Information Project.

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

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