

# ELECTION REFORM

# Briefing

March 2003

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## Ready for Reform?

After a day of chaos, a month of uncertainty and nearly two years of study and debate, Congress responded to the November 2000 election in one sweeping package – the Help America Vote Act (HAVA). Congress appropriated \$1.5 billion for the bill in February, four months after it was enacted. The money is now on its way to states, marking the first time that the federal government has contributed funding for state and local administration of elections.

HAVA's mandates will take effect in short order. By January 2004, every state will be required to offer provisional voting – special ballots that allow for post-election verification of eligibility – for all voters who claim they are registered but are not on the rolls.<sup>1</sup>

Similarly, first-time voters who register by mail will be required to show verification before they can cast ballots.

In the coming years, more deadlines loom. States will need to establish or amend a number of election procedures – through narrow administrative changes and with major overhauls. These include establishing and maintaining statewide voter registration databases and purchasing voting machines accessible to voters with disabilities.



**“This bill will cause states and localities to fundamentally restructure their election systems in a host of tremendous ways.”**

**-Rep. Bob Ney, R-Ohio**

What changes need to be made and what upgrades states opt to make will determine how much voting will be reformed around the country. This Election Reform Briefing explores where states stood as of February 2003 in their readiness to meet the mandates of HAVA. The Briefing provides an indication – from the top state election officials themselves – of where state governments believe they are now that federal election reform has become a reality (see methodology).

### **Fundamental restructuring**

Members of Congress held numerous hearings and heard from hosts of state and local election experts before enacting HAVA. Still, a number of the requirements in the bill represent “firsts” – a reality noted by the bill’s authors.

“This bill will cause states and localities to fundamentally restructure their election systems in a host of tremendous ways,” said Rep. Bob Ney, R-Ohio, one of the bill’s sponsors.<sup>2</sup>

As a result, every state in the country has been forced to look at current voting practices and deter-

mine what needs to be done. As *electionline.org* reported last year, existing state laws on provisional voting and voter identification meant that in 2002, no state had in place a system that would meet all of HAVA’s proposed requirements.<sup>3</sup>

The most recent research, conducted after the passage of the bill and concurrently with the appropriation of \$1.5 billion in fiscal year 2003 for states to meet its requirements, reveals a similar trend one year later with a wider

array of federal mandates.

No state can claim compliance with all of HAVA’s three key requirements: provisional voting, statewide voter registration databases and voter verification for first-time voters who register by mail. Election chiefs in only four states and the District of Columbia believe they are currently in compliance with two of the three components.

The study also noted, however, that some states need to do far less than others to comply in particular categories; for example, states that have provisional voting on the books but need to introduce toll-free phone numbers and/or Web sites to notify voters of the disposition of their provisional ballot.

Conversely, a number of states will have to make major changes – from infrastructure enhancements to the thornier issue of taking some responsibility for election administration from localities and placing it under the control of the state government. States that have never played a significant role in elections – including South Dakota, North

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Dakota and other rural western states – will now be the custodians of voter registration databases.

Likewise, some states will make localities meet voting machine standards for the first time. In Ohio, the state will assume responsibility for purchasing voting equipment to replace the state’s punch-card machines.

Now that the first federal funds have been made available for reform (see sidebar), states can no longer delay their implementation plans.<sup>4</sup> Many state officials have attended training sessions, briefed their governors and legislators and started selecting experts to fill slots on election reform commissions. Similarly, a swell of election reform legislation is moving through state houses, though the number of bills introduced so far in 2003 has yet to reach the level in the immediate post-Florida explosion of early 2001.<sup>5</sup>

With the Act’s drop-dead dates looming, this report can be read as something akin to a “racing form;” in other words, an indication of where state election administrators believe they stand now and where they believe they need to go next to comply with HAVA.

### **The (Slightly Smaller) Check Is in the Mail**

States’ early efforts to implement the Help America Vote Act (HAVA) were hampered by uncertainty about funding for reform. That uncertainty finally disappeared in late February with passage of a long-awaited fiscal year 2003 (FY03) appropriations bill that provided \$1.5 billion to fund the Act’s requirements.

While election officials must have welcomed the infusion of badly-needed cash, the total amount fell short of the totals promised in HAVA. War worries and a White House-imposed spending cap limited FY03 funds to about 70 percent of the overall authorization contained in the Act. The bill, however, fully funds HAVA’s Title I, earmarking \$650 million in “early money” to states for reform in the next few months. The bulk of the remaining appropriation (approximately \$830 million) funds Title III, which will be used to make “requirements payments” to states in order to implement HAVA’s mandates.

Now that the funds have been appropriated, the focus shifts to actual disbursement of HAVA funds to the states. The \$650 million in Title I money – with \$325 million (at \$4,000 per precinct) for replacing punch-card and lever machines and \$325 million for planning purposes – will be administered by the U.S. General Services Administration (GSA).

GSA is developing a Web site to accept states’ Title I applications, which are due April 29 and will begin distributing funds in May. Title I payments will range from a minimum of \$5 million per state (\$1 million for territories) to more than \$80 million for large states such as California. The final figure will depend on a state’s voting age population and the number of precincts, if any, that will replace lever or punch-card machines. No state will have to contribute matching funds to receive Title I funds.

There is no timetable for the disbursement of Title III funds, which will be administered by the yet-to-be-appointed Election Assistance Commission. These funds will also be subject to a minimum payment estimated to be just over \$4 million per state (\$830,000 for territories) with an additional allowance based on voting-age population. Receipt of these funds will require more detailed state plans and will be subject to a 5 percent state match.

The flow of funds does not signal an end to uncertainty about appropriations, however. President Bush’s FY04 budget calls for only \$500 million for election reform compared to just over \$1 billion authorized in HAVA. It is not unrealistic to assume, then, that future election funding will once again fall short of the amounts authorized by the Act.

The bottom line: State election officials – like so many of their counterparts in disciplines like education and health care – are going to have to learn to deal with the difficult combination of certain federal mandates and uncertain federal funding.

# Executive Summary

The Help America Vote Act of 2002, a sweeping, \$3.86 billion package of federally-ordered election upgrades, machine buy-outs and mandates, became law last year and received the first wave of funds in February.

Its requirements, many of which take effect in less than a year, will require all states to adopt a number of election procedures, including provisional voting, statewide voter registration databases and voter identification requirements. States that choose to participate in a federally-funded punch-card and lever machine buyout will have to purchase machines that adhere to strict minimum standards requiring equipment that detects spoiled or uncountable ballots in voting precincts and allows voters an opportunity to review their entire ballot before casting it.

The research found that no states currently meet all three key requirements of the Help America Vote Act (HAVA): voter identification, provisional voting and statewide voter redistration databases.

- 11 states report that they meet one of the requirements; four states (Hawaii, Kentucky, Louisiana and Pennsylvania), along with the District of Columbia, report meeting two requirements.
- The majority – 35 states in all – report that they meet none of HAVA's requirements.

## Provisional Voting

While most states offer some sort of provision that allows voters who believe they are registered but do not appear on voting rolls to cast ballots, few meet the condition that voters be informed of whether their ballots were counted – either through Web sites or toll-free phone numbers.

- Only seven states (Hawaii, Indiana, Kansas, New York, Oregon, Pennsylvania and West Virginia) and the District of Columbia believe that they meet HAVA's provisional voting requirements. All states must meet HAVA provisional voting requirements by January 1, 2004.

## Statewide Voter Registration Databases

- Only five states possessing computerized registration databases report that they meet HAVA requirements.
- Of the 45 that do not, changes range from technical corrections – Hawaii must transfer ownership of the centralized list from the County of Honolulu to the state government – to the wholesale development of computerized voter lists now held in disparate fashion by counties in Mississippi, Nevada, Tennessee, Texas and elsewhere.
- Preliminary research indicates many of the 45 states currently not in compliance will take advantage of HAVA's waiver allowing them until 2006 to complete databases.

## Voter Identification

The vast majority of states – 43 in all – will have to adopt legislation or enact state directives to meet the requirement in HAVA that first-time voters who register by mail present some form of identification or verification at the polls the first time they vote.

## Voting Equipment

- As of the end of February 2003, election officials in 27 states said that their states would accept HAVA funds to “buy out” punch-card and lever machines – and, as a result, will meet the Act's requirements for voting system standards. Notably, New York will replace an estimated 21,000 lever machines.
- Maryland, Georgia and the District of Columbia upgraded machines after the November 2000 election and will seek reimbursement from the punch-card and lever buy-out funds.
- States that had compliant machines before November 2000, including Alaska and Oklahoma, will likely receive some HAVA funds for purchases made years ago.

# Key Findings

Since the Help America Vote Act (HAVA) was signed into law last October, suggested readings have seemingly been as numerous as the dollars authorized to finance it.

Congressional negotiators tell election officials that “reasonable interpretations” are sufficient to meet the new federal mandates. Newspaper articles from around the country feature local and state officials offering widely different opinions on how to adopt the bill’s provisions. The Election Assistance Commission, which will provide guidance on how to implement the Act, has yet to get off the ground.

Despite the lingering uncertainty, the mandates included in HAVA are now law. The Act’s requirements include: provisional voting for voters who believe they are registered but whose names do not appear on the rolls; identification requirements for first-time voters who register by mail; voter registration databases maintained at the state level; and one voting machine per precinct accessible to voters with disabilities.

After nearly two years of federal work on election reform legislation, the burden now shifts to state and local officials to draft formal plans, create committees and develop legislation that will bring them into compliance with HAVA. With the first allocation of federal funding expected to begin later this year and some of the bill’s deadlines coming as early as January 1, 2004, the timeframe for compliance is short.

This Briefing seeks to measure where the states stand as of February 2003 with regard to implementing election reform. Culled from recent surveys of and interviews with state election officials, the Briefing summarizes the extent to which officials believe their respective states comply with the Act’s requirements in three key areas: provisional balloting, statewide voter registration databases and voter identification. In addition, the findings gauge what states plan to do with their voting equipment within the context of new federal requirements.

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## Compliance at a Glance

- 4** states and the District of Columbia meet two of the three key requirements of the Help America Vote Act.
- 11** states meet one of the three key requirements of HAVA.
- 35** states meet none of HAVA’s requirements.
- 0** states meet all of HAVA’s requirements.

Based on the survey responses, states were divided into three categories or ratings of their compliance as of February 2003 with HAVA’s provisional balloting, statewide database and voter identification provisions. No state indicated it was in compliance in all three areas.

In “**level 1**” states, election officials believed their respective states were in compliance with requirements in two of the three areas. These four states generally have the least amount of work to do to meet the law’s deadlines. Level 1 states are Hawaii, Kentucky, Louisiana and Pennsylvania as well as the District of Columbia.

In “**level 2**” states, election officials responded that their respective states were in compliance with requirements in one of the three areas. Responses from 11 states placed them in this category, including Missouri, New York and Wisconsin.

In “level 3” states, election officials indicated that they were not in compliance with requirements in any of the three areas. These 35 states generally have the most to do in order to comply with the mandates. Level 3 states include California, Florida, Illinois, North Carolina, Ohio and Texas.

### Provisional Balloting

Beginning January 1, 2004, all states must provide provisional ballots to “persons who claim to be registered to vote in a federal election in a jurisdiction but are not on the official list of registered voters or are otherwise ineligible.”<sup>6</sup> Additionally, the ballot must be counted, if deemed valid according to state law, and the voter must “be able to ascertain whether the ballot was counted (and if not, why not) through a free-access system and be informed of that option when the ballot is cast.”<sup>7</sup>

The seven states that use either an election-day registration system or no voter registration system – Idaho, Maine, Minnesota, New Hampshire, North Dakota, Wisconsin and Wyoming – are exempt from these requirements.<sup>8</sup>

As of February 2003, officials from only seven of the 43 non-exempt states and the District of Columbia said they believe that their current procedures are in compliance with this section of the new law. Pennsylvania waited until the passage of the Act last fall before it enacted provisional balloting rules, ensuring that it would be in compliance. Six other states – Hawaii, Indiana, Kansas, New York, Oregon and West Virginia – and the District of Columbia say the procedures that they used before last fall are compliant.

### Help America Vote Act Compliance Timeline

*The Help America Vote Act of 2002 has numerous requirements which states must meet over the next four years. Three of those requirements have become effective since the first of the year, with others, including a mandate for provisional voting and state plans to use federal dollars to replace punch-card or lever machines, looming less than a year from now.*

- 1/1/03** States must accept materials from individuals registering to vote by mail.
- 1/27/03** Chief state election officials are required to give the Federal Election Commission the names of the state election official selected to serve on the Standards Board.
- 4/29/03** States submit certification to the U.S. General Services Administration to be eligible for funding to improve the administration of federal elections.
- 1/1/04** Effective date for HAVA-mandated provisional voting and voter verification rules.  
Last day for states to qualify for a waiver of computerized statewide voter registration databases. If states do not qualify for a waiver, they will be required to comply with requirements set up for computerized statewide voter registration lists and first-time time voters who register by mail.  
Last day for states to apply for a waiver to replace punch-card or lever voting machines. States that don’t participate in the grant program must certify they have established a complaint procedure or submitted a plan to the U.S. Attorney General.
- 11/2/04** Unless states qualify for a waiver, all punch-card and lever voting machines must be replaced in states accepting federal machine buy-out funds.
- 1/1/06** States are required to comply with voting systems standards and implement a computerized statewide voter registration database.
- 1/1/07** States must purchase voting systems which meet disability access standards.

Of the 36 states that indicated they are not currently in compliance, this survey found that some states are closer than others to meeting the requirements. For example, Washington State, along

with a number of other states, offers provisional balloting but must establish a free-access mechanism for voters to check the status of their ballots. State officials plan to accomplish this through a directive

rather than through legislation.

Similarly, Utah instituted provisional voting in the 2002 elections, but according to the state's election director Amy Naccarato, "we will need to make some changes to the process to include a Web site where voters can see if their ballot was counted or not."<sup>9</sup> She expects the legislature to address that missing element in this year's session.

Other states have no prior experience with issuing and counting provisional ballots and must enact significant legislation to meet the bill's mandates. Already this year, the South Dakota legislature, with the backing of election officials, enacted legislation which would create a provisional balloting system to comply with the Act.<sup>10</sup> Several states have yet to introduce bills in this year's sessions to address this area of the federal law, including Illinois – where the legislature failed to pass a provisional voting bill in 2002.

With the deadline for meeting this requirement coming in just ten months, this Briefing finds that a flurry of state legislation and administrative rules pertaining to provisional balloting has already begun.

### **Statewide Voter Registration Database**

As Congressional officials stressed often in recent months, the crucial component of meeting HAVA's requirements for a statewide voter database is ensuring that the registration list is maintained at the state level with access for all election officials in the state. The Act also mandates that the system use a unique identification number for each registered voter – most often either a voter's drivers' license number or the last four digits of their

Social Security number.<sup>11</sup>

Our survey found that, as of February 2003, just 14 states and the District of Columbia believe they are either in full or substantial compliance with this section of HAVA. Another 29 states say their current registration procedures do not meet the federal mandates, but that they are in the process of implementing

Connecticut, Hawaii, Massachusetts, Michigan, Minnesota, Montana and Oklahoma – believe they must only implement minor changes to their existing statewide databases.<sup>12</sup> For example, in Minnesota, "We are currently identifying the registration requirements in [the Act] to determine what must be modified," says state election director Scott Simmons.<sup>13</sup> Any changes to

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the major changes that are required to comply. Seven states are not in compliance and have yet to introduce legislation or implement state directives to upgrade their registration databases. North Dakota does not have a voter registration system and is exempt from this requirement.

The five states that say they are in full compliance – Delaware, Kentucky, Louisiana, South Carolina and Virginia – have maintained their current centralized databases for several years. These states indicated for the most part that they do not plan to make any changes to their present systems in response to the Act's requirements.

Though not in full compliance at the time of this survey, eight other states – Alabama, Alaska,

Minnesota's database will not require legislative approval.

A large bloc of states is already in the process of developing unified statewide databases. While they have either drafted legislation or are awaiting federal funds, these states have a substantial amount of work to do in order to comply with the federal mandates. In Ohio, officials expect the state legislature to pass a bill during this session that will shift control over the voter rolls from counties to states. Mississippi (in 2002) and Oregon (in 2001) have already enacted legislation, but because of state budget problems have yet to implement a statewide voter database, instead choosing to wait for federal dollars.<sup>14</sup>

Meanwhile, some non-compliant states have so far taken no significant

action in this area. Several say they are currently reviewing how to proceed with the development of a new statewide database. These states, along with those just beginning the process of compliance, have the largest task ahead of them in order to meet the early 2004 deadline (which can be pushed back to 2006 if states provide good cause) for database compliance.<sup>15</sup>

### Voter Identification

Though voter identification was easily the most controversial aspect of the bill during Congressional debate, the requirements that made it into the final version of the Act are relatively narrow and straightforward. Seven states believe their current statutes comply with the bill's mandate that, beginning in 2004, all voters who register by mail must present some form of identification (i.e. drivers' license, utility bill or bank statement) either when registering or casting a ballot in person.<sup>16</sup>

Some of those states – such as Hawaii, Kentucky, and Louisiana – have had broader identification requirements in place long before the Help America Vote Act. “It is our opinion that the state exceeds in compliance,” says Hawaii election director Dwayne Yoshina.<sup>17</sup> More recently, Missouri implemented provisions similar to those in the new federal law prior to the 2002 elections, while Pennsylvania waited until late 2002 to enact the exact language included in the Act.<sup>18</sup>

The 43 non-compliant states and the District of Columbia will have to adopt the Act's identification requirements through legislation or administrative directive. While HAVA is specific on what states must implement in the area of voter identification, the

partisanship and rancor that this subject sparked in Congress could emerge again at the state level in the coming months – particularly in those states that do not currently require voters to provide identification.

For example, in February 2003, the Mississippi State House was unable to pass a comprehensive election reform implementation bill because of a partisan dispute over voter identification requirements. Majority Democrats objected to Republican efforts to implement provisions that went beyond those mandated in the Act (Mississippi does not presently ask voters for identification at the polls). An amended version eventually passed in early March.<sup>19</sup> Similarly, Pennsylvania's legislature struggled throughout 2002 to gain bipartisan support for new identification requirements.<sup>20</sup>

The *electionline.org* survey found that at least 20 states will likely require state legislation – a potentially divisive process – to make the necessary changes to their voter identification requirements. On the other hand, at least 10 states – including Connecticut, Illinois, Ohio – and the District of Columbia say they can use the less-controversial avenue of administrative rule changes to adjust their statutes to reflect the Act's voter identification requirements.

### Voting Equipment

After the butterfly ballot and revelations of high punch-card error rates in Florida and elsewhere during the 2000 Presidential election, it became almost a foregone conclusion that punch-card and lever machines – veritable relics in the Internet age – would soon be on their way out across the country. But a funny thing happened in the aftermath of the

2000 election: Some state and local election officials voiced their support for systems that had given them few problems in recent decades.

The staunch backing of paper ballot systems, particularly in rural counties with few voters per precinct, led Congressional negotiators to include language in the final version of the new federal law that permits jurisdictions to continue using punch cards and paper ballots so long as they provide education programs on how to avoid spoiling ballots.<sup>21</sup> This survey found that seven states with counties that still use either lever machines or punch-card ballots plan to take advantage of that exception and not apply for HAVA funds to replace their current systems – a development that might not have been expected two years ago. Those states are: Alabama, Idaho, Kansas, Nebraska, New Hampshire, Virginia and Wisconsin.

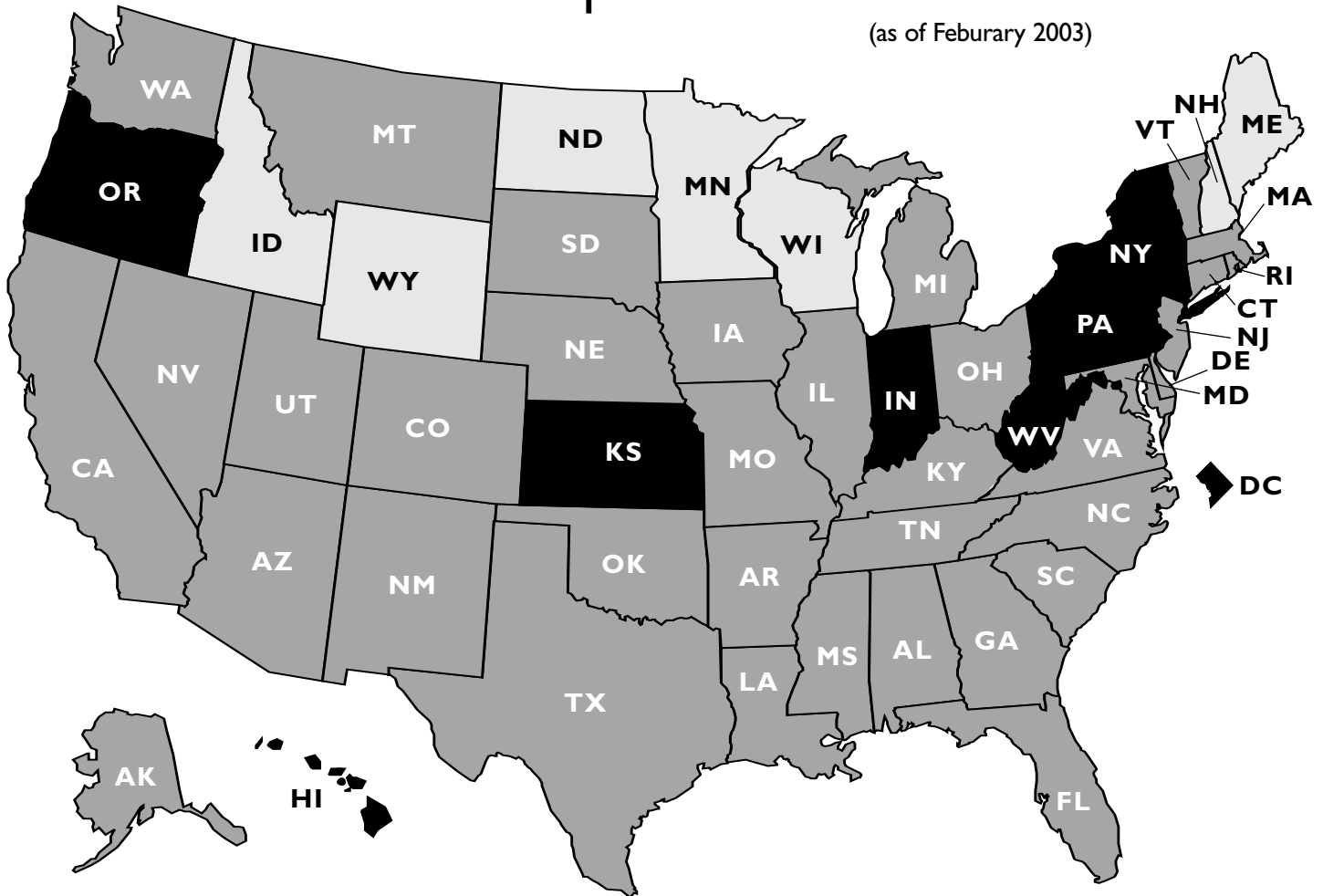
However, officials from 27 states – including California and New York – said they will seek federal money to purchase new electronic or optical-scan voting machines, meaning by 2006, millions of voters will cast ballots differently than they did in 2000.

Georgia, Maryland and the District of Columbia – each of which upgraded their voting equipment with their own funds after the 2000 election – will apply for reimbursement. Another nine states said they are still reviewing whether they will pursue federal money to pay for new machines.



# Provisional Voting Compliance with the Help America Vote Act

(as of February 2003)



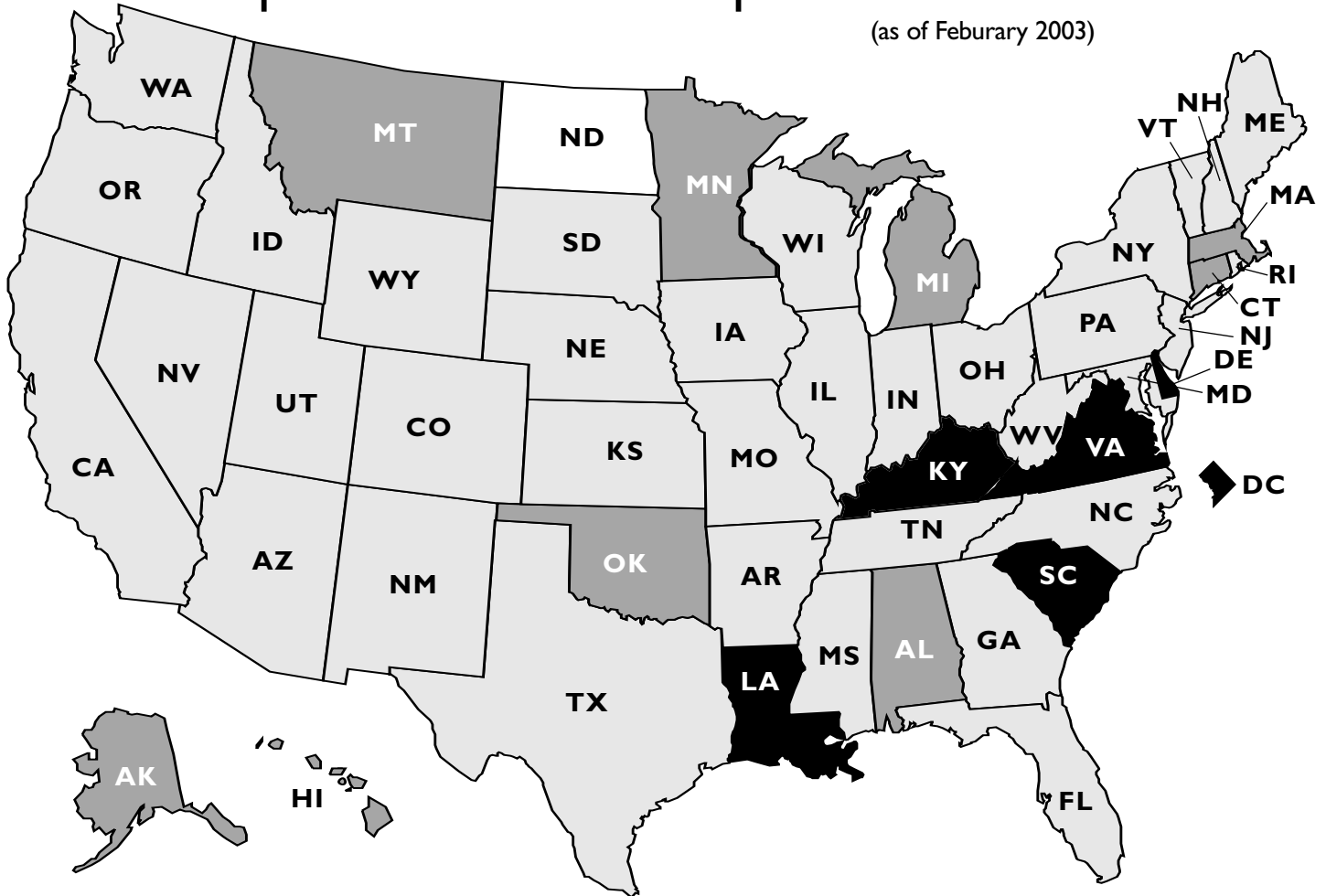
This map provides a snapshot of state compliance with the provisional voting requirements of HAVA.

- Level 1:** The state complies with all HAVA provisional voting requirements.
- Level 2:** The state does not comply with the HAVA provisional voting requirements.
- Level 3:** Not applicable – another system is in place that achieves the goal of provisional voting.

Summary		
<b>Level 1</b> 8 states	Delaware	Rhode Island
District of Columbia	Florida	South Carolina
Hawaii	Georgia	South Dakota
Indiana	Illinois	Tennessee
Kansas	Iowa	Texas
New York	Kentucky	Utah
Oregon	Louisiana	Vermont
Pennsylvania	Maryland	Virginia
West Virginia	Massachusetts	Washington
	Michigan	
	Mississippi	<b>Level 3</b>
<b>Level 2</b> 36 states	Missouri	7 states
Alabama	Montana	Idaho
Alaska	Nebraska	Maine
Arizona	Nevada	Minnesota
Arkansas	New Jersey	New Hampshire
California	New Mexico	New York
Colorado	North Carolina	North Dakota
Connecticut	Ohio	Wisconsin
	Oklahoma	Wyoming

# Statewide Voter Registration Database Compliance with the Help America Vote Act

(as of February 2003)



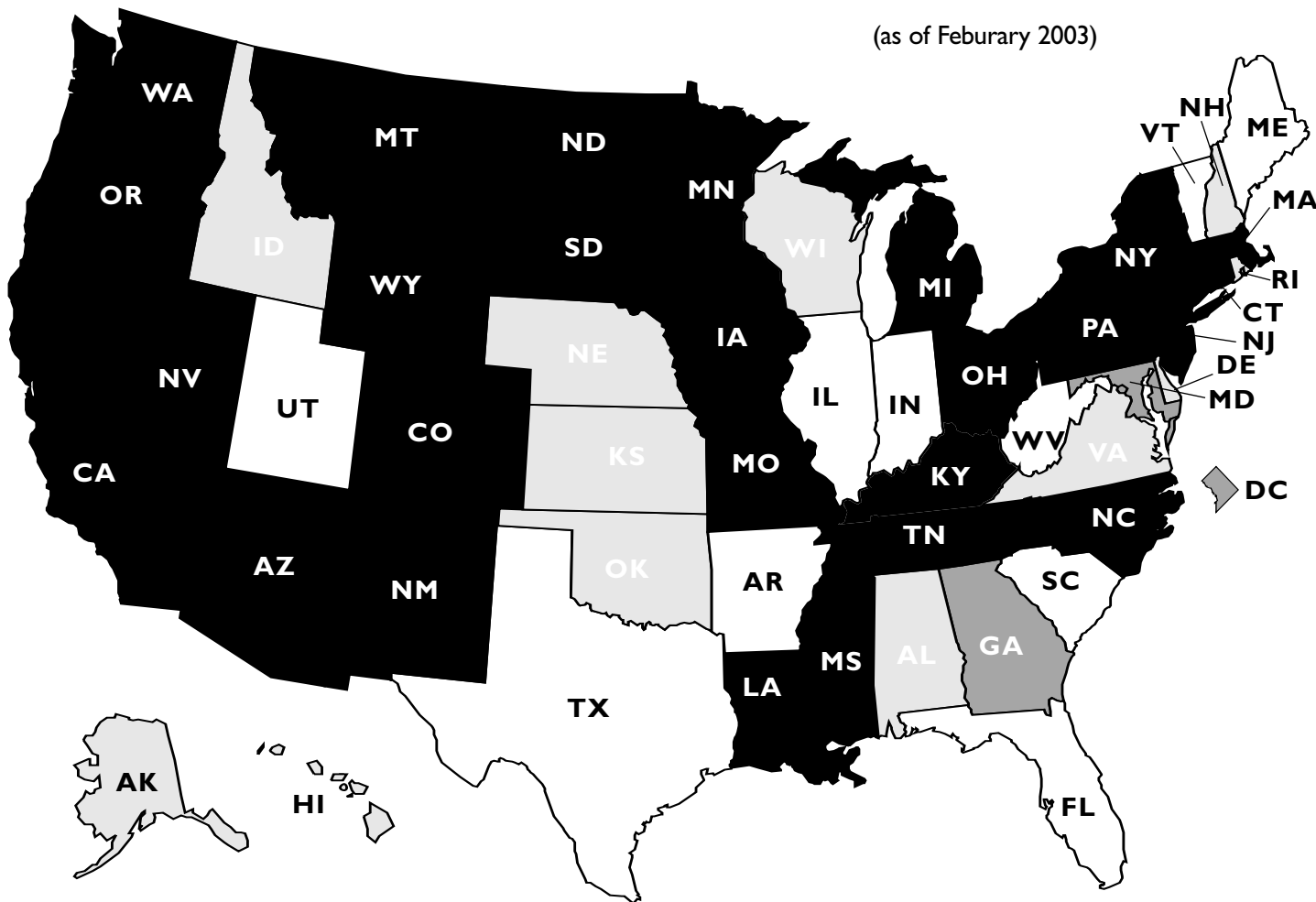
This map provides a snapshot of state compliance with the statewide voter registration database requirements of HAVA

- Level 1:** State complies with all voter registration database requirements of HAVA.
- Level 2:** Substantial Compliance – The state is in substantial compliance with the voter registration database requirements of HAVA.
- Level 3:** The state does not comply.
- Exempt:** The state is exempt from HAVA requirements.

Summary		
<b>Level 1</b> 6 states Delaware District of Columbia Kentucky Louisiana South Carolina Virginia	<b>Level 2</b> 9 states Alabama Alaska Connecticut Hawaii Massachusetts Michigan Minnesota Montana Oklahoma	<b>Level 3</b> 35 states Arizona Arkansas California Colorado Florida Georgia Idaho Illinois Indiana Iowa Kansas Maine Maryland Mississippi Missouri Nebraska Nevada New Hampshire New Jersey New Mexico
		New York North Carolina Ohio Oregon Pennsylvania Rhode Island South Dakota Tennessee Texas Utah Vermont Washington West Virginia Wisconsin Wyoming
		<b>Exempt</b> 1 state North Dakota

# Voting Equipment and HAVA Funds

(as of February 2003)



This map indicates states' current plans for voting equipment replacements using HAVA funds.

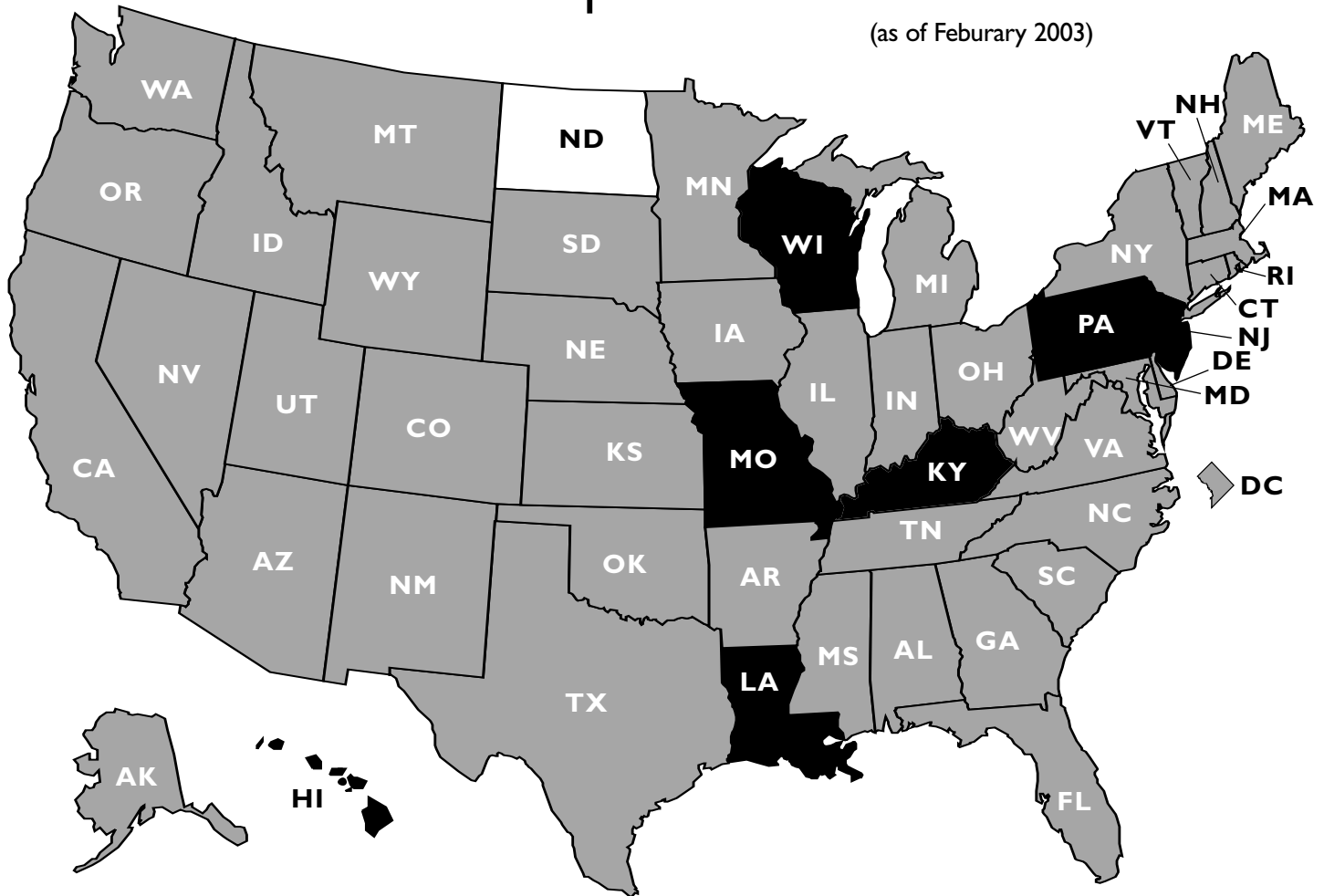
- Level 1:** The state will replace voting machines using HAVA funds.
- Level 2:** The state will seek HAVA reimbursement for voting equipment obtained after the November 2000 election.
- Level 3:** The state will not replace voting machines using HAVA funds.
- Level 4:** Under review

### Summary

<b>Level 1</b> 27 states	Ohio	Idaho
Arizona	Oregon	Kansas
California	Pennsylvania	Nebraska
Colorado	South Dakota	New Hampshire
Connecticut	Tennessee	Oklahoma
Iowa	Texas	Rhode Island
Kentucky	Washington	Virginia
Louisiana	Wyoming	Wisconsin
Massachusetts		
Michigan	<b>Level 2</b>	<b>Level 4</b>
Minnesota	3 states	9 states
Mississippi	District of Columbia	Arkansas
Missouri	Georgia	Florida
Montana	Maryland	Illinois
Nevada		Indiana
New Jersey	<b>Level 3</b>	Maine
New Mexico	12 states	South Carolina
New York	Alabama	Utah
North Carolina	Alaska	Vermont
North Dakota	Delaware	West Virginia
	Hawaii	

# Voter Identification Compliance with the Help America Vote Act

(as of February 2003)



This map provides a snapshot of state compliance with the voter identification requirements of HAVA.

**Level 1:** State is in compliance with HAVA voter identification requirements.

**Level 2:** State is not in compliance with HAVA voter identification requirements.

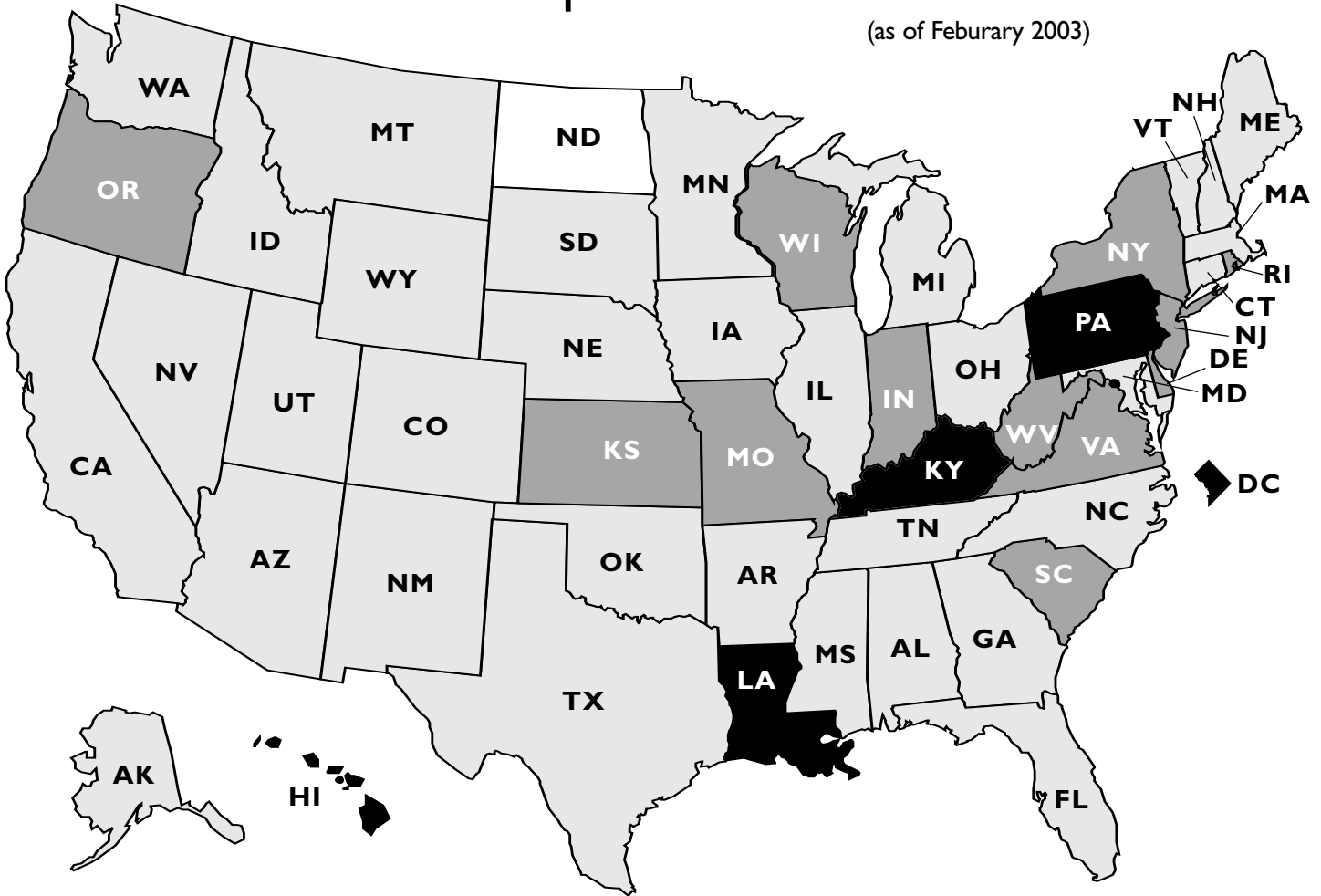
**Exempt:** The state is exempt from HAVA requirements.

### Summary

<b>Level 1</b> 7 states	District of Columbia	North Carolina
Hawaii	Florida	Ohio
Kentucky	Georgia	Oklahoma
Louisiana	Idaho	Oregon
Missouri	Illinois	Rhode Island
New Jersey	Indiana	South Carolina
Pennsylvania	Iowa	South Dakota
Wisconsin	Kansas	Tennessee
	Maine	Texas
	Maryland	Utah
	Massachusetts	Vermont
	Michigan	Virginia
	Minnesota	Washington
	Mississippi	West Virginia
	Montana	Wyoming
	Nebraska	
	Nevada	<b>Exempt</b>
	New Hampshire	1 state
	New Mexico	North Dakota
	New York	

# Summary: Overall Picture of State Compliance with HAVA

(as of February 2003)



This map provides a summary snapshot of state compliance with HAVA by combining three categories – provisional voting, statewide voter registration database, and voter identification.

- Level 1:** State complies with two of the HAVA requirements.
- Level 2:** State complies with one of the HAVA requirements.
- Level 3:** State complies with none of the HAVA requirements.
- Exempt:** The state is exempt from HAVA requirements.

### Summary

#### Level 1

5 states  
District of Columbia  
Hawaii  
Kentucky  
Louisiana  
Pennsylvania

#### Level 2

11 states  
Delaware  
Indiana  
Kansas  
Missouri  
New Jersey  
New York  
Oregon  
South Carolina  
Virginia  
West Virginia  
Wisconsin

#### Level 3

35 states  
Alabama  
Alaska  
Arizona  
Arkansas  
California  
Colorado  
Connecticut  
Florida  
Georgia  
Idaho  
Illinois  
Iowa  
Maine  
Maryland  
Massachusetts  
Michigan  
Minnesota  
Mississippi  
Montana

Nebraska  
Nevada  
New Hampshire  
New Mexico  
North Carolina  
Ohio  
Oklahoma  
Rhode Island  
South Dakota  
Tennessee  
Texas  
Utah  
Vermont  
Washington  
Wyoming

**Exempt**  
1 state  
North Dakota

# Snapshot of the States

*Provisional Voting:* Does the state comply with HAVA? If not, will state legislation/directive be introduced? *Statewide Voter Registration Databases:* Does the state comply with HAVA requirements for databases? If not, will state legislation/directive be introduced? *Voting Equipment:* Will the state seek HAVA funds to replace punch-card/lever voting machines? If not, will state legislation/directive be introduced? *Voter Identification:* Does the state currently comply with HAVA voter identification rules? If not, will state legislation/directive be introduced?

<b>Alabama</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> State will not seek HAVA funds to replace equipment. <i>Voter Identification:</i> No. Legislation under review.
<b>Alaska</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> No replacement necessary. State will not seek HAVA funds to replace equipment. <i>Voter Identification:</i> No. Legislation under review.
<b>Arizona</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> No. Legislation under review. <i>Voting Equipment:</i> Will use HAVA funds to replace equipment in 25 percent of precincts. Legislation pending. <i>Voter Identification:</i> No. Legislation pending.
<b>Arkansas</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> No. Legislation/state directive under review. <i>Voting Equipment:</i> Uncertain whether state will use HAVA funds to replace/purchase equipment. <i>Voter Identification:</i> No. Legislation under review.
<b>California</b>	<i>Provisional Voting:</i> No. Legislation/state directive pending. <i>Statewide Voter Registration Database:</i> No. Legislation/state directive under review. <i>Voting Equipment:</i> Will use HAVA funds to replace about 66 percent of state's machines. Legislation/state directive pending. <i>Voter Identification:</i> No. Legislation/state directive pending.
<b>Colorado</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> No. Legislation/state directive under review. <i>Voting Equipment:</i> Will use HAVA funds to replace punch-card machines in two counties. Will also use funds for reimbursing three counties that have replaced machines. <i>Voter Identification:</i> No. Legislation pending.
<b>Connecticut</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> Will use HAVA funds to replace about 90 percent of machines. <i>Voter Identification:</i> No. State directive pending.
<b>District of Columbia</b>	<i>Provisional Voting:</i> Yes. <i>Statewide Voter Registration Database:</i> Yes. Single voting jurisdiction. <i>Voting Equipment:</i> Will seek HAVA funds to reimburse for replacement of punch-card machines <i>Voter Identification:</i> No. Directive pending.
<b>Delaware</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> Yes. <i>Voting Equipment:</i> Will use HAVA funds to purchase or adapt about 400 accessible machines statewide. <i>Voter Identification:</i> No. State directive pending.
<b>Florida</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> No. Legislation/state directive under review. <i>Voting Equipment:</i> Legislation under review. <i>Voter Identification:</i> No. Legislation under review.
<b>Georgia</b>	<i>Provisional Voting:</i> No. State directive pending. <i>Statewide Voter Registration Database:</i> No. State directive under review. <i>Voting Equipment:</i> Will use HAVA funds to reimburse for purchase of electronic machines. <i>Voter Identification:</i> No. Legislation pending.
<b>Hawaii</b>	<i>Provisional Voting:</i> Yes. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> Will use HAVA funds to purchase accessible voting equipment (or adapt existing equipment). <i>Voter Identification:</i> Yes.
<b>Idaho</b>	<i>Provisional Voting:</i> Not applicable. Election-day registration. <i>Statewide Voter Registration Database:</i> No. Legislation under review. <i>Voting Equipment:</i> Will not seek HAVA funds to replace voting equipment. <i>Voter Identification:</i> No. Legislation pending.
<b>Illinois</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> No. State directive under review. <i>Voting Equipment:</i> Legislation/state directive under review. <i>Voter Identification:</i> No. State directive pending.
<b>Indiana</b>	<i>Provisional Voting:</i> Yes. Legislation under review. <i>Statewide Voter Registration Database:</i> No. Legislation to create statewide database was enacted. <i>Voting Equipment:</i> Legislation under review. <i>Voter Identification:</i> No. Legislation under review.

## Snapshot of the States, continued

*Provisional Voting:* Does the state comply with HAVA? If not, will state legislation/directive be introduced? *Statewide Voter Registration Databases:* Does the state comply with HAVA requirements for databases? If not, will state legislation/directive be introduced? *Voting Equipment:* Will the state seek HAVA funds to replace punch-card/lever voting machines? If not, will state legislation/directive be introduced? *Voter Identification:* Does the state currently comply with HAVA voter identification rules? If not, will state legislation/directive be introduced?

<b>Iowa</b>	<i>Provisional Voting:</i> No. Legislation/directive pending. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will use HAVA funds to replace lever machines in six counties. <i>Voter Identification:</i> No. Legislation pending.
<b>Kansas</b>	<i>Provisional Voting:</i> Yes. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will not use HAVA funds to replace equipment, but will use HAVA funds to purchase accessible machines (or adapt existing equipment). <i>Voter Identification:</i> No. Legislation pending.
<b>Kentucky</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> Yes. <i>Voting Equipment:</i> Will use HAVA funds to replace equipment in nine counties. <i>Voter Identification:</i> Yes.
<b>Louisiana</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> Yes. <i>Voting Equipment:</i> Will use HAVA funds to replace about half of machines. <i>Voter Identification:</i> Yes. Identification required of all voters.
<b>Maine</b>	<i>Provisional Voting:</i> Not applicable. Election-day registration. <i>Statewide Voter Registration Database:</i> No. Legislation to create statewide database was enacted. <i>Voting Equipment:</i> Legislation/state directive under review. <i>Voter Identification:</i> No. State directive pending.
<b>Maryland</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> No. Legislation under review. <i>Voting Equipment:</i> Will use HAVA funds to reimburse for equipment purchases. <i>Voter Identification:</i> No. Changes under review.
<b>Massachusetts</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> Will use HAVA funds to replace equipment in 403 precincts. <i>Voter Identification:</i> No. State directive pending.
<b>Michigan</b>	<i>Provisional Voting:</i> No. Legislation/state directive under review. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> Will use HAVA funds to replace machines. <i>Voter Identification:</i> No. State determining whether to extend HAVA verification requirements to state and local elections.
<b>Minnesota</b>	<i>Provisional Voting:</i> Not applicable. Election-day registration. State reviewing whether provisional ballots apply. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> State plan will call for HAVA funds to purchase uniform equipment statewide. <i>Voter Identification:</i> No. Legislation under review.
<b>Mississippi</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> No. Legislation to create statewide database was enacted. <i>Voting Equipment:</i> Will use HAVA funds to replace punch-card and lever machines. <i>Voter Identification:</i> No. Legislation pending.
<b>Missouri</b>	<i>Provisional Voting:</i> No. Legislation/state directive under review. <i>Statewide Voter Registration Database:</i> No. Legislation under review. <i>Voting Equipment:</i> Will use HAVA funds to replace punch-card machines. <i>Voter Identification:</i> Yes.
<b>Montana</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> Will use HAVA funds to replace equipment pending outcome of bill to ban punch cards. <i>Voter Identification:</i> No. Legislation pending.
<b>Nebraska</b>	<i>Provisional Voting:</i> No. Legislation introduced. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will use HAVA funds to purchase accessible machines (or adapt existing equipment). <i>Voter Identification:</i> No. Legislation pending.
<b>Nevada</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will use HAVA funds for equipment replacement and purchase of accessible machines. <i>Voter Identification:</i> No. Legislation pending.
<b>New Hampshire</b>	<i>Provisional Voting:</i> Not applicable. Election-day registration. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will not use HAVA funds to replace existing machines. Will likely use HAVA funds to purchase accessible voting equipment. Legislation pending. <i>Voter Identification:</i> No. Legislation pending.

## Snapshot of the States, continued

*Provisional Voting:* Does the state comply with HAVA? If not, will state legislation/directive be introduced? *Statewide Voter Registration Databases:* Does the state comply with HAVA requirements for databases? If not, will state legislation/directive be introduced? *Voting Equipment:* Will the state seek HAVA funds to replace punch-card/lever voting machines? If not, will state legislation/directive be introduced? *Voter Identification:* Does the state currently comply with HAVA voter identification rules? If not, will state legislation/directive be introduced?

<b>New Jersey</b>	<i>Provisional Voting:</i> No. Legislation/state directive under review. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will use HAVA funds to replace 35 percent of voting machines. <i>Voter Identification:</i> Yes.
<b>New Mexico</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> No. <i>Voting Equipment:</i> Will use HAVA funds to replace machines. <i>Voter Identification:</i> No. Legislation under review.
<b>New York</b>	<i>Provisional Voting:</i> Yes. <i>Statewide Voter Registration Database:</i> No. Legislation/state directive under review. <i>Voting Equipment:</i> Will use HAVA funds to replace 21,000 lever machines. <i>Voter Identification:</i> No. State directive under review.
<b>North Carolina</b>	<i>Provisional Voting:</i> No. State directive pending. <i>Statewide Voter Registration Database:</i> No. State directive pending. <i>Voting Equipment:</i> Will use HAVA funds to replace lever and punch-card machines in 12 counties. <i>Voter Identification:</i> No. State directive pending U.S. Department of Justice pre-clearance.
<b>North Dakota</b>	<i>Provisional Voting:</i> Not applicable. No voter registration. <i>Statewide Voter Registration Database:</i> Not applicable. <i>Voting Equipment:</i> Will use HAVA funds to replace punch-card machines in one county. <i>Voter Identification:</i> Not applicable.
<b>Ohio</b>	<i>Provisional Voting:</i> No. State directive pending. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will use HAVA funds to replace 79 percent of machines. <i>Voter Identification:</i> No. State directive pending.
<b>Oklahoma</b>	<i>Provisional Voting:</i> No. State directive pending. <i>Statewide Voter Registration Database:</i> Substantial compliance with HAVA requirements. <i>Voting Equipment:</i> Will use HAVA funds to purchase accessible machines (or adapt existing equipment). <i>Voter Identification:</i> No. State action under review.
<b>Oregon</b>	<i>Provisional Voting:</i> Yes. <i>Statewide Voter Registration Database:</i> No. Legislation to create statewide database was enacted. <i>Voting Equipment:</i> Will use HAVA funds to replace punch cards used by 33 percent of voters. <i>Voter Identification:</i> No. State directive pending.
<b>Pennsylvania</b>	<i>Provisional Voting:</i> Yes. <i>Statewide Voter Registration Database:</i> No. Legislation to create statewide database was enacted. Compliant database under construction. <i>Voting Equipment:</i> Will use HAVA funds to replace 55 percent of machines. <i>Voter Identification:</i> Yes.
<b>Rhode Island</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> No. Legislation to create statewide database was enacted. <i>Voting Equipment:</i> Will use HAVA funds to purchase accessible machines at each precinct. <i>Voter Identification:</i> No. Legislation pending.
<b>South Carolina</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> Yes. <i>Voting Equipment:</i> Unsure if HAVA funds will be used to replace punch cards in 10 counties. Purchase of accessible machines under review. <i>Voter Identification:</i> No. State directive under review.
<b>South Dakota</b>	<i>Provisional Voting:</i> No. Legislation pending. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will use HAVA funds to replace punch-card machines in five counties. <i>Voter Identification:</i> No. Legislation pending.
<b>Tennessee</b>	<i>Provisional Voting:</i> No. State legislation pending. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will use HAVA funds to replace 33 percent of state's voting machines. <i>Voter Identification:</i> No. Legislation/state directive under review.
<b>Texas</b>	<i>Provisional Voting:</i> No. <i>Statewide Voter Registration Database:</i> No. Legislation/state directive under review. <i>Voting Equipment:</i> Will use HAVA funds to replace or reimburse counties for equipment upgrades. <i>Voter Identification:</i> No. Legislation under review.
<b>Utah</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Decision about equipment upgrade under review. <i>Voter Identification:</i> No. Legislation under review.



## Snapshot of the States, continued

*Provisional Voting:* Does the state comply with HAVA? If not, will state legislation/directive be introduced? *Statewide Voter Registration Databases:* Does the state comply with HAVA requirements for databases? If not, will state legislation/directive be introduced? *Voting Equipment:* Will the state seek HAVA funds to replace punch-card/lever voting machines? If not, will state legislation/directive be introduced? *Voter Identification:* Does the state currently comply with HAVA voter identification rules? If not, will state legislation/directive be introduced?

<b>Vermont</b>	<i>Provisional Voting:</i> No. Legislation under review. <i>Statewide Voter Registration Database:</i> No. Legislation under review. <i>Voting Equipment:</i> Under review. <i>Voter Identification:</i> No. State legislation under review.
<b>Virginia</b>	<i>Provisional Voting:</i> No. <i>Statewide Voter Registration Database:</i> Yes. <i>Voting Equipment:</i> No plans to use HAVA funds to replace machines. Under review to use funds to purchase accessible machines. <i>Voter Identification:</i> No.
<b>Washington</b>	<i>Provisional Voting:</i> No. Legislation/state directive under review. <i>Statewide Voter Registration Database:</i> No. Legislation to create statewide database was enacted. <i>Voting Equipment:</i> Will use HAVA funds to replace 23 percent of machines. <i>Voter Identification:</i> No. Legislation under review.
<b>West Virginia</b>	<i>Provisional Voting:</i> Yes. Legislation under review to expand/standardize notification. <i>Statewide Voter Registration Database:</i> No. Legislation under review. <i>Voting Equipment:</i> Legislation/state directive under review. <i>Voter Identification:</i> No. State directive under review.
<b>Wisconsin</b>	<i>Provisional Voting:</i> Not applicable. Election-day registration. Legislation under review would permit provisional voting for those who register by mail but do not produce required identification. <i>Statewide Voter Registration Database:</i> No. Legislation pending. <i>Voting Equipment:</i> Will use HAVA funding to upgrade to accessible equipment. <i>Voter Identification:</i> Yes. New registration forms have been distributed to meet HAVA requirements.
<b>Wyoming</b>	<i>Provisional Voting:</i> Not applicable. Election-day registration. Provisional voting effective in 2003. Compliance changes are under review. <i>Statewide Voter Registration Database:</i> No. Legislation under review. <i>Voting Equipment:</i> Will use HAVA funds to replace machines in some counties. <i>Voter Identification:</i> No. Legislation under review.

## Methodology

Information for the maps and the state-by-state listings was culled from email interviews and phone conversations with state election directors and/or their deputies between December 2002 and February 2003. In all cases, answers were verified with the assistance of the National Association of State Election Directors (NASED). While expediting the collection of information, NASED does not endorse the findings of this report nor is it responsible for its accuracy. *electionline.org* is wholly responsible for the content.

In the result of conflicts between existing state law and officials' responses, the officials were considered authoritative. Additional materials included primary Congressional sources and materials from state election departments. The use of those materials is noted in the report and detailed in the "Endnotes."

## Endnotes

<sup>1</sup> A number of states will not be required to offer provisional voting because of functional equivalents, including election-day registration or no required voter registration.

<sup>2</sup> Conference report on H.R. 3295, Help America Vote Act of 2002. U.S. House of Representatives. October 10, 2002.

<sup>3</sup> For more information: "Election Reform Briefing: The Provisional Voting Challenge," *electionline.org* and The Constitution Project election reform initiative, December 2001; and, "Election Reform Briefing: Voter Identification," *electionline.org* and The Constitution Project election reform initiative, April 2002.

<sup>4</sup> The first payment of \$1.5 billion to the states was appropriated in February 2003 (P.L. 108-7).

<sup>5</sup> National Conference of State Legislatures, Database of Election Reform Legislation, available online at [http://www.ncsl.org/programs/legman/elect/elections\\_search.cfm](http://www.ncsl.org/programs/legman/elect/elections_search.cfm). The 589 bills introduced so far in 2003 is dwarfed by the 2,082 introduced in state legislatures and the District of Columbia in 2001. Many bills in 2001 covered areas that few lawmakers have shown interest in with more distance from the Nov. 2000 contest, including placing gag

orders on the media to prevent early projections of Election Day winners and losers and efforts to scrap the Electoral College. The final tally of 2003 legislation will increase somewhat – though not dramatically – as a number of state legislatures have later deadlines for bill and resolution submission.

<sup>6</sup> H.R. 3295 Joint Explanatory Statement, October 2002.

<sup>7</sup> Ibid.

<sup>8</sup> Some states with election-day registration offer provisional ballots and might choose to adopt HAVA requirements in this area.

<sup>9</sup> Survey response.

<sup>10</sup> S.B. 13, January 2003.

<sup>11</sup> H.R. 3295 Joint Explanatory Statement, October 2002.

<sup>12</sup> Michigan, held up as a model of a modern, state-owned voter registration system, does not currently comply with HAVA mandates. Minor modifications will need to be made to accommodate the last four digits of Social Security numbers.

<sup>13</sup> Survey response.

<sup>14</sup> "Election Reform Briefing: What's Changed, What Hasn't, and Why," *electionline.org* and The Constitution Project election reform initiative, October 2002.

<sup>15</sup> H.R. 3295 Joint Explanatory Statement, October 2002

<sup>16</sup> Ibid.

<sup>17</sup> Survey response.

<sup>18</sup> S.B. 824, December 2002.

<sup>19</sup> *Jackson Clarion Ledger*, February 13, 2003.

<sup>20</sup> "Election Reform Briefing: What's Changed, What Hasn't, and Why," *electionline.org* and The Constitution Project election reform initiative, October 2002.

<sup>21</sup> H.R. 3295 Joint Explanatory Statement, October 2002.

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