

challenged at the poll.⁴ HAVA also provides that those who vote pursuant to a court order keeping the polls open after the established closing hour shall vote by provisional ballot. HAVA also requires election administrators to notify individuals of their opportunity to cast a provisional ballot.

Provisional Ballots in the 2004 Election

In the 2004 election, nationwide about 1.9 million votes, or 1.6% of turnout, were cast as provisional ballots. More than 1.2 million, or just over 63% were counted. Provisional ballots accounted for a little more than 1% of the final vote tally.⁵ (This number does not match the EAC 2004 Election Day Survey. 64.5% counted)

These totals obscure the tremendous variation in provisional voting among the states. HAVA allows the states considerable latitude in how to implement provisional voting, including deciding who beyond the required categories of voters should receive provisional ballots and how to determine which provisional ballots should be counted. Six states accounted for two-thirds of all the provisional ballots cast.⁶ State by state, the percentage of provisional ballots in the total vote varied by a factor of 1,000, from a high of 7% in Alaska's to Vermont's .006%. The portion of provisional ballots cast that were actually counted also displayed wide variation, ranging from 96% in Alaska to 6% in Delaware. States with voter registration databases counted, on average, 20% of the provisional ballots cast. Those without databases counted ballots at more than twice that rate: 44%. (Or, as the Carter-Baker Commission report put it, "provisional ballots were needed half as often in states with unified databases as in states without."⁷)

The wide variations in the use of provisional ballots argue for the promulgation of best practices that states can use to determine how to make procedures clearer to both officials and voters could improve the implementation of provisional voting across the country. (Is this a best practices recommendation?)

One important source of variation among states was a state's previous experience with provisional voting. The share of provisional ballots in the total vote was six times greater in states that had used provisional ballots before than in states where the provisional ballot was new. In the 25 states that had some experience with provisional voting before HAVA, a higher portion of the total vote was cast as provisional ballots and a greater percentage of the provisional ballots cast were counted than in the 18 new to provisional balloting.⁸

⁴ The definition of who was entitled to a provisional ballot could differ significantly among the states. In California, for example, the Secretary of State directed counties to provide voters with the option of voting on a provisional paper ballot if they felt uncomfortable casting votes on the paperless e-voting machines. "I don't want a voter to not vote on Election Day because the only option before them is a touch-screen voting machine. I want that voter to have the confidence that he or she can vote on paper and have the confidence that their vote was cast as marked," Secretary Shelley said. See <http://wired.com/news/evote/0,2645,63298,00.html>. (Our analysis revealed no differences in the use of provisional ballots in the counties with these paperless e-voting machines.) In Ohio, long lines at some polling places resulted in legal action directing that voters waiting in line be given provisional ballots to enable them to vote before the polls closed. (Columbus Dispatch, November 3, 2004.)

⁵ These figures differ slightly from those in the Election Day Survey. Data used for this study include complete voting data for New Mexico, for which the Election Day Survey had only partial data, and vote totals for Pennsylvania, which was not included in the provisional voting analysis in the Election Day Survey. See the appendix to this report for a full explanation of the differences in data between this research and the Election Day Survey.

⁶ California, New York, Ohio, Arizona, Washington, and North Carolina. The appearance of Arizona, Washington and North Carolina on this list shows that the number of provisional ballots cast depends on factors other than the size of the population.

⁷ Report on the Commission on Federal Election Reform, "Building Confidence in U. S. Elections," September 2005, p. 16.

⁸ See the appendix for our classification of "old" and "new" states and explanation of why the total is less than 50.

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- The percentage of the total vote cast as provisional ballots averaged more than 2% (2.17%) in the 25 experienced states. This was 4 times the rate in states new to provisional voting, which averaged 0.47%.
- The experienced states counted an average of 58% of the provisional ballots cast, nearly double the proportion in the new states, which counted just 33% of cast provisional ballots. (The average of provisional ballots cast was 64.5% counted. A third category had to account for a significant amount over 64.5%. What was that category?)
- Perhaps another reason provisional ballots must be cast in the correct precinct in order to be counted is that local races are also important and that allowing provisional ballots to be counted by voters who cast them outside of the precinct and only counting the ballots for the upper ballot races for outside of the precinct can disenfranchise voters from participating in local races. This argument has been used by many legislatures and in court cases to require that provisional ballots must be cast in the correct precinct in order to be counted.
- The combined effect of these two differences was significant. In experienced states 1.53% of the total vote came from counted provisional ballots. In new states, provisional ballots accounted for only 0.23% of the total vote.

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Those voting with provisional ballots in experienced states were enfranchised more frequently than those in the new states, another indication that there is room for improvement in provisional balloting procedures.⁹ That conclusion gains support from the perspectives of the local election officials revealed in the survey conducted as a part of this research. Local (mostly county level) election officials from "experienced" states were more likely to:

- Be prepared to direct voters to their correct precincts with maps;
- Regard provisional voting as easy to implement;
- Report that provisional voting sped up and improved polling place operations
- Conclude that the provisional voting process helped officials maintain accurate registration databases.

Officials from "new" states, on the other hand, were more likely to agree with the statement that provisional voting created unnecessary problems for election officials and poll workers.

If experience with provisional voting does turn out to be a key variable in performance, that is good news. As states gain experience with provisional ballots their management of the process could become more consistent and more effective over subsequent elections. Further information from the EAC on best practices and the need for more consistent management of the election process could sharpen the lessons learned by experience. ~~The EAC should consider providing all states with information on more effective administration of provisional voting. EAC could also consider convening a national meeting for state and county election officials to share experiences and best practices from their own jurisdictions.~~

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But the optimistic conclusion that experience will make all the difference may be unwarranted. Only if the performance of the "new" states was the result of administrative problems stemming from inexperience will improvement be automatic as election officials move along the learning

⁹ Managing the provisional voting process can strain the capacity election administrators. For example, Detroit, counted 123 of the 1,350 provisional ballots cast there in 2004. A recent study concluded that Detroit's "6-day time frame for processing the provisional ballots was very challenging and unrealistic. To overcome this challenge, the entire department's employees were mobilized to process provisional ballots." (emphasis added.) GAO Report-05-997, "Views of Selected Local Officials on Managing Voter Registration and Ensuring Citizens Can Vote," September 2005.

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curve. Two other possibilities exist. Current understanding of the provisional voting processes in use in 2004 is not sufficient to determine unambiguously which view is correct.

1. "New" states may have a political culture different from "old" states. That is, underlying features of the "new" states political system may be the reason they had not adopted some form of provisional voting before HAVA. The "new" states may strike a different balance among the competing objectives of ballot access, ballot security and practical administration. They may ascribe more responsibility to the individual voter to take such actions as registering early, finding out where the right precinct is, or re-registering after changing address. They may value keeping control at the local level, rather than ceding authority to state or federal directives. If the inconsistent performance in the "new" states arises out of this kind of political culture, improving effectiveness in the use of the provisional ballots -- as measured by intrastate consistency in administration-- will be harder and take longer to achieve.¹⁰ This ballot should mention something about election judges and their training.

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2. ~~Old states may devote fewer resources to updating their registration files or databases because they are comfortable with provisional ballots as a fail safe way for voters with registration problems a way to cast a ballot (wording too strong)~~ The adoption of statewide voter registration databases in compliance with HAVA therefore may reduce the variation in the use of provisional ballots among the states.

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Other influences decreasing consistency among the states include:

- The more rigorous the verification requirements of the voter's identity and registration status, the smaller the percentage of provisional ballots that were counted. Some states merely require a voter's signature, some match signatures, some require identity documents, others require an affidavit, and a few require photo identification.¹¹
 - In the 4 states that simply matched signatures, nearly 3.5% of the total turnout consisted of provisional ballots, and just under three-fourths of those ballots (73%) were counted.
 - In the 14 states that required voters to provide such additional information as address or date of birth just over 1.5% of the total turnout consisted of provisional ballots, and 55% of those ballots were counted.
 - In the 14 states that required an affidavit (attesting, for example, that the voter was legally registered and eligible to vote in the jurisdiction) just over one-half of a percent (0.6%) of turnout came from provisional ballots, and less than one-third of those (30%) were counted. (But note that HAVA requires all voters to certify that they are eligible and registered in order to cast a provisional ballot, which is functionally an affidavit. The 14 states described here used an explicit affidavit form.)
 - In the 10 states that required voters to return later with identifying documents just under 1.5% of the total turnout came from provisional ballots, and more than half

¹⁰ Despite differing political cultures among states and the latitude HAVA provides states, the statute does, indeed impose some degree of uniformity on issues that Congress thought essential. For example, before HAVA, took effect, "no state gave the voter the right to find out the status of their ballot after the election." Now all offer that opportunity. See Bali and Silver, "The Impact of Politics, Race and Fiscal Strains on State Electoral Reforms after Election 2000," manuscript, Department of Political Science, Michigan State University. Resisting HAVA's mandates through foot-dragging lacks any legitimate foundation in law or policy.

¹¹ See Table 2 in Appendix 2 for information on the verification method used in each state.

(52%) of these were counted. Voters apparently found this requirement less onerous than the affidavit, even though it required a separate trip to a government office. (the voter was registered, than the ballot counted, the voter did not have to present identification).

This section needs a mention of the VR databases

- Voter registration databases provided information that reduced the number of provisional ballots counted.¹² In states using provisional voting for the first time, states with registered-voter databases counted only 20% of the ballots that were cast. States without such databases counted more than double that rate (44%). As HAVA's requirement for adoption of statewide databases spreads across the country, this variation among states is likely to narrow. Real-time access to a continually updated, statewide list of registered voters should reduce the number of provisional ballots used and reduce the percentage counted since most of those who receive them will be less likely to be actually registered in the state.
- States that counted out-of-precinct ballots counted 56% of the provisional ballots cast. States that counted ballots cast only in the proper precinct counted an average of 42% of provisional ballots.¹³
 - In experienced states, the disparity was even more pronounced; 52% of provisional ballots cast were counted in states requiring in-district ballots, while 70% were counted in those allowing out-of-precinct ballots.
 - If all states had counted out-of-precinct ballots, perhaps 290,000 more voters would have been enfranchised across the country.¹⁴

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Variation With-in States

Not only was there little consistency among states in the use of provisional ballots, there was also little consistency within states. This was true in both new and old states. Of the 20 states for which we have county-level provisional ballot data, the rate of counting provisional ballots varied by as much as 90% to 100% among counties in the same state. This suggests that additional factors outside of the statewide factors analyzed here also influence the use of provisional ballots. Perhaps it is the judges training or it is, in part, because of different laws.¹⁵

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¹² The Election Day Survey found that states using statewide voter registration databases reported a lower incidence of casting provisional ballots than states without voter registration databases, suggesting that better administration of voter registration rolls might be associated with fewer instances where voters would be required to cast a provisional ballot due to a problem with their voter registration.

¹³ The Election Day Survey concluded that : "Jurisdictions with jurisdiction-wide provisional ballot acceptance reported higher rates of provisional ballots cast, 2.09 percent of registration or 4.67 percent of ballots cast in polling places, than those with in-precinct-only acceptance, 0.72 and 1.18 percent, respectively. Predictably, those jurisdictions with more permissive jurisdiction-wide acceptance reported higher rates of counting provisional ballots, 71.50 percent, than other jurisdictions, 52.50 percent."

¹⁴ This estimate is a rough approximation. States that recognize out-of-precinct ballots counted, on average, 56% of the provisional votes cast. Applying that ratio to the 1.9 million provisional ballots cast nationwide would result in 1.1 million provisional ballots that would have been counted if all states accepted out-of-precinct votes. States that did not recognize out-of-precinct ballots counted 42% of the provisional ballots cast, or about 813,000 ballots, for a difference of about 290,000 votes.

¹⁵ For example, The Election Day Survey also found that "the reported rate of provisional ballots cast increases with population size, from 0.10 percent for voter registration in jurisdictions under 1,000 voting age population (VAP), to 2.51 percent in jurisdictions over one million VAP. It also calculated that, "The highest reported rate of counting provisional ballots was also among predominantly Hispanic jurisdictions, 79.30 percent, followed by predominantly

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Reacting to the lack of consistency within states, (not the Carter-Baker Commission) recommended that "states, not counties or municipalities, should establish uniform procedures for the verification and counting of provisional ballots, and that procedure should be applied uniformly throughout the state."¹⁶

Election Line reported that:

- In Ohio some counties counted provisional ballots not cast in the assigned precinct even though the state's policy was to count only those ballots cast in the correct precinct.
- Some counties in Washington tracked down voters who would otherwise have had their provisional ballots rejected because they had failed to complete part of their registration form, gave them the chance to correct those omissions, and then counted the provisional ballot. This would probably not have come to light except for the sharp examination caused by the very close election for governor.

Resources available to administer provisional voting varied considerably among and within states. The result is that differences in demographics and resources result in different experiences with provisional voting. For example, the Election Day Survey found that:

- Jurisdictions with lower education and income tend to report more inactive voter registrations, lower turnout, and more provisional ballots cast.
- Jurisdictions with higher levels of income and education reported higher average numbers of poll workers per polling place or precinct and reported lower rates of staffing problems per precinct.
- Staffing problems appeared to be particularly acute for jurisdictions in the lowest income and education categories. Small, rural jurisdictions and large, urban jurisdictions tended to report higher rates of an inadequate number of poll workers within polling places or precincts.
- Predominantly non-Hispanic, Black jurisdictions reported a greater percentage of polling places or precincts with an inadequate number of poll workers. Predominantly non-Hispanic, Native American jurisdictions reported the second highest percentage of staffing problems.

The conclusions to be drawn from these findings are clear. In voting districts with lower education levels, poverty, high mobility, (no previous mention of this factor. What research exists to back up naming high mobility as a factor?) and inadequately staffed polling places, the voting process is unlikely to function well. More people will end up casting provisional ballots. That makes the provisional voting process especially important. But if jurisdictions struggle with regular voting, how well are they likely to do with the more complicated provisional balloting process? In precincts where the voting process, in general, is managed poorly, provisional ballots cannot be expected to work much better. In these areas, the focus should be on broader

non-Hispanic White areas, 62.60 percent; predominantly non-Hispanic Black communities, 58.60 percent; and predominantly non-Hispanic Native American jurisdictions, 48.70 percent.

¹⁶ Report of the Commission on Federal Election Reform, "Building Confidence in U.S. Elections," September 2005, p. 16. The report observed that, "... different procedures for counting provisional ballots within and between states led to legal challenges and political protests. Had the margin of victory for the presidential contest been narrower, the lengthy dispute that followed the 2000 election could have been repeated."

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measures to improve the overall functionality of struggling voting districts, although improving the management of provisional balloting may help at the margin.

Effectiveness of Provisional Voting

The certainty of our conclusions about the effectiveness of provisional voting is limited because of a fundamental challenge of methodology (what is meant by this statement) and the lack of important information. An ideal assessment of how well provisional ballots served the needs of voters and the public interest requires knowing the decisions of local officials in 200,000 precincts on how to inform voters about provisional voting; their performance in providing a provisional ballot to those qualified to receive one, and their decisions whether to count a provisional ballot. And information needed about the eligibility or registration status of provisional voters is also not available. (Are polling places posting their provisional voting signs? Are election judges doing their jobs?)

We see no automatic correlation between the quality of a state's voting system and either the number of provisional ballots cast or counted. Low numbers could reflect an accurate statewide voting data and good voter education. Or they could suggest that provisional ballots were not made easily available. High numbers could be seen as signifying an effective provisional voting system or a weak registration process. But we do know that in 2004 provisional ballots enfranchised 1.2 million citizens, who would otherwise have been turned away from the polls.

Not knowing the total number of registered voters who might have voted but could not makes a precise, quantitative estimate of the effectiveness of provisional voting impossible. The Cal Tech – MIT Voting Technology Project, however, estimated that 4 – 6 million votes were lost in the 2000 presidential election for the reasons shown in Table 1 below. The estimate is an approximation, but it may provide data good enough for a general assessment of the size of the pool of potential voters who might have been helped by the provisional ballot process.

Estimates of Votes Lost In 2000 Presidential Election

Votes Lost (Millions)	Cause
1.5 – 2	Faulty equipment and confusing ballots
1.5 – 3	Registration mix-ups
<1	Polling place operations
?	Absentee ballot administration

Table 1 Cal Tech – MIT Voting Technology Project Estimates
4 – 6 million votes are lost in presidential elections due to the causes shown in the table. Registration mix-ups (e.g., name not on list) and polling place operations (e.g., directed to wrong precinct) are the causes most likely to be remedied by provisional voting.

The table shows that the universe of voters who could be helped by provisional voting might be 2.5 – 3 million voters. A rough estimate of the effectiveness of provisional voting in 2004, then,

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might be 40% to 50% (ballots counted/votes lost). (this is unclear. What is trying to be said? Is a comparison of the # of provisional ballots actually counted to the MIT estimate of lost ballots in 2000 being made? If so, would the MIT survey be influenced by the implementation of statewide voter registration databases or other interim measures that would improve the quality of voter registration lists?) Whatever the precise figure, it seems reasonable to conclude that there is considerable room for improvement in the administration of provisional voting.

Legislative Response

Indeed, several states¹⁷ came to the conclusion that the administration of their provisional voting procedures needed to be improved and amended their statutes after the 2004 election. State legislation adopted since the election points to particular areas of concern.

Not enough time to examine and count the provisional ballots. Florida, Indiana, Virginia, and Washington all have clarified or extended the timeline to evaluate the ballots. But taking more time can prove a problem, particularly in presidential elections with the looming deadline to certify the vote for the Electoral College.¹⁸

Lack of uniform rules for counting ballots and effective training of the election officials in interpreting and applying those rules to determine the validity of ballots. Colorado, New Mexico, North Carolina, and Washington have all passed legislation focused on improving the efficacy and consistency of the voting and counting process.

The issue of counting provisional ballots cast in the wrong precinct was addressed by Colorado, Arkansas, and North Dakota. How was it addressed?

Litigation

Successful legal challenges to the process highlight areas where provisional voting procedures were wanting. A flurry of litigation occurred around the country in October 2004 concerning the so-called "wrong precinct issue" – whether provisional ballots cast by voters in a precinct other than their designated one would be counted for statewide races. These lawsuits were largely unsuccessful in their stated goal: most courts, including the U.S. Court of Appeals for the Sixth Circuit (the only federal appeals court to rule on the issue), rejected the contention that HAVA requires the counting of these wrong-precinct provisional ballots.

¹⁶ Another interpretation of the data should be considered. The Census Bureau's Current Population Survey (CPS) developed the category of "registration mix-ups" to assess the states' registration systems after each election when it asks people if they were registered and if they voted. The CPS gives breakdowns of reasons why people did not vote. Survey responders tend to deflect blame when answering questions about voting. In the narrow context of provisional ballots, 'registration problems' would cover only voters who went to the polls where the determination that they were not registered was wrong or were registered, but in the wrong precinct. If they were in the wrong precinct, provisional voting can help them in only 17 states. In 2004, only 6.8% of those not voting and registered blamed registration problems, while 6.9% reported so in 2000.

¹⁷ Twelve states made statutory or regulatory changes: Arizona, Arkansas, Colorado, Florida, Georgia, Indiana, Louisiana, Montana, New Mexico, North Carolina, Virginia and Wyoming. See Table 4 in Appendix 2.

¹⁸ The resources available to evaluate and count provisional ballots within a tight schedule may not be easily available. The General Accounting Office reports that Detroit, where 1,350 provisional ballots were cast and 123 counted, found the 6-day time frame for processing provisional ballots "very challenging and unrealistic. To overcome this challenge, the entire department's employees were mobilized to process provisional ballots." The report also found that in Los Angeles County, "staff had to prepare duplicate ballots to remove ineligible or invalid contests when voters cast their ballots at the wrong precinct. To overcome this challenge, staffing was increased to prepare the duplicate ballots." In a close, contested election, "duplicate" ballots would doubtless receive long and careful scrutiny. See Appendix 7, GAO, "Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote," September 2005. (GAO Report-05-997)

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This litigation was significant nonetheless.

- First, the Sixth Circuit decision established the precedent that voters have the right to sue in federal court to remedy violations of HAVA.
- Second –and significantly– the litigation clarified the right of voters to receive provisional ballots, even though the election officials were certain they would not be counted. The decision also defined an ancillary right –the right to be directed to the correct precinct. There voters could cast a regular ballot that would be counted. If they insisted on casting a provisional ballot in the wrong precinct, they would be on notice that it would be a symbolic gesture only.
- Third, these lawsuits prompted election officials to take better care in instructing precinct officials on how to notify voters about the need to go to the correct precinct in order to cast a countable ballot – although the litigation regrettably came too late to be truly effective in this regard. In many states, on Election Day 2004, the procedures in place for notifying voters about where to go were less than ideal, reflecting less-than-ideal procedures for training poll workers on this point.

There was also pre-election litigation over the question whether voters who had requested an absentee ballot were entitled to cast a provisional ballot. In both cases (one in Colorado and one, decided on Election Day, in Ohio), the federal courts ruled that HAVA requires that these voters receive a provisional ballot. Afterwards, it is for state officials under state law to determine whether these provisional ballots will be counted, in part by determining if these provisional voters already had voted an absentee ballot (in which case one ballot should be ruled ineligible, in order to avoid double voting). These decisions confirm the basic premise that provisional ballots should be available whenever voters believe they are entitled to them, so that their preferences can be recorded, with a subsequent determination whether these preferences count as valid votes.

Need for Promulgation of Best Practices

Because every provisional ballot counted represents a voter who, if the system had worked really well, should have voted by regular ballot, the advent of statewide registration databases is likely to reduce the use provisional ballots. The one area in which such databases may not make a difference is for those who voted by provisional ballot because they did not bring required identification documents to the polling place. ~~This is false. If they are registered (the voter registration database is checked as required by HAVA, or restricted by state requirement) the provisional counts.~~ Beyond that exception, even with statewide registries in every state, provisional voting will remain an important failsafe, and voters should have confidence that the failsafe will operate correctly.

The wide variation in the implementation of provisional voting among and within states suggests that EAC can help states strengthen their processes. Research-based recommendations for best, or at least better, practices based on the experience gained in the 2004 election can be useful in states' efforts to achieve greater consistency in the administration of provisional voting.

Recommendations for Best Practices

Recent legislative activity shows that state efforts to improve the provisional voting process are underway. Those states, as well as others that have not yet begun to correct shortcomings that became apparent in 2004, can benefit from considering the best practices described here. By recommending best practices, the EAC will offer informed advice while respecting diversity

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among the states. One way to strengthen the recommendations and build a constituency for them would be for EAC to ask its advisory committee members to recommend as best practices procedures that have worked in their states.

Self-evaluation of Provisional Voting —4 Key Questions (Best practice suggestion?)

The first recommendation is not for a specific procedure, but rather for a way of thinking about provisional voting. As legislators and election officials in the states prepare for the 2006 election, they should ask themselves these questions about their provisional voting systems.

1. Does the provisional voting system distribute, collect, record, and tally provisional ballots with sufficient accuracy to be seen as procedurally legitimate by both supporters and opponents of the winning candidate? Does the tally include all votes cast by properly registered voters who correctly completed the steps required?
2. Is the ~~system sufficiently robust~~ (what system – the voting system or the procedures for provisional voting?) to perform well under the pressure of a close election when ballot evaluation will be under scrutiny and with litigation looming?
3. Do the procedural requirements of the system permit cost-efficient operation? Are the administrative demands of the system reasonably related to the staff and other resource requirements available?
4. How great is the variation in the use of provisional voting in counties or equivalent levels of voting jurisdiction within the state? Is the variation great enough to cause concern that the system may not be administered uniformly across the state?

If the answers to these questions leave room for doubt about the effectiveness of the system or some of its parts, the EAC's recommendation of best practices should provide the starting point for a state's effort to improve its provisional voting system.

Best Practices For Each Step In The Process

We examined each step of the provisional voting process to identify specific areas where the states should focus their attention, and we offer recommendations in each area appropriate to the responsibilities that HAVA assigns the EAC for the proper functioning of the provisional voting process. ~~(State how were these particular best practices chosen or arrived at?)~~

The Importance of Clarity

The EAC should emphasize above all else the importance of clarity in the rules governing every stage of provisional voting. As the Century Foundation's recent report observed, "Close elections increasingly may be settled in part by the evaluating and counting of provisional ballots. . . . To avoid post election disputes over provisional ballots—disputes that will diminish public confidence in the accuracy and legitimacy of the result— well in advance of the election, states should establish, announce, and publicize clear statewide standards for every aspect of

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the provisional ballot process, from who is entitled to receive a provisional ballot to which ones are counted.¹⁹

Litigation surrounding the 2004 election resulted in decisions that, if reflected in state statutes or regulations and disseminated in effective training for poll workers, can increase the clarity of provisional ballot procedures, increase predictability, and bolster confidence in the system. By taking the following steps, states can incorporate those court rulings into their procedures.

- Promulgate, ideally by legislation, clear standards for evaluating provisional ballots, and provide training for the officials who will apply those standards. For example, in Washington State, the court determined that an election official's failure in evaluating ballots to do a complete check against all signature records is an error serious enough to warrant canvassing.²⁰ Clear direction by regulation or statute on what records to use in evaluating ballots could have saved precious time and effort and increased the reliability of the provisional voting system.
- States should provide poll workers the training and information resources they need, as for example, how to locate polling places for potential voters who show up at the wrong place. Usable and useful information in the hands of poll workers can protect voters from being penalized by ministerial errors at the polling place.²¹ (does this mean that the state should provide poll workers training? Most provided by local election jurisdictions. Is the recommendation to deviate from current practice?)
- States should make clear that the only permissible requirement to obtain a provisional ballot is an affirmation that the voter is registered in the jurisdiction and eligible to vote in an election for federal office.²² Recent legislation in Arizona indicates that HAVA's recommendations should emphasize HAVA's requirement that persons appearing at the polling place claiming to be registered voters cannot be denied a ballot because they do not have identification with them. Poll workers need appropriate training to understand their duty to give such voters a provisional ballot.²³

A. Registration and Pre-Election Information for Voters

Providing crisp, clear information to voters before the election is important to the success of the provisional voting process. The better voters understand their rights and obligations, the easier the system will be to manage, and the more legitimate the appearance of the process. States

¹⁹ The Century Foundation, Balancing Access and Integrity, Report of the Working Group on State Implementation of Election Reforms, July 2005.

²⁰ See *Washington State Republican Party v. King County Division of Records*, 103 P3d 725, 727-728 (Wash. 2004)

²¹ See *Panio v. Sunderland* 824 N.E.2d 488, 490 (NY, 2005) See also Order, *Hawkins v. Blunt*, No.04-4177-CV-C-RED (W.D. Mo. October 12, 2004). While rejecting the notion that all ballots cast in the wrong precinct should be counted, the court ruled that provisional votes cast in the wrong precinct should be thrown out provided that the voter had been directed to the correct precinct. This meant that provisional votes cast in the wrong precinct (and even the wrong polling place) would count if there were no evidence that the voter had been directed to a different polling place. The court placed a duty upon election officials to make sure the voters were in the correct locations. Note that this question would not arise in a state that counted ballots cast in the wrong polling place but within the correct county.

²² *Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565, 774 (6th Cir. 2004)

²³ *The Florida Democratic Party v. Hood*, 342 F. Supp. 2d 1073, 1075-76 (N.D. Fla. 2004). The court explained that provisional voting is designed to correct the situation that occurs when election officials do not have perfect knowledge and when they make incorrect determinations about eligibility (the "fail-safe" notion). Denying voters provisional ballots because of on-the-spot determinations directly contradicts this idea. Even before the cited decision, the Florida Secretary of State's office had determined that any voter who makes the declaration required by federal law is entitled to vote a provisional ballot, even if the voter is in the wrong precinct.

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can begin by assessing the utility and clarity of the information for voters on their websites and by considering what information might be added to sample ballots mailed to voters before elections. Best practices in this area would include:

1. If states require identification at the time of registration, the kind of IDs required should be stated precisely and clearly and be publicly and widely available in a form that all voters can understand. For example, "You must bring your driver's license. If you don't have a driver's license, then you must bring an ID card with your photograph on it and this ID card must be issued by a government agency." ²⁴
2. The process to re-enfranchise felons should be clear and straightforward. To avoid litigation over the registration status of felons, best practice should be defined as making re-enfranchisement automatic, or no more burdensome than the process required for any new registrant. ²⁵
3. A state website for voters should offer full, clear information on boundaries of precincts, location of polling places, requirements for identification, and other necessary guidance that will facilitate registration and the casting of a regular ballot. An 800 number should also be provided. Models are available: the statewide databases in Florida and Michigan provide voters with provisional voting information, registration verification and precinct location information. Why not recommend local websites to do the same as state sites?

B. At the Polling Place

Avoiding error at the polling place will allow more voters to cast a regular ballot and all others who request it to cast a provisional ballot.

1. The layout and staffing of the polling place, particularly the multi-precinct polling place is important. Greeters, maps, and prominently posted voter information about provisional ballots, ID requirements, and related topics can help the potential voters cast their ballot in the right place. States should require poll workers to be familiar with the options and provide the resources needed for them to achieve the knowledge needed to be helpful and effective. ~~It's the law. Do they understand that all have to do this?~~ Colorado has clear regulations on polling place requirements, including HAVA information and voting demonstration display. ²⁶ After the 2004 election, New Mexico adopted a requirement for poll workers to attend an "election school." ²⁷ ~~Most states require this. It is not new. In fact, Florida's statutory training provisions are among the highest in the nation.~~ Such statutory direction could help other states ensure uniform instruction of poll workers.
2. The provisional ballot should be of a design or color sufficiently different from a regular ballot to avoid confusion over counting, as occurred in Washington State. The ballot might include a tear-off leaflet with information for voters such as: "Reasons Why Your Provisional Ballot Might Not Be Counted" on one side and "What to Do if My Provisional Ballot Is Not Counted" on the other.

²⁴ Websites in 29 states describe, with varying degrees of specificity, the identification voters may need. In 18 states voters can learn something about the precinct in which they should vote. And in 6 states (California, District of Columbia, Kentucky, Michigan, North Carolina, and South Carolina) they can verify their registration on the website.

²⁵ The Century Foundation, op. cit.

²⁶ 8 Colo. Code Regs. § 1505-1, Rule 7.1.

²⁷ 2005 N.M. Laws 270 page no. 4-5.

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3. Because provisional ballots offer a fail-safe, supplies of the ballots at each polling place should be sufficient for all the potential voters likely to need them. In 2004, some polling places ran out of ballots, with unknown effects on the opportunity to vote. In Middlesex County, New Jersey, for example, on Election Day the Superior Court ordered the county clerk to assure that sufficient provisional ballots were available at several heavily used polling places, and it authorized the clerk "in the event additional provisional ballots are required . . . to photocopy official provisional ballots."²⁸ At least two states, Connecticut and Delaware, provide guidelines to local election officials on how to estimate the demand for provisional ballots. States that do not offer a practical method to guide the supply of provisional ballots at polling places should consider doing so. The guideline should take into account both the number of voters in the district and the number of provisional ballots actually cast in recent elections. Connecticut sets the number at 1% of the voters in the district, Delaware at 6%.²⁹
4. To achieve the procedural clarity needed to forestall disputes, states should establish a clear chain of custody for the handling of provisional ballots from production through distribution, collection and, finally, evaluation. A number of states have clear procedures for at least parts of this chain of custody. Illinois includes the potentially beneficial requirement that ballots be transported by bi-partisan teams, which offers the potential to avoid some charges of election fraud.³⁰ Seems like most states require training; do they have data on that? Florida's statutory training provisions among the strongest in the nation.

C. Evaluating Voter Eligibility and Counting Provisional Ballots

The clarity of criteria for evaluating voter eligibility is critical to a sound process for deciding which of the cast provisional ballots should be counted. The recognition of the validity of those criteria is important to establishing the legitimacy of the system as a whole. The experience in 2004 in North Carolina, Washington, and Ohio underline the importance of clear criteria. As the Century Foundation report put it, "Whatever procedures the states choose [to determine if a provisional ballot should be counted], the paramount consideration—as with all others concerning provisional voting—is that they be clear and thus not susceptible to post-election manipulation and litigation."³¹ Nonetheless, the *Panio v. Sutherland*³² decision in New York shows the difficulty of defining the range of administrative errors from which the provisional voters should be held harmless. Even when the standard is "clerical error" judges can differ over what that means exactly. Possibly a state law might be able to clarify a definition by giving examples of clerical errors, but even then the definition is unlikely to be perfect.

1. State statutes or regulations should define a reasonable period for voters who lack the HAVA-specified ID or other information bearing on their eligibility to provide it in order to facilitate the state's ability to verify that the person casting the provisional ballot is the

²⁸ Voting Order, November 2, 2004, Superior Court of New Jersey, Law Division, Middlesex County.

²⁹ Connecticut: "Equal to or not less than 1% of the number of electors who are eligible to vote in any given district, or such other number as the municipal clerk and the registrars agree is sufficient to protect voting rights. Conn. Gen. Stat. Ann. § 9-232j. Delaware: Each County Department of Elections Office is required to provide to each election district a number of provisional ballots equal to 6% of registered voters in that district, with a minimum allocation of 15 ballots. Additional supplies to be delivered when the supply becomes "very low." Del. Code Ann. Tit 15 § 4948(e).

³⁰ 10 Ill. Comp. Stat. Ann. 5/18A-10(b). Indiana requires that the precinct election board give the ballots to the Inspector, who takes the ballots to Circuit Court Clerk. Ind. Code Ann. Sec. 3-11.7-2-4

³¹ The Century Foundation, op. cit.

³² 4 N.Y.3d 123, 824 N.E.2d 488 (N.Y. 2005) and Memorandum (LaPlante—Foley) Provisional Ballot Cases by State, July 19, 2005.

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same one who registered. While there may be a concern to ensure that the individual who returns with the ID may not be the same individual who cast the provisional ballot, the spirit of HAVA demands that the opportunity to prove identity be provided after Election Day. A signature match can go far in establishing that the individual who voted and the individual returning later with identification is, in fact, the same person. Encouraging a voter who lacks ID on Election Day to return later to help the verification process by providing proper identification will strengthen the system and increase public confidence in the electoral process. Our data indicate that some voters would prefer to return with ID rather than to sign an affidavit, perhaps because of uncertainty about the legal process involved in the affidavit. At least 11 states allow voters to provide ID or other information one to 13 days after voting. Of particular interest is Kansas, which allows voters to proffer their ID by electronic means or by mail, as well as in person.³³

2. More provisional voters are enfranchised in those states that count ballots cast outside the correct precinct.³⁴ The best practice may be to count provisional ballots even if they are cast in the wrong precinct. While HAVA arguably leaves this decision up to the states, pointing out the effect of the narrower definition on the portion of ballots counted could be useful to the states in deciding this question. States should be aware, however, of the additional burden placed on the ballot-evaluation process when out-of-precinct ballots are considered. See the experience in Los Angeles County with the difficulties in evaluating out-of-precinct ballots described earlier in this report. EAC Chairman: does not agree w/ this recommendation. It does not take into account for local offices that would not be voted upon w/ such practices. Voters would then not be directed or go to their correct polling place to cast a ballot.
3. Alternatively, if a state chooses to require voters to appear at their assigned precinct, where the same polling site serves more than one precinct, a voter's provisional ballot should count so long as the voter cast that ballot correct polling site even if at the wrong precinct within that location.³⁵ Can the best practice be to send voter to correct precinct – if its in the same building as suggested in this recommendation. Why disenfranchise voter from voting on a local race?
4. Officials should follow a written procedure, and perhaps a checklist, to identify the reason why a provisional ballot is rejected (e.g., check the applicable box "unregistered voter"; "lack of signature match" "wrong precinct," etc.) Those forms should be disclosed

³³ In Kansas, the voter can provide ID to a County Election Officer any time before the County Board of Canvassers meets to count provisional ballots. KS. ST. 25-1122(d). ID can be presented in person, OR via mail or electronic means. *Id.* The Board must meet either on the Friday or Monday following a Tuesday election. *Id.* at 25-3104. Deadlines in other states are: Alabama – 5:00 P.M. on the Monday following the election AL ST § 17-10A-2(c)(1) Florida: until 5:00 P.M. on the third day following the election . Fla. Stat. Ann. § 101.048 (adopted after the 2004 election); Georgia—no later than 2 days after the election. GA ST § 21-2-417; 419. Illinois- 2 days to submit additional information 10 Ill. Comp. Stat. Ann. 5/18A-15(d); Indiana— in 2004 the deadline was the close of the polls IN. ST. §. 3-11.7-5-2(a). The time period was extended to 13 days by the adoption of Indiana Code 3-11-8, Section 25, Subsection (l); Maryland—until the meeting of the Election Board; MD ELEC LAW § 11-303. New Jersey— until the close of business on the second day after the election 19:53C-3(i). Nevada— until 5:00 P.M. on the Friday following the election NV ST 293.3085; New Mexico—until 7:00 P.M. on Election Day NM ADC 1.10.22 (8) (H).

³⁴ See Andersen, op. cit, pgs. 23 – 24 for an analysis of the significant effect of counting out-of-precinct ballots. The Election Day Survey found that, "Most notably, jurisdictions that permitted jurisdiction-wide acceptance of provisional ballots reported higher rates of provisional ballots being cast, but also reported a much higher incidence of provisional ballots being counted, than other jurisdictions."

³⁵ Chances are administrative error accounts for the voter being directed to the wrong precinct under these circumstances.

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publicly when completed. Colorado's election rules offer particularly clear guidance to the official evaluating a provisional ballot.³⁶

Colorado Rejection Codes (Any ballot given a rejection code shall not be counted):

RFS	(Rejection federal or state) No federal or state candidates or issues to duplicate.
RNS	(Rejection not signed) Provisional Ballot Affidavit not signed.
RIN	(Rejection incomplete information provided) Required information is incomplete and the designated election official is unable to confirm voter's eligibility.
RNR	(Rejection not registered) Voter did not register by the voter registration deadline or by emergency registration, Colorado voter registration record was not found, or voter was previously cancelled and has not been reinstated pursuant to 1-2-605(10). C.R.S.
REE	(Rejection envelope empty) Provisional ballot envelope is empty.
RAB	(Rejection voter voted absentee) Designated election official has confirmed that voter voted an absentee ballot.
REV	(Rejection based on ballot cast in early voting) Voter voted early.
RIP	(Rejection based on incorrect party) Incorrect Party in Primary Election.
RFE	(Rejection felon not eligible to vote) Individual was convicted of a felony and is either serving a sentence of confinement or detention or is on parole.
RWC	(Rejection elector not registered in county or State of Colorado) Non-county or non-state resident; therefore voter not eligible to vote in the county where the provisional ballot was voted.
RID	(Rejection first time voter has not supplied identification upon registration or thereafter prior to and during time voter voted) First Time Voter who registered by mail or through a voter registration drive, is tagged as id deficient, and did not provide id at the time of voting.
RRD	(Rejection registration deficient) Voter had deficient or incomplete registration and required information was not provided prior to or at the time of filling in the provisional ballot envelope. Voter's eligibility cannot be established.

D. Verification of Provisional Ballots

1. States that use the information on the provisional ballot to permit voters who have changed their addresses to update their registrations should adopt clear procedures on that process and specify how the new information will be communicated between different Boards of Elections
2. The time by which election officials must complete their eligibility evaluations is critical, particularly in presidential elections. States should consider in particular how to divide the time allowed them by the safe-harbor provisions that apply in presidential elections to the certification to the Electoral College. Some part of this five-week period will be consumed by the eligibility evaluation, but states should take care to provide a sufficient period of time as well for challenges. If a state consumes 21 days following the election in the eligibility evaluations, only two weeks will remain for legal challenges to be concluded. Is that sufficient? Or should the state provide the resources needed to

³⁶ 8 ccr 1505-1, at 26.5.4, adopted august 4, 2005. See also 1-2-509(3) C.R.S.

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complete the eligibility determinations in 10 days or two weeks, leaving three weeks or more for legal challenges in a close election? Our research did not identify an optimum division of the five weeks available. The best practice here is for states to consider the issue and make a careful decision about how to complete all steps in the evaluation of ballots and challenges to those determinations within the five weeks available. Why is it suggested that completing eligibility evaluations are more critical in presidential elections? What about gubernatorial elections?

E. Post-election Information for Voters

Timely information to voters about the disposition of their provisional ballot will provide helpful feedback and more important enable voters to determine if they are registered for future elections and, if not, what they need to do to become registered.

1. Establish mechanisms to ensure that voters casting provisional ballots are informed whether they are now registered for future elections and, if not, what they need to do to become registered.

F. State Laws Governing Litigation over Provisional Voting

1. Establish special, streamlined litigation procedures for Election Day complaints that individuals are being denied the right to cast a provisional ballot

Broader Considerations

G. Integrity and the Appearance of Integrity

1. State laws or regulations providing for non or bi-partisan bodies to make a public determination of the validity of provisional ballots would increase confidence in the system.
2. To improve transparency, state laws or regulations should require the purging process for registration to be public and with an opportunity for voters to correct an erroneous determination that they should be purged.
3. State laws or regulation should require the evaluation process for provisional ballots to be public. The process not the names since by law they cannot be revealed

H. Continuous Assessment of the Provisional Ballot -- Process and Performance

Defining what constitutes a successful provisional voting system is difficult. As noted earlier, the most successful system is probably not the one with the most provisional votes cast (that could indicate problems with the registration system). Nor is the system with the greatest number counted or with the fewest counted necessarily superior because the evaluation process could be flawed.

Defining quality requires a broad perspective about how well the system works, how open it is to error recognition and correction, and how well provisional voting processes are connected to the registration and voter identification regimes. The EAC should consider engaging one of the national quality organizations (what is meant by national quality organizations? Examples?) to evaluate the provisional ballot process within the broader context of the electoral system.

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Pending such a review, the EAC can recommend that states take the following actions.

1. Recognize that the first step to improving quality is to see the provisional voting process as a system and take a systems approach to regular evaluation through standardized metrics with explicit goals for performance.
2. States should begin by collecting data systematically on the provisional voting process so that they can evaluate their voting system and assess changes from one election to the next. The effort should start in the 2006 election, and the data collected should include:
 - Provisional votes cast and counted by jurisdiction, say counties, with details on why the voter had to vote provisionally (lack of ID, not on list, challenged at polling place, issued absentee ballot, etc) and number of ballots actually counted in each category.
 - Reasons why provisional ballots were not counted, using categories such as those that have been adopted by Colorado, described earlier in this report.
 - Measures of variance among jurisdictions.
 - Number of poll workers trained in administration of provisional voting by polling place
 - Number of jurisdictions posting information on provisional voting in the polling place
 - Time required to evaluate ballots by jurisdiction

Improving understanding of the provisional voting process through analysis of detailed information will enable state and local election officials to strengthen their systems. By collecting and analyzing this data states can identify which aspects of the registration and electoral system are most important in shunting voters into the provisional ballot process. Responsible officials can then look to their registration system, identification requirements or poll worker training as a way to reduce the need for voters to cast their ballots provisionally.

Conclusion – Research-based, continuing improvements for provisional voting are needed (This section should be the first part of the document)

The recommendations above are based on research that began in late May 2005. Our research focused on six key questions raised by the EAC. The answers to those questions provided the foundation for our policy recommendation. Those questions are:

1. How did the states prepare for the onset of the HAVA provisional ballot requirement?
2. How did this vary between states that had previously had some form of provisional ballot and those that did not?
3. How did litigation affect implementation?
4. How effective was provisional voting in enfranchising qualified voters?
5. Did state and local processes provide for consistent counting of provisional ballots?
6. Did local election officials have a clear understanding of how to implement provisional voting?

(Should this section be put under a Research Methodology section at the beginning?)

To answer those questions, the Eagleton-Montz team undertook the following research efforts:

1. Survey of 400 local (mostly county) election officials to learn their views about the administration of provisional voting and to gain insights into their experience in the 2004 election.
2. Review of news and other published reports in all 50 states to understand the local background of provisional voting and develop leads for detailed analysis.

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3. Statistical analysis of provisional voting to determine associations between the use of provisional voting and such variables as states' experience with provisional voting, use of statewide registration databases, counting out-of-precinct ballots, and use of different approaches to voter identification
4. Collection and review of the provisional voting statutes and regulations in all 50 states
5. Analysis of litigation affecting provisional voting or growing out of disputes over provisional voting in all states

Our research-based recommendations provide EAC with a strategy to engage the states in a continuing effort to strengthen the provisional voting process and increase the consistency with which provisional voting is administered, particularly within a state. As EAC and the states moved forward to assess and adopt the recommendations made here, provisional voting merits continuing observation and research. The situation is fluid. As states, particularly states that did not offer a provisional ballot before 2004, gain greater experience with the process and as statewide voter databases are adopted, the provisional voting process will demand further, research-based refinement.

ATTACHMENT 1 – Characteristics of the Provisional Voting Process Classification of the States

Our research on provisional voting divided the various states into several categories to allow an assessment of how different factors may have influenced the process of casting and counting provisional ballots. This analysis was conducted before the release of the Election Day Study, and the categories we used may differ in some respects from its work. The variables used to analyze a state's use of provisional ballots:

Deleted: categories analyzed here ar

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1. New vs. Old (states that used a provisional ballot before the 2004 election)
2. Use of a statewide database of registered voters vs. no use of a statewide database
3. Counting out-of-precinct ballots vs. not counting out-of-precinct ballots
4. Voter identification requirements
5. Method used to verify provisional ballots
6. Levels of provisional ballots cast and counted

We first assigned states within these categories based on classifications done by Electionline.org in its studies. The Electionline data was the only published information available at the time of our research. We reviewed the Electionline data carefully, and, in select cases, updated it with new, detailed information that had become available after its publication. The changes we made are explained below.

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Please note that:

--Idaho, Maine, Minnesota, New Hampshire, Wisconsin and Wyoming were excluded from our analysis. They have election-day registration systems, and did not need to use HAVA-compliant provisional ballots.

--North Dakota does not register voters, so it also was excluded from HAVA requirements and did not use provisional voting.

--Mississippi has not reported its provisional voting results and could not be included in our analysis, though it was compliant in 2004.

--Pennsylvania did not report its totals for the Election Day Study, but we obtained information on Pennsylvania and did include it in our analysis.

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New vs. Old States

We classified states as “new” or “old” based on the 2001 Electionline study of provisional voting³⁷ and condensing its classifications into a single dichotomous variable, new/old with all other cases excluded. The Electionline study divided states into five categories of their use of provisional ballots in the 2000 election:

1. Use of provisional ballots (P)
2. Limited use of provisional ballots (LP)
3. Affidavit ballots (A)
4. No system in place (N)
5. Unnecessary/Not Applicable (U/NA)

We collapsed all of the states listed as using provisional ballots, limited use of provisional ballots or affidavit ballots as “old” states, because the states in all three categories would have been familiar with key aspects of provisional voting.. States that had no provisional voting system in place for the 2002 election, and were HAVA compliant in 2004, were listed as “new” states, as 2004 would have been the first year in which they would be offering the option of provisional voting. States that were listed as unnecessary or not applicable were excluded from this study, as they were exempt from the HAVA regulations in 2004 because they either allowed same-day registration or did not register voters.

Rhode Island is the only state categorized as an old state by Electionline that we moved into the list of new states. Electionline’s map shows Rhode Island as a state that used provisional voting in 2000, but in the state description, it is listed as having no system in place. We learned from the Rhode Island Board of Elections that the state had previously permitted potential voters to sign an affidavit if they did not appear on a precinct’s list of registered voters, but felt they were registered to vote. Based on the signed affidavit, the election official would then contact a county official to see if the voter was on a more complete registration list. If the voter’s name was on the complete list, that voter was permitted to cast a regular ballot. As this process did not grant the voter a provisional ballot, but served as a different type of administrative failsafe, we concluded that Rhode Island’s first use of provisional voting was in 2004 and, therefore, classified the state as “new” to the system of provisional balloting.

³⁷ This study can be found at: <http://electionline.org/Portals/1/Publications/Provisional%20Voting.pdf>.

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Table 1		
CATEGORIZATION OF STATES -- Old vs New		
<u>Old States</u>	<u>New States</u>	<u>HAVA Exempt or NA</u>
<u>Alaska</u>	<u>Connecticut</u>	<u>Idaho</u>
<u>Alabama</u>	<u>Delaware</u>	<u>Maine</u>
<u>Arkansas</u>	<u>Georgia</u>	<u>Minnesota</u>
<u>California</u>	<u>Hawaii</u>	<u>New Hampshire</u>
<u>Colorado</u>	<u>Illinois</u>	<u>North Dakota</u>
<u>DC</u>	<u>Indiana</u>	<u>Wisconsin</u>
<u>Florida</u>	<u>Louisiana</u>	<u>Wyoming</u>
<u>Iowa</u>	<u>Massachusetts</u>	
<u>Kansas</u>	<u>Missouri</u>	
<u>Kentucky</u>	<u>Montana</u>	
<u>Maryland</u>	<u>Nevada</u>	
<u>Michigan</u>	<u>Oklahoma</u>	
<u>Mississippi</u>	<u>Pennsylvania</u>	
<u>Nebraska</u>	<u>Rhode Island</u>	
<u>New Jersey</u>	<u>South Dakota</u>	
<u>New Mexico</u>	<u>Tennessee</u>	
<u>New York</u>	<u>Utah</u>	
<u>North Carolina</u>	<u>Vermont</u>	
<u>Ohio</u>		
<u>Oregon</u>		
<u>South Carolina</u>		
<u>Texas</u>		
<u>Virginia</u>		
<u>Washington</u>		
<u>West Virginia</u>		
26	18	7

Statewide List of Registered Voters

The Electionline preview of the 2004 Election³⁸ was the starting point for compiling a list of states that had a statewide database of registered voters. That study listed 34 States that did not have their statewide database systems complete, and 16 that did, including the District of Columbia. North Dakota does not register voters, so does not need to compile such a database. Electionline's criterion for concluding that a state had a statewide list was that the state have participation from all jurisdictions in a statewide system. We added Oklahoma to the list of states with statewide databases because we found they had met the Electionline criteria by the 2004 election, albeit too late for inclusion in the Electionline survey.

³⁸ "Election Preview 2004: What's changed, What Hasn't and Why". This study can be found at: <http://electionline.org/Portals/1/Publications/Election.preview.2004.report.final.update.pdf>

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Table 2 (This table is no longer germane.)

CATEGORIZATION OF STATES -- Statewide Registration Database

Had Database 2004	No Database A-N	No Database N-W	HAVA Exempt or NA
<u>Alaska</u>	<u>Alabama</u>	<u>Ohio</u>	<u>Iowa</u>
<u>Arizona</u>	<u>Arkansas</u>	<u>Oregon</u>	<u>Maine</u>
<u>Connecticut</u>	<u>California</u>	<u>Pennsylvania</u>	<u>Mississippi</u>
<u>Delaware</u>	<u>Colorado</u>	<u>Rhode Island</u>	<u>Minnesota</u>
<u>District of Columbia</u>	<u>Florida</u>	<u>Tennessee</u>	<u>New Hampshire</u>
<u>Georgia</u>	<u>Idaho</u>	<u>Texas</u>	<u>North Dakota</u>
<u>Hawaii</u>	<u>Illinois</u>	<u>Utah</u>	<u>Wisconsin</u>
<u>Kentucky</u>	<u>Indiana</u>	<u>Vermont</u>	<u>Wyoming</u>
<u>Louisiana</u>	<u>Kansas</u>	<u>Virginia</u>	
<u>Massachusetts</u>	<u>Maryland</u>	<u>Washington</u>	
<u>Michigan</u>	<u>Missouri</u>		
<u>New Mexico</u>	<u>Montana</u>		
<u>Oklahoma</u>	<u>Nebraska</u>		
<u>South Carolina</u>	<u>Nevada</u>		
<u>South Dakota</u>	<u>New Jersey</u>		
<u>West Virginia</u>	<u>New York</u>		
	<u>North Carolina</u>		
16	27		8

Minnesota has a statewide database but was excluded from the analysis because it did not offer provisional ballots and was exempt from the HAVA requirements.

Out-of-Precinct Ballots

We based our classification of states that allow the counting of ballots cast outside the correct precinct on the data in the 2004 Electionline preview of the 2004 election². States that evaluated ballots cast in a precinct where the voter was not registered were categorized as "out-of-precinct." States that invalidated such ballots were categorized as "In-precinct only."

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Table 3		
CATEGORIZATION OF STATES – Counting Out-Of-Precinct Ballots		
Out-of-Precinct	In-Precinct Only	HAVA EXEMPT OR NA
<u>Alaska</u>	<u>Alabama</u>	<u>Idaho</u>
<u>Arkansas</u>	<u>Arizona</u>	<u>Maine</u>
<u>California</u>	<u>Colorado (after the court case)</u>	<u>Mississippi</u>
<u>Delaware</u>	<u>Connecticut</u>	<u>New Hampshire</u>
<u>Georgia</u>	<u>District of Columbia</u>	<u>North Dakota</u>
<u>Illinois (Not sure the law is that clear. Please check different counties did it differently.)</u>	<u>Florida</u>	<u>Wisconsin</u>
<u>Kansas</u>	<u>Hawaii</u>	<u>Wyoming</u>
<u>Louisiana</u>	<u>Indiana</u>	
<u>Maryland</u>	<u>Iowa</u>	
<u>New Mexico</u>	<u>Kentucky</u>	
<u>North Carolina</u>	<u>Massachusetts</u>	
<u>Oregon</u>	<u>Michigan</u>	
<u>Pennsylvania</u>	<u>Missouri</u>	
<u>Rhode Island</u>	<u>Montana</u>	
<u>Utah</u>	<u>Nebraska</u>	
<u>Vermont</u>	<u>Nevada</u>	
<u>Washington</u>	<u>New Jersey</u>	
	<u>New York</u>	
	<u>Ohio</u>	
	<u>Oklahoma</u>	
	<u>South Carolina</u>	
	<u>South Dakota</u>	
	<u>Tennessee</u>	
	<u>Texas</u>	
	<u>Virginia</u>	
	<u>West Virginia</u>	
<u>17</u>	<u>26</u>	<u>7</u>

Voter Identification

We relied on Electionline studies, including the Voter Identification study³⁹ and the 2004 Election Preview, to classify the states on their requirements for voter identification. Each state's categorization is taken directly from the Electionline studies except Hawaii.⁴⁰ The five

³⁹ This study can be found at: <http://electionline.org/Portals/1/Publications/Voter%20Identification.pdf>

⁴⁰ In 2004, ElectionLine listed Hawaii as requiring identification. Our review of statutes revealed that Hawaii could require photo ID. Since that is the most rigorous form of identification that may be required of voters, we classified Hawaii under this category.

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different, and increasingly rigorous, categories are: Give Name (8 states), Sign Name (14 states), Match Signature (8 states), Provide ID (15 states), and Photo ID (5 states).

Table 4

CATEGORIZATION OF STATES – Forms of Identification Required

States in italics are exempt from HAVA or did not report Provisional Ballot data and are not included in the analysis.

<u>Give Name</u>	<u>Sign Name</u>	<u>Match Signature</u>	<u>Provide ID</u>	<u>Photo ID</u>
<i>Maine</i>	<i>California</i>	<i>Illinois</i>	<i>Alabama</i>	<i>Florida</i>
<i>Massachusetts</i>	<i>DC</i>	<i>Nevada</i>	<i>Alaska</i>	<i>Hawaii</i>
<i>New Hampshire</i>	<i>Idaho</i>	<i>New Jersey</i>	<i>Arizona</i>	<i>Louisiana</i>
<i>North Carolina</i>	<i>Indiana</i>	<i>New York</i>	<i>Arkansas</i>	<i>South Carolina</i>
<i>Rhode Island</i>	<i>Iowa</i>	<i>Ohio</i>	<i>Colorado</i>	<i>South Dakota</i>
<i>Utah</i>	<i>Kansas</i>	<i>Oregon</i>	<i>Connecticut</i>	
<i>Vermont</i>	<i>Maryland</i>	<i>Pennsylvania</i>	<i>Delaware</i>	
<i>Wisconsin</i>	<i>Michigan</i>	<i>West Virginia</i>	<i>Georgia</i>	
<i>Wyoming</i>	<i>Minnesota</i>		<i>Kentucky</i>	
	<i>Mississippi</i>		<i>Missouri</i>	
	<i>Nebraska</i>		<i>Montana</i>	
	<i>New Mexico</i>		<i>North Dakota</i>	
	<i>Oklahoma</i>		<i>Tennessee</i>	
	<i>Washington</i>		<i>Texas</i>	
			<i>Virginia</i>	
9	14	8	15	5

South Dakota complicates the effort to assign each state to a category. It permits voters to sign an affidavit that would allow them to vote without presenting photo ID. While Hawaii did not normally require photo ID, its statutes gave challenged voters the opportunity to respond by producing a photo ID.

Verification Method

We identified four different ways states assessed provisional ballots to determine if they should be counted: signature match, match voter data, signed affidavits, and bringing back identification later. We gathered information about these verification techniques by checking state websites and consulting journalistic accounts. We consulted state legislation to provide further information where needed.

022439

FINAL DRAFT

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Table 5

CATEGORIZATION OF STATES – Ballot Evaluation Methods

States in italics are exempt from HAVA or did not report Provisional Ballot data and are not included in the analysis. No states have been italicized as thus correct.

<u>Signature Match</u>	<u>Data Match</u>	<u>Affidavit</u>	<u>Return with ID</u>	<u>NA</u>
<i>Alaska</i>	<i>Alabama</i>	<i>Connecticut</i>	<i>Indiana</i>	<i>Idaho</i>
<i>California</i>	<i>Arizona</i>	<i>Delaware</i>	<i>Iowa</i>	<i>Maine</i>
<i>Florida</i>	<i>Arkansas</i>	<i>Georgia</i>	<i>Kansas</i>	<i>Mississippi</i>
<i>Oregon</i>	<i>Colorado</i>	<i>Hawaii</i>	<i>Maryland</i>	<i>Minnesota</i>
	<i>DC</i>	<i>Illinois</i>	<i>Michigan</i>	<i>New Hampshire</i>
	<i>Louisiana</i>	<i>Kentucky</i>	<i>Montana</i>	<i>N. Carolina</i> *
	<i>Missouri</i>	<i>Massachusetts</i>	<i>New Jersey</i>	<i>N. Dakota</i>
	<i>Ohio</i>	<i>Nebraska</i>	<i>New Mexico</i>	<i>Wisconsin</i>
	<i>Oklahoma</i>	<i>Nevada</i>	<i>Texas</i>	<i>Wyoming</i>
	<i>Pennsylvania</i>	<i>New York</i>	<i>Utah</i>	
	<i>Rhode Island</i>	<i>South Dakota</i>		
	<i>S. Carolina</i>	<i>Tennessee</i>		
	<i>Washington</i>	<i>Vermont</i>		
	<i>West Virginia</i>	<i>Virginia</i>		
4	14	14	10	9

Data Collection

To assemble our data for analysis, we began by using the data on provisional votes cast and counted reported by Electionline. To increase the accuracy of this data, we surveyed each state's election websites for updated data, and for reported numbers on the county level. We then sent emails to 49 (we excluded Alaska, see below) states and the District of Columbia, requesting updated data on the number of provisional votes cast and counted by county. We received information from 25 states by our cut-off date of August 25, 2005.

* North Carolina lacked clear standards to evaluate provisional ballots and is excluded from this analysis.

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FINAL DRAFT

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Table 6	
Updated information by State	
Received Updated Data	Did Not Receive Updated Data
<u>California</u>	<u>Alabama</u>
<u>District of Columbia</u>	<u>Alaska</u> ⁴¹
<u>Florida</u>	<u>Arizona</u>
<u>Hawaii</u>	<u>Arkansas</u>
<u>Indiana</u>	<u>Colorado</u>
<u>Iowa</u>	<u>Connecticut</u>
<u>Kansas</u>	<u>Delaware</u>
<u>Louisiana</u>	<u>Georgia</u>
<u>Maryland</u> ⁴²	<u>Idaho</u>
<u>Missouri</u>	<u>Illinois</u>
<u>Montana</u>	<u>Kentucky</u>
<u>Nebraska</u> ⁴³	<u>Maine</u>
<u>Nevada</u>	<u>Massachusetts</u>
<u>New Jersey</u>	<u>Michigan</u>
<u>New Mexico</u>	<u>Minnesota</u>
<u>Ohio</u>	<u>Mississippi</u>
<u>Oklahoma</u>	<u>New Hampshire</u>
<u>Oregon</u>	<u>New York</u>
<u>Pennsylvania</u>	<u>North Carolina</u>
<u>Rhode Island</u>	<u>North Dakota</u>
<u>South Dakota</u>	<u>South Carolina</u>
<u>Tennessee</u>	<u>Utah</u>
<u>Texas</u>	<u>Vermont</u>
<u>Virginia</u>	<u>Wisconsin</u>
<u>Washington</u>	<u>Wyoming</u>
<u>West Virginia</u>	
26 States	25 States

⁴¹ Alaska was not contacted via email, as the state does not have voting districts comparable to counties in other states and could not be matched with comparable census data.

⁴² Maryland reported provisional ballots that were counted per county, but not number cast.

⁴³ Nebraska reported an incomplete list of provisional ballots cast and counted by county, but designated counties by number, rather than by name.

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Data Differences

The data used in this study differs from the data reported in the Election Day Study for 19 states. The Election Day Study was not completed until well after our statistical analysis of provisional voting was finished, on the schedule laid out in our work plan. Where there are differences, they are typically very small, usually fewer than 100 votes either cast or counted. Of the 9 states that have differences of more than 100 votes cast or counted, 7 have reported their numbers directly to us and can be considered updated data that EDS had not obtained. For one of those states, New Mexico, EDS had incomplete data, and for another, Pennsylvania, EDS had no data at all. The data that we have collected reflects updated numbers from the states that have changed following recounts and litigation that altered how ballots were evaluated. Please explain the 0/8022 discrepancy under North Carolina "differences" since you indicate the info was not updated from the database.

<u>State</u>	<u>EDS Numbers Cast/Counted</u>	<u>Our Numbers Cast/Counted</u>	<u>Differences</u>	<u>Updated Info from State?</u>
<u>Alabama</u>	<u>6,478/1,865</u>	<u>6560/1836</u>	<u>82/29</u>	<u>No</u>
<u>Alaska</u>	<u>23,285/22,498</u>	<u>23,275/22,498</u>	<u>10/0</u>	<u>No</u>
<u>Colorado</u>	<u>51,529/39,086</u>	<u>51,477/39,163</u>	<u>52/77</u>	<u>No</u>
<u>Georgia</u>	<u>12,893/4,489</u>	<u>12,893/3,839</u>	<u>0/650</u>	<u>No</u>
<u>Hawaii</u>	<u>346/25</u>	<u>348/25</u>	<u>2/0</u>	<u>Yes</u>
<u>Iowa</u>	<u>15,406/8,038</u>	<u>15,454/8,048</u>	<u>48/10</u>	<u>Yes</u>
<u>Kansas</u>	<u>45,535/32,079</u>	<u>45,563/31,805</u>	<u>28/274</u>	<u>Yes</u>
<u>Montana</u>	<u>688/378</u>	<u>653/357</u>	<u>35/21</u>	<u>Yes</u>
<u>Nebraska</u>	<u>17,421/13,788</u>	<u>17,003/13,298</u>	<u>418/490</u>	<u>Yes</u>
<u>Nevada</u>	<u>6,153/2,446</u>	<u>6,154/2,447</u>	<u>1/1</u>	<u>Yes</u>
<u>New Mexico</u>	<u>6,410/2,914</u>	<u>15,360/8,767</u>	<u>8,950/5,853</u>	<u>Yes</u>
<u>N. Carolina</u>	<u>77,469/50,370</u>	<u>77,469/42,348</u>	<u>0/8,022</u>	<u>No</u>
<u>Ohio</u>	<u>157,714/123,902</u>	<u>158,642/123,548</u>	<u>928/354</u>	<u>Yes</u>
<u>Pennsylvania</u>	<u>No data</u>	<u>53,698/26,092</u>	<u>53,698/26,092</u>	<u>Yes</u>
<u>Texas</u>	<u>35,282/7,156</u>	<u>36,193/7,770</u>	<u>911/614</u>	<u>Yes</u>
<u>Vermont</u>	<u>121/30</u>	<u>101/37</u>	<u>20/7</u>	<u>No</u>
<u>Virginia</u>	<u>4,608/728</u>	<u>4,609/728</u>	<u>1/0</u>	<u>Yes</u>
<u>Washington</u>	<u>92,402/73,806</u>	<u>86,239/69,273</u>	<u>6,163/4,533</u>	<u>Yes</u>
<u>Wisconsin</u>	<u>374/119</u>	<u>373/120</u>	<u>1/1</u>	<u>No</u>

ATTACHMENT 2 -- Data

Table 1 -- Provisional Voting Basic Statistics

States	PV Status Pre-HAVA	PV % of the Vote	PV % of the vote Counted
Alabama	Affidavit	0.10	28.00
Alaska	PV	7.20	97.00
Arizona	PV	3.66	73.00
Arkansas	PV	0.35	48.00
California	PV	3.96	74.00
Colorado	LPV	1.84	76.00
Connecticut	None	0.03	32.00
Delaware	None	0.01	6.00
District of Columbia	PV	3.51	71.00
Florida	PV	0.13	36.00
Georgia	None	0.12	30.00
Hawaii	None	0.01	7.00
Idaho	EDR	EDR	EDR
Illinois	None	0.42	51.00
Indiana	None	0.02	15.00
Iowa	PV	0.53	52.00
Kansas	PV	2.68	70.00
Kentucky	Affidavit	0.01	15.00
Louisiana	None	0.12	40.00
Maine	EDR	EDR	EDR
Maryland	PV	1.33	65.00
Massachusetts	None	0.08	23.00
Michigan	Affidavit	0.07	58.00
Minnesota	EDR	EDR	EDR
Mississippi	Affidavit		
Missouri	None	0.12	40.00
Montana	None	0.08	55.00
Nebraska	LPV	1.71	78.00
Nevada	None	0.29	40.00
New Hampshire	EDR	EDR	EDR
New Jersey	LPV	1.96	55.26
New Mexico	PV	1.16	57.00
New York	PV	3.27	40.30
North Carolina	PV	1.21	55.00
North Dakota	NR	NR	NR
Ohio	LPV	2.20	78.00
Oklahoma	None	0.01	8.00
Oregon	PV	0.39	85.00
Pennsylvania	None	0.45	49.00
Rhode Island	None	0.23	46.00
South Carolina	PV	0.20	65.00
South Dakota	None	0.02	12.00
Tennessee	None	0.14	38.00
Texas	Affidavit	0.10	21.00
Utah	None	2.00	70.00
Vermont	None	0.01	37.00
Virginia	PV	0.02	17.00
Washington	PV	2.44	80.00
West Virginia	PV	1.11	63.00
Wisconsin	EDR	0.00	32.00
States	PV Status Pre-HAVA	PV % of the Vote	PV % of the vote Counted
Wyoming	EDR	0.01	25.00

When did Eagleton get the information for Missouri. Missouri enacted provisional voting in 2002 and it is likely it was in place for the November 2002 election Pre-HAVA.

Eagleton's PV, LPV, EDR notations are confusing. In the instance of Colorado, the LPV designation (in the PV Status row - HAVA column is incorrect.) In Colorado the voter did not have to vote in the precinct.

922443

Table 2 -- Characteristics of State Provisional Voting Systems

<u>States</u>	<u>Was there a Statewide DB in 2004?</u>	<u>Are Outside Precincts Counted in Presidential Elections?</u>	<u>Verification Method</u>	<u>What is the time line for counting PV ballots?</u>	<u>Is this Review process open?</u>
Alabama	No	No	Check address & registration	7 days	unclear
Alaska	Yes	Yes	Signature	15 days	limited
Arizona	Yes	No	Check address & registration	10 days	unclear
Arkansas	No	Yes	Check address & registration	15 days	Unclear
California	No	Yes	Signature	28 days	yes
Colorado	No	Yes	Check address & registration	12 days	limited
Connecticut	Yes	No	Affidavit	6 days	unclear
Delaware	Yes	Yes	Affidavit	Until Completion	limited
D.C.	Yes	No	Check address & registration	*	limited
Florida	No	No	Signature	11 days	yes
Georgia	Yes	Yes	Affidavit	7 days	unclear
Hawaii	Yes	Yes	Affidavit	6 days	limited
Idaho	No	EDR	EDR	*	unclear
Illinois	No	Yes	Affidavit	14 days	unclear
Indiana	No	No	Bring ID later	13 days	yes
Iowa	No	No	Bring ID later	2 days	unclear
Kansas	No	Yes	Bring ID later	*	limited
Kentucky	Yes	No	Affidavit	3 days	unclear
Louisiana	Yes	Yes	DOB and Address	4 days	yes
Maine	No	EDR	EDR	*	unclear
Maryland	No	Yes	Bring ID later	*	unclear
Massachusetts	Yes	No	Affidavit	4 days	unclear
Michigan	Yes	No	Bring ID later	14 days	unclear
Minnesota	?	EDR	EDR	14 days	Unclear
Mississippi	No	No	Affidavit	*	yes
Missouri	No	No	Check address & registration	14 days	limited
Montana	No	No	Bring ID later	*	unclear
Nebraska	No	No	Affidavit	7 days	limited
Nevada	No	No	Affidavit	7 days	unclear
New Hampshire	No	EDR	EDR	*	unclear
New Jersey	No	No	Bring ID later	28 days	yes
New Mexico	Yes	Yes	Bring ID later	10 days	unclear
New York	No	No	Affidavit	10 days	yes
North Carolina	No	Yes	Varies	7 days	yes
North Dakota	NR	NR	NR	*	unclear
Ohio	No	No	Check address & registration	*	unclear
Oklahoma	Yes	No	Check address & registration	3 days	limited
Oregon	No	Yes	Signature	*	limited
Pennsylvania	No	Yes	Check address & registration	*	unclear
Rhode Island	No	Yes	Check address & registration	*	yes
South Carolina	Yes	No	Check address & registration	4 days	unclear
South Dakota	Yes	No	Affidavit	3 days	unclear
Tennessee	No	No	Affidavit	48 hours	unclear
Texas	No	No	Bring ID later	7 days	unclear
Utah	No	Yes	Bring ID later	*	unclear
Vermont	No	Yes	Affidavit	2 days	unclear

022444

<u>States</u>	<u>Was there a Statewide DB in 2004?</u>	<u>Are Outside Precincts Counted in Presidential Elections?</u>	<u>Verification Method</u>	<u>What is the time line for counting PV ballots?</u>	<u>Is this Review process open?</u>
Virginia	No	No	Affidavit	7 days	limited
Washington	No	Yes	Check address & registration	*	yes
West Virginia	Yes	No	Check address & registration	30 days	unclear
Wisconsin	No	No	Bring ID later	*	unclear
Wyoming	No	No	Affidavit	*	unclear

* Data to come on timeline classifications for these remaining states.



022447

Table 4 -- Litigation and Statues

<u>States</u>	<u>Litigation pre-2004 election?</u>	<u>Litigation post-2004 election?</u>	<u>Were clarifying PV regulations promulgated post election 2004?</u>	<u>Type of Clarifications</u>
Alabama				
Alaska				
Arizona		Yes	Yes	Voter ID
Arkansas			Yes	Wrong precinct
California				
Colorado	Yes	Yes	Yes	Wrong precinct, timeline, counting
Connecticut				
Delaware				
D.C.				
Florida		Yes	Yes	Timeline, eligibility
Georgia			Yes	Voter ID
Hawaii				
Idaho				
Illinois				
Indiana			Yes	Voter ID, timeline, counting
Iowa				
Kansas				
Kentucky				
Louisiana			Yes	Counting
Maine				
Maryland				
Massachusetts				
Michigan		Yes		
Minnesota				
Mississippi				
Missouri				
Montana			Yes	Eligibility
Nebraska				
Nevada				
New Hampshire				
New Jersey				
New Mexico			Yes	Counting
New York		Yes		
North Carolina		Yes	Yes	Wrong precinct, counting
North Dakota				
Ohio	Yes	Yes		
Oklahoma				
Oregon				
Pennsylvania				
Rhode Island				
South Carolina				
South Dakota				
Tennessee				
Texas				
Utah				

<u>States</u>	<u>Litigation pre-2004 election?</u>	<u>Litigation post-2004 election?</u>	<u>Were clarifying PV regulations promulgated post election 2004?</u>	<u>Type of Clarifications</u>
Vermont				
Virginia			Yes	Timeline, voter notification
Washington	Yes	Yes	Yes	Voter ID, timeline, counting
West Virginia				
Wisconsin				
Wyoming				

022449

Table 3 -- Information for Voters

Provided on State Elections Website?					
States	PV Requirements	VID Requirements	Registration Verification	Precinct Verification	Notification of Voters
Alabama	No	Yes	No	No	Phone
Alaska	No	Yes	No	Yes	Phone
Arizona	No	No	No	No	Counties
Arkansas	Yes	No	No	No	Counties
California	Yes	No	No	Yes	Counties
Colorado	Yes	Yes	No	No	Counties
Connecticut	Yes	Yes	No	No	Phone
Delaware	Yes	No	No	Yes	Website
D.C.	Yes	No	Yes	Yes	Website
Florida	No	Yes	No	No	Counties
Georgia	No	Yes	Yes	Yes	Counties
Hawaii	No	Yes	No	Yes	Phone
Idaho	EDR	Yes	No	No	EDR
Illinois	Yes	No	No	No	Website
Indiana	No	No	No	No	Phone
Iowa	Yes	Yes	No	No	Mail
Kansas	Yes	No	No	No	Counties
Kentucky	Yes	No	Yes	Yes	Website
Louisiana	Yes	No	No	Yes	Phone
Maine	EDR	Yes	No	Yes	EDR
Maryland	Yes	Yes	No	No	Website/Phone
MA	Yes	No	No	Yes	Phone
Michigan	Yes	Yes	Yes	Yes	Mail
Minnesota	EDR	Yes	No	Yes	EDR
Mississippi	No	No	No	No	Counties
Missouri	Yes	Yes	No	No	Phone
Montana	No	Yes	No	No	Mail
Nebraska	No	No	No	No	Website/Phone
Nevada	No	No	No	No	Website/Phone
New Hampshire	EDR	No	No	No	EDR
New Jersey	Yes	Yes	No	No	Website/Phone
New Mexico	Yes	Yes	No	No	Phone
New York	No	No	No	No	Mail
North Carolina	No	No	Yes	Yes	Website
North Dakota	NR	Yes	NR	No	NR
Ohio	Yes	Yes	No	No	Phone
Oklahoma	No	Yes	No	No	Phone
Oregon	No	No	No	No	Phone
Pennsylvania	Yes	Yes	No	No	Phone
Rhode Island	Yes	Yes	No	No	Website
South Carolina	Yes	Yes	Yes	No	Website
South Dakota	Yes	No	No	Yes	Mail
Tennessee	No	No	No	No	Mail
Texas	Yes	Yes	No	No	Mail
Utah	Yes	Yes	No	Yes	Phone
Vermont	No	Yes	No	Yes	Phone
Virginia	Yes	Yes	No	Yes	Phone
Washington	No	Yes	No	No	Counties
Provided on State Elections Website?					
States	PV Requirements	VID Requirements	Registration Verification	Precinct Verification	Notification of Voters
West Virginia	Yes	No	No	No	Phone
Wisconsin	Yes	Yes	No	No	Phone
Wyoming	Yes	No	No	No	Website

022450

Karen Lynn-Dyson/EAC/GOV
06/28/2006 11:45 AM

To Darrell D. Lee/CONTRACTOR/EAC/GOV
cc
bcc
Subject Fw: Please provide me with a hard copy of the Eagleton cost proposal, when you can

Karen Lynn-Dyson
Research Manager
U.S. Election Assistance Commission
1225 New York Avenue , NW Suite 1100
Washington, DC 20005
tel:202-566-3123

----- Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:43 AM -----



Nicole
Mortellito/CONTRACTOR/EA
C/GOV
01/20/2006 02:01 PM

To Karen Lynn-Dyson/EAC/GOV@EAC
cc
Subject Re: Please provide me with a hard copy of the Eagleton cost proposal, when you can 



EAC Eagleton Institute Budget 3-22-05-1.xls

Regards,

Nicole K. Mortellito
Special Projects
U.S. Election Assistance Commission
1225 New York Avenue - Suite 1100
Washington, DC
202.566.2209 phone
202.566.3128 fax
Karen Lynn-Dyson/EAC/GOV

Karen Lynn-Dyson/EAC/GOV

01/20/2006 12:54 PM

To Nicole Mortellito/CONTRACTOR/EAC/GOV@EAC
cc
Subject Please provide me with a hard copy of the Eagleton cost proposal, when you can

Thanks

Karen Lynn-Dyson
Research Manager
U.S. Election Assistance Commission
1225 New York Avenue , NW Suite 1100

022451

Washington, DC 20005
tel:202-566-3123

022452

Eagleton Institute of Politics, Rutgers The State University of New Jersey
US Election Assistance Commission Project Budget (3/22/05)

Description	Budget	
Personnel		
Eagleton faculty/senior staff	35,000	Mandel, Weingart, Reed, Linky (various percentages)
Eagleton staff: logistics/administrative/clerical	15,000	(various percentages)
Fringe (32.5%)	16,250	
	66,250	
Hourly Personnel		
Research Coordinator	21,250	1250 hours at \$17 per hour
Logistics/Admin Coordinator	12,325	725 hours at \$17 per hour
Research assistants	7,200	300 hours at \$12 per hour for two researchers
Fringe on Hourly (9%)	3,670	
	44,445	
Subtotal Personnel Expenses		
	\$110,695	
Honoraria		
Honoraria for Peer Review Group	10,000	10 at \$1,000
Public Hearings (3 in 3 cities)		
Public Hearings	75,000	3 hearings at \$25K per EAC figures
2 Hearings in DC- train, ground, lodging, meals*	3,480	attended by 3 staff
1 Hearings in St. Louis- air, ground, lodging, meals**	2,640	attended by 3 staff
	81,120	
Briefings/Meetings with EAC		
Train, ground, lodging, meals***	5,200	5 briefings in DC, attended by 2 staff
General Operations		
Office supplies, software, telephone, copying, postage	10,000	
Desktop computers, laptop, printer	10,000	
	20,000	
Subcontract		
Project Director- O'Neill	79,500	80% time April - Aug., 60% Sept. - Oct.
Ohio State University- Legal Analysis	84,744	Partner institution, Moritz College of Law, OSU
Subtotal Non-Personnel Expenses		
	\$280,564	
Subtotal All Direct Cost		
	391,259	
Modified Total Direct Cost \$277,015****		
F&A on Modified Total Direct Cost (55.5%)	153,743	Rutgers University federally approved rate.
TOTAL Project Budget	\$545,002	
Optional Surveys		
State Election Officials	15,000	Eagleton
Young Voters	25,000	Eagleton
Provisional Voting, 1st state	116,000	OSU Political Science
Provisional Voting, 1st additional state	75,000	OSU Political Science
Provisional Voting, 2nd additional state	60,000	OSU Political Science
Total Optional Surveys (no F&A)	\$291,000	

* Travel and lodging to two hearings in DC includes \$260 for train fare to DC, \$200 for hotel/lodging, and \$60 per day for two days for meals= \$580 per person per trip for three people.

** Travel and lodging to one hearing in St. Louis includes \$500 airfare to St. Louis, 2 nights hotel/lodging at \$100, and \$60 per day for three days for meals= \$880 per person for three people.

*** Travel and lodging to five Briefings/Meetings with EAC includes \$260 for train fare to DC, \$200 for hotel/lodging, and \$60 for meals= \$520 per person per trip for two people.

**** Modified total direct cost is equivalent to total direct cost except for two items - F&A included only on first \$25K of subcontract with Project Director (\$79,500) and first \$25K of subcontract with OSU (\$84,744).

022453

~~022452~~

Karen Lynn-Dyson/EAC/GOV

To Thomas R. Wilkey/EAC/GOV@EAC

03/28/2006 04:50 PM

cc Juliet E. Thompson-Hodgkins/EAC/GOV@EAC

bcc

Subject FYI-Eagleton

Turns out that Eagleton was doing a brief conference call with their project staff this afternoon and they asked me to participate briefly. Looked for you guys and you were in the Commissioner Retreat. Basically shared some very general thoughts with them and framed it as a series of questions/issues that might arise when they make their presentations next week.

Spoke of the CVAP vs. VAP issue, exit polls and CPS data versus using our Election Day survey and speaking with Election Officials about these topics. Also framed the issue of possible bias in their report by suggesting that they start out explaining how and why they have arrived at their statement about voter ID (burdensome, onerous, etc). Also suggested framing this by speaking of African American and elderly voter ID attitudes that appear to contrast with attitudes expressed by Hispanic voters. Did also ask about why they didn't look at Asian voters and if they included the March 15 2006 Census Bureau report in their analysis.

They took these comments under advisement and will be ready to address these and other topics at Monday's meetings.

K

Karen Lynn-Dyson
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022454

Karen Lynn-Dyson/EAC/GOV
06/28/2006 11:44 AM

To Darrell D. Lee/CONTRACTOR/EAC/GOV
cc
bcc
Subject Fw: No Cost Extension Request

Karen Lynn-Dyson
Research Manager
U.S. Election Assistance Commission
1225 New York Avenue , NW Suite 1100
Washington, DC 20005
tel:202-566-3123

— Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:43 AM —



"John Weingart"
<john.weingart@rutgers.edu>

01/13/2006 01:15 PM

Please respond to
john.weingart@rutgers.edu

To "Karen Lynn-Dyson" <klynndyson@eac.gov>
cc "Lucy Baruch" <baruch@rci.rutgers.edu>
Subject No Cost Extension Request

Karen - I am attaching a spreadsheet providing the information you have requested (Attachment 1), but I want to highlight a few points which may not be immediately self-evident.

First, the original budget (Attachment 2) we submitted to the EAC, dated March 22nd, did not itemize personnel expenses by each person. In addition, when we actually began work two months after submitting that budget, we decided to reallocate more time to people within Eagleton and hire fewer outside hourlies.

Second, in the figures I sent you in late December we tried to account for all the expenses and projections but overlooked a few things including neglecting to include the honoraria for our peer review team. Hence, the figures we're now sending are different than what I sent in December.

Lastly, we originally discussed a no-cost extension through February, but since we don't yet have the EAC comments on our draft Provisional Voting material nor an estimate of when they are likely to be ready, I think it is prudent to extend the no-cost extension through March 31st. We would still like to conclude by the end of February, but if you can approve the extension for another month we could avoid going through this process again if everything is not complete six weeks from now.

It is my understanding that Rutgers will soon be sending our December invoice. At this time, I would also like to request that we combine January and February an invoice the EAC once for that time period.

As you can see, we are currently projecting an ending balance of approximately \$10,000. If additional expenses are incurred beyond what is currently projected, we're confident they will not exceed the original budget of \$560,002.

Thanks and I look forward to hearing from you.

022455

--
-- John Weingart, Associate Director
Eagleton Institute of Politics
(732) 932-9384, x.290

022456

Karen Lynn-Dyson/EAC/GOV
06/28/2006 11:44 AM

To Darrell D. Lee/CONTRACTOR/EAC/GOV
cc
bcc
Subject Fw: No Cost Extension Request

Karen Lynn-Dyson
Research Manager
U.S. Election Assistance Commission
1225 New York Avenue , NW Suite 1100
Washington, DC 20005
tel:202-566-3123

— Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:42 AM —



"John Weingart"
<john.weingart@rutgers.edu>
11/30/2005 04:47 PM
Please respond to
john.weingart@rutgers.edu

To klynndyson@eac.gov
cc "Tom O'Neill"
Subject No Cost Extension Request



Extension Justification.doc Karen - I am attaching the documentation for our request.
Please let me
know if you require the material in a different format and/or further
information.

Thanks very much, John

-- John Weingart, Associate Director
Eagleton Institute of Politics
(732) 932-9384, x.290

klynndyson@eac.gov wrote:

>
> John-
>
> Thanks ever so much for forwarding this message on to Connie.
>
> I'm awaiting your language describing why you are requiring a no-cost
> extension on the contract, and for what period of time you wish to
> extend the contract.
>
> I'm told this is a very simple process on this end, and I've prepared
> the necessary form and a memo.
>
> Karen Lynn-Dyson
> Research Manager
> U.S. Election Assistance Commission
> 1225 New York Avenue , NW Suite 1100

022457

EAGLETON INSTITUTE OF POLITICS

Request to the U.S. Election Assistance Commission for a No-Cost Extension and Reallocation of Funds

November 30, 2005

Why we need a no -cost extension

The original work schedule called for EAC to publish in mid-October voluntary guidance and/or recommended best practices for provisional voting based on our research. In making that time estimate, we did not provide sufficient time for the EAC to review and consider the draft reports that would form the basis for that publication. The draft was complete in August, but the EAC's schedule did not permit us to brief the commissioners and staff until early September. We did not receive EAC comments until October, making it impossible to complete the work on the original schedule. Taking account of those comments and guidance from EAC required several weeks. The EAC did not receive our final draft report and recommendations for best practices until late November. We are now awaiting the EAC's comments on that final draft, which we have been told to expect in January.

The additional time required to complete the work on provisional voting has delayed the completion of our analysis of Voter Identification issues. The draft report on that topic will be submitted to the EAC in mid January.

Because the EAC has decided to issue recommendations for best practices on these topics, rather than voluntary guidance, we will finish the work within two months of the original completion date since the adoption process will be shorter. Note that meeting this schedule is dependent on the time needed by the EAC to review our work.

This extension will entail additional personnel time but, since no public hearings on "best practices" are required, if the EAC does not object, funds originally allocated for the hearings would be available for transfer to support the additional staff and consultant time necessary to complete the work.

When will work be completed and funds fully expended?

As shown on the attached schedule, work on this contract will be completed in three phases. The EAC will receive our final report and recommendations for best practices in provisional voting during the week of January 23, 2006 (assuming that we receive the EAC's comments on the draft report submitted on November 28 by January 9).

We will submit our draft report, alternative approaches, and compendium of statutes, regulations, and litigation on Voter Identification Issues during the week of January 16, 2006. If the EAC is able to return comments to us no later than the week of January 30, we will have submit the final report and recommendations for best practices on Voter Identification to the EAC during the week of February 13.

The total project budget is \$560,002. As of October 31st, the EAC has been invoiced for \$259,081.79; the balance remaining is \$399,920.21. We anticipate that the project will be complete and the balance of funds fully expended by February 28, 2006. The final invoice for the contract will be submitted to the EAC within 75 days of the close of the project.

022458

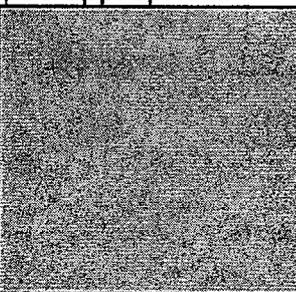
REVISED SCHEDULE FOR
 November 2005 – February 2006
 November 10, 2005
 Assumes no guidance document, only analysis and recommended best practices

DATE	Project Management	Provisional Voting	Voter ID
Week of 10/31		Review draft report to EAC (Team) Submit comments on report (Team)	Voter ID Research to TV
Week of 11/7	Status reports to JD for October tasks (all)	Redraft report (TON) Review and approve report (Team) Final draft report (TON)	Research continues (TV)
Week of 11/14	Submit monthly progress report (JD)	Submit report to Project Team for comments (TON)	Research continues (TV)

Week of 11/21		Project team comments received Submit report to EAC for review and to PRG for information (TON, JW)	Complete data collection for Voter ID analysis. (TV)
Week of 11/28		EAC review	Draft report on Voter ID analysis (TV)
Week of 12/5	Status reports to JD for November tasks (all)	EAC review	Internal review (PT)
Week of 12/12	Submit monthly progress report (JD)	EAC review	Revise draft (TV) Draft alternatives (TON) Review and comment on alternatives (PT)
Week of 12/19		EAC review	Complete draft report and alternatives (TV, TON)
Week of 12/26		EAC review	Review draft report and alternatives (PT)

Week of 1/2/06	Status reports to JD for December tasks (all)	EAC review	Report and alternatives to PRG for review
Week of 1/9/06		Receive comments from EAC and revise report as needed	PRG meets and comments Revise (TV & TON)
Week of 1/16/06	Submit monthly progress report (JD)	Project team reviews and approves revised report	Submit draft report, alternatives and compendium to EAC EAC reviews
Week of 1/23/06		Finalize analysis and best practices and submit to EAC for publication and further action as appropriate	EAC review continues
Week of 1/30/06			Comments from EAC Revise (TV & TON)

022461

Week of 2/6/06	Status reports to JD for January tasks (all)		Review and approve revised report and recommendations for best practices (PT)
Week of 2/13/06	Submit monthly progress report (JD)		Submit report and best practices to EAC for publication and further action as appropriate
Week of 2/20/06	<p>FINAL status reports to JD for all tasks (all)</p> <p>Final project and fiscal report to EAC</p> <p>PROJECT ENDS</p>		

Karen Lynn-Dyson/EAC/GOV
06/28/2006 11:56 AM

To Darrell D. Lee/CONTRACTOR/EAC/GOV
cc
bcc
Subject Fw: Voter ID Report and Appendices

Karen Lynn-Dyson
Research Manager
U.S. Election Assistance Commission
1225 New York Avenue , NW Suite 1100
Washington, DC 20005
tel:202-566-3123

— Forwarded by Karen Lynn-Dyson/EAC/GOV on 06/28/2006 11:54 AM —



"Tom O'Neill"

[REDACTED]
05/08/2006 07:15 PM

To klynndyson@eac.gov
cc tokaji.1@osu.edu, john.weingart@rutgers.edu
Subject Voter ID Report and Appendices

Karen,

Attached is the final draft report on our Voter ID analysis, revised to incorporate the comments made by the EAC at and after our meeting in Washington and the new statistical analysis performed by Tim Vercellotti, which I sent you last Friday. Included in the attached file are about 60 pages of appendices. You may or may not want to distribute all the appendices to the reviewers who will take part in Thursday's conference call. They might find Appendix A useful; it provides a detailed summary of the actual statutory language on Voter ID in each of the states. The other appendices, which are called for as deliverables in the contract, provide worthwhile information for the record, but are not likely to offer material for the reviewers to focus on.

When it comes time to distribute this material to the advisory boards before our meeting with them in May, once again you may want to exercise judgment about how much of it is likely to prove of interest to them.

We look forward to Thursday's teleconference.

Tom O'Neill



VoterIDReport0508.doc

022463

REPORT AND RECOMMENDATIONS TO THE EAC VOTER IDENTIFICATION ISSUES

Report Background

This report to the United States Election Assistance Commission (EAC) analyzes the effects of voter identification requirements on turnout in the 2004 election and makes recommendations for best practices to evaluate proposals for voter ID requirements. It is based on research conducted by the Eagleton Institute of Politics at Rutgers, the State University of New Jersey, and the Moritz College of Law at Ohio State University under a contract to the EAC, dated May 24, 2005. The research included a review and legal analysis of state statutes, regulations and litigation concerning voter identification and provisional voting, and a statistical analysis of the effects of various requirements for voter identification on turnout in the 2004 election. This report is a companion to a draft report on Provisional Voting submitted to the EAC on November 28, 2005 under the same contract.

The Help America Vote Act of 2002 (HAVA) (Public Law 107-252) authorizes the EAC (Sec. 241, 42 USC 15381) to conduct periodic studies of election administration issues. The purpose of these studies is to promote methods for voting and administering elections, including provisional voting, that are convenient, accessible and easy to use; that yield accurate, secure and expeditious voting systems; that afford each registered and eligible voter an equal opportunity to vote and to have that vote counted; and that are efficient.

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Methods

To explore the effects of voter ID requirements on electoral participation in 2004, as measured by turnout, we gathered information on the requirements in effect in the 50 states and the District of Columbia in that year. We assigned each state to one of five categories based on its ID requirements. They are progressively more rigorous based on the demands they make on voters.¹ The categories range from "Stating Name" which we judge to be somewhat less demanding than "Signing Name." "Signature Match" requires poll workers to examine the signature and compare it to a sample, which is slightly more demanding than the voter simply signing. "Present ID" requires voters to offer some documentary evidence of their identity,

¹ Even the most relaxed provisions for identification at the polls –anything stricter than the honor system used in North Dakota—will impose some burden on particular voters. Harvard Law Review 119:1146

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05/08/06

ranging from a utility bill to a passport. It is more demanding than the previous three categories because it requires that the voter remember to bring this documentation to the polls. (Even a simple ID, such as a utility bill, may not be available to some renters or, say, those in group housing.) We regard a government "Photo ID" as the most rigorous requirement. Such identity documents may not be uniformly and conveniently available to all voters.

To examine the potential variation on turnout rates associated with each type of voter ID requirements in effect on Election Day 2004, we drew on two sets of data. These were, first, aggregate turnout data at the county level for each state and, second, the reports of individual voters collected in the November 2004 Current Population Survey by the U. S. Census Bureau. Using two different data sets makes it possible to check the validity of one analysis against the other. It also provides insights not possible using only one of the data sets. The aggregate analysis cannot provide valid estimates on the effects of different ID requirements on particular demographic groups (e.g., the old, the young, African-Americans, the poor, or high school graduates). The Current Population Survey data does permit that kind of analysis, although it has the disadvantage of relying on self-reports by respondents about their registration status and experience in the polling place.

To understand legal issues that have been raised in recent litigation over voter ID requirements, we collected and analyzed the few major cases that have been decided on this issue. The decisions so far suggest the constitutional and other constraints on voter ID requirements.

Findings

Our analysis of data from the 2004 election indicates that the form of identification required of voters affects turnout. Lack of ID can keep voters from the polls or prevent them from casting a regular ballot if they go to the polling place.² This finding emerged from both the analysis of aggregate, county-level data and the individual-level data of the Current Population Survey. The overall effect for all registered voters was fairly small, but statistically significant.

Voter turnout in 2004 was lower in states where voter identification requirements were more demanding. The data show a general movement toward lower turnout as voters are required to present levels of proof of their identify.

² It also seems reasonable to conclude that in states that require an identity document to vote, more voters—those lacking the required ID—will cast provisional ballots. This conclusion is a conjecture because we lack precise information on why voters must cast their ballots provisionally.

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The aggregate data show that 60.9 percent of the estimated citizen voting age population turned out in 2004. An average of 64.6 percent turned out in states that required voters to state their names, compared to 58.1 percent in states that required photo identification, a reduction of 6.5 percentage points. That figure, however, probably overstates the effect of voter ID requirements since the inclusion of other factors in the analysis diminishes the extent of influence of voter ID on turnout. After taking account of other factors, the analysis supports the hypothesis that as voter identification requirements increases, turnout declines.

The effects were more pronounced for some specific subgroups. Hispanic voters, the poor and those who did not graduate from high school appear to be less likely to vote as the identification requirement becomes more demanding. The analysis for some other demographic groups illustrate the range of effects predicted for more rigorous voter ID requirements:

Race or Ethnicity

- In the individual-level data for Hispanic voters, the probability of voting dropped by 9.7 percent across the various levels of identification requirements.
- More rigorous ID requirements did not have a statistically significant effect when looking at all African-Americans, but
- African-American voters from households below the poverty line were 7.5 percent less likely to vote as the ID requirements varied from stating one's name to providing photo identification.

Income

- Citizens from poor households were 5.3 percent less likely to vote as the requirements varied from stating one's name to attesting to one's identity in an affidavit.

Education

- Registered voters who had not graduated from high school were 6.7 percent less likely to say they voted as the requirements ranged from stating one's name to providing photo identification.

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Age

- Age was also a key factor, with voters ages 18 to 24 being 7.7 percent to 8.9 percent less likely to vote as the requirements ranged from stating one's name to providing a photo identification or affidavit.
- Turnout by young (18-24) African-American voters in states that required a government-issued photo ID was about 10% less likely to vote than in states where they had only to state their name.
- The elderly, while they would be slightly less likely to vote as the requirements changed from stating name to providing photo ID, would not necessarily be affected in the dramatic manner predicted by opponents of photo identification requirements.

Our analysis of litigation suggests that the courts will look strictly at requirements that voters produce a photo ID in order to cast a regular ballot. The courts have used a balancing test to weigh the legitimate interest in preventing election fraud against the citizen's right to privacy (protecting social security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents. To provide both the clarity and certainty in administration of elections needed to forestall destabilizing challenges to outcomes, best practice for the states may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility.

Evidence on the incidence of vote fraud, especially on the kind of vote fraud that could be reduced by requiring more rigorous voter identification is not now sufficient to evaluate the tradeoffs between ensuring ballot access and ensuring ballot integrity.³ Assessing the effectiveness of voter ID as a way to protect the integrity of the ballot should logically include an estimate of the nature and frequency of vote fraud. This research does not include consideration of vote fraud nor the possible effectiveness of various voter ID regimes to counter attempts at vote fraud. As a result, our analysis of the effects of voter ID requirements on turnout cannot take into account how many potential voters who did not turn out under comparatively stricter voter ID requirements might have been ineligible or eligible to vote.

The current lack of understanding of precisely how voter ID requirements affect turnout can be remedied by requiring the collection and reporting of data on the reasons potential voters are required to cast a provisional ballot and the reasons for rejecting provisional ballots during the

³ The EAC has contracted with other researchers to study vote fraud issues.

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2006 and subsequent elections. Also useful would be the results of surveys of voters on their experiences in meeting voter ID requirements and on what type of ballot they cast.⁴ And, of course, more information is needed on the incidence and varieties of vote fraud, but that inquiry is outside the scope of this report.

A voting system that requires voters to produce an identify document or documents may indeed prevent the ineligible from voting. It may also prevent eligible voters from casting a ballot. If the ID requirement of a ballot protection system blocks ineligible voters from the polls at the cost of preventing eligible voters who lack the required forms of identification, the integrity of the ballot may not have been improved; the harm may be as great as the benefit.

Recommendations for consideration and action by the EAC

The dynamics of Voter ID requirements –how more rigorous voter ID requirements affect the decision by potential voters to go or stay away from the polls-- are not well understood. This lack of understanding should be recognized in the policy process in the states. The debate over voter ID in the states would be improved by additional research sponsored by the EAC.

The EAC should consider the following actions to improve understanding of the relationship between voter ID requirements and the two important goals of ensuring ballot access and ensuring ballot integrity.

1. Encourage or sponsor further research to clarify the connection between Voter ID requirements and the number of potential voters actually able to cast a ballot.
2. Recommend as a best practice the publication of a "Voting Impact Statement" by states as they assess their voter ID requirements to protect the integrity of the ballot. The analysis will help ensure that efforts to increase ballot security have a neutral effect on electoral participation by eligible voters. The Voter Impact Statement would estimate the number and demographics of 1) eligible, potential voters that may be kept from the polls or permitted to cast a provisional ballot by a stricter ID requirement; and 2) and assess the number of ineligible voters who will be prevented from voting by the stricter ID requirements.

⁴ Arizona held its first election with its new, stricter ID requirements on March 14, 2006. In at least one county (Maricopa) election officials handed a survey to voters that asked if they knew about the voter identification law and if they did, how they found out about it. Edythe Jensen, "New Voter ID Law Goes Smoothly in Chandler," *Arizona Republic*, March 15, 2006. More surveys of this kind can illuminate the dynamics of voter ID and voting in ways that are not possible now because of insufficient data.

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3. Encourage or require the states in the 2006 election and beyond, to collect and report reliable, credible information on the relationship between ballot access and ballot security. EAC should publish an analysis of this information to provide a sound factual basis for the states to consider as they estimate the incidence of the kinds of vote fraud that more stringent ID requirements may prevent. The analysis should describe the dynamics of the voter ID process in preserving the security of the ballot. EAC can also use this information to encourage the states to assess the effectiveness of programs to ensure that all eligible voters have required ID and are permitted to vote in future elections.
 - I. Useful information could be supplied by state-sponsored surveys of voters by local election officials. It would make clear why those who cast a provisional ballot were found ineligible to cast a regular ballot. The answers would illuminate the frequency with which ID issues divert voters into the provisional ballot line.
 - II. Surveys to ask voters what they know about the voter id requirements would also provide useful context for evaluating the effect of various voter ID requirements on electoral participation.
 - III. Spot checks by state election officials on how the identification process works at polling places could provide information on how closely actual practice tracks statutory or regulatory requirements. Such reports should be available to the public.
4. Encourage states to examine the time period allowed for voters who cast a provisional ballot because they lacked required ID to return with their identification. In eleven states, voters who had to cast a provisional ballot because they lacked the ID required for a regular ballot were permitted to return later with their ID. Their provision of this ID is the critical step in evaluating the ballots. The length of the period in which the voter may return with ID is important. In setting the time period for return, which now varies among the states from the same day to about two weeks, states should consider three factors: the convenience of the voter, the total time allowed to evaluate ballots⁵, and the safe harbor provision in presidential elections.
5. Recommendations to the states from EAC should reflect current judicial trends. Requirements that voters provide some identifying documentation have been upheld, where photo ID is *not* the only acceptable form. Whether laws requiring photo ID will be upheld is

⁵ Our research on provisional voting reveals that states that provide more than a week to evaluate provisional ballots end up counting substantially more of those ballots than states that provide less than a week.

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more doubtful. To date, only one court has considered a law requiring voters to show photo ID (*Common Cause v. Billups*), and that court concluded that this requirement is likely unconstitutional.

SUMMARY OF RESEARCH

Background and Approach of the Study

Establishing the eligibility of a person to vote has long been part of the electoral process. Voters may have to identify themselves twice in the electoral process: when registering to vote and then when casting a ballot. The pressures felt by the voter arising from the need to check ID, even so simple a check as a signature match, can be greater at the polls on Election Day than at the time of registration. Poll workers may feel under pressure when faced with long lines and limited time.

This analysis focuses on ID requirements on Election Day, but with an appreciation that the ID requirements at time of registration and on Election Day are inter-related.⁶ The emphasis in this report is on Voter ID requirements on Election Day and afterwards as election judges evaluate provisional ballots. This is the critical period for the electoral system, the time when ballot access and ballot security are in the most sensitive balance.

The report looks broadly at voter ID issues and goes beyond the rather narrow identification requirements in HAVA. Much of the current debate in state legislatures over voter ID ranges beyond HAVA to require more rigorous documentation of identity for all would-be voters, not just those who had not registered in person and are casting a ballot for the first time. Current controversies in the states over voter ID seems to have been sparked in part by the HAVA requirements, but goes beyond those requirements, and sets the context for the analysis here.⁷

We recognize that the previously technical, rather dull subject of voter ID requirements has become fiercely partisan and divisive in many states. The polarization of the debate has raised the stakes over this issue, making dispassionate analysis both more valuable and more rare.⁸

⁶ As the Carter-Baker Commission noted, photo ID requirements for in-person voting do little to address the problem of fraudulent registration by mail, especially in states that do not require third-party organizations that register voters to verify ID. Commission on Federal Election Reform, pp 46-47.

⁷ Harvard Law Review 119:1127: "Legislators hoping to stiffen their state antifraud laws have taken their cue from identification provisions buried in HAVA."

⁸ "Of the various electoral procedure laws passed in the fifty states since the 2000 and 2004 presidential elections and those still being debated in state legislatures and local media, few arouse more potent partisan feelings than voter identification laws." Harvard Law Review 119:1144. John Fund's 2004 book, *Stealing Elections: How Voter Fraud Threaten Our Democracy*, cites (pages 16 – 17) a Rasmussen Research poll that asked respondents if they were more concerned with voting by ineligible participants or with disenfranchisement of eligible voters. Sixty-two percent of Kerry supporters, but only 18 percent of Bush supporters, worried more about *disenfranchisement*; 58 percent of Bush supporters, but only 19 percent of Kerry supporters were more concerned with *voter fraud*.

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Voter ID is often described as the critical step in protecting the integrity of the ballot, the process to ensure that the potential voter is eligible and , if eligible, is permitted to cast one ballot and one ballot only. Truly protecting the integrity of the ballot, however, requires a perspective that takes in the entire voting process. It demands more than preventing the ineligible from voting, and should also ensure that all those who are eligible and want to vote can cast a ballot that counts. The protection effort must embrace all forms of voting, including absentee ballots, and consider each step in the process from registration through vote counting.

A voting system that requires voters to produce an identity document or documents may prevent the ineligible from voting. It may also prevent the eligible from casting a ballot. If the ID requirements block ineligible voters from the polls at the cost of preventing eligible voters who cannot obtain or have left at home the required forms of identification, the integrity of the ballot may not have been improved; the harm may be as great as the benefit.

Assessing the effectiveness of voter ID as a way to protect the integrity of the ballot should logically include an estimate of the nature and frequency of vote fraud. The EAC has informed us that it has commissioned a separate analysis of the incidence of vote fraud. Consequently, this research does not include consideration of vote fraud nor the possible effectiveness of various voter ID regimes to counter attempts at vote fraud. As a result, our analysis of the effects of voter ID requirements on turnout cannot take into account how many potential voters who did not turn out under comparatively stricter voter ID requirements might have been ineligible or eligible to vote.

In some states, voters lacking required ID, or who have ID that does not reflect their current address, are able to vote only by casting a provisional ballot.⁹ Voter ID requirements that require voters to bring a document to the polls --rather than simply sign their names-- can divert more voters to the provisional ballot. Requiring poll workers to request and check ID, can put stress on the already demanding environment of the polling place. Scrutiny of ID can create lines at the polling places. Further delays can result when voters cast a provisional ballot and fill out the ballot envelope. Voters who cast a provisional ballot because they lack their ID on Election Day, and who then fail to return with the needed document or documents, will have their ballot

⁹ For example, the Florida voter ID law adopted after the 2004 election and pre-cleared by the Department of Justice, permits voters who cannot meet the ID requirements to sign an affidavit on the envelope of a provisional ballot, which will be counted if the signature matches that on the voter's registration form.

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rejected.¹⁰ And, of course, the cost of processing provisional ballots is greater than the cost of regular ballots.

Each of these potential consequences of more elaborate voter identification processes can increase the chance of litigation. Long lines will, at best, discourage voters and at worst make voting seem a hassle, an impression that could keep more citizens (even those with ID) from the polls. In conducting this analysis, we were sensitive to the observation that the problem with American elections may well be that too many people do not vote rather than that a few people may vote more than once.

Evaluating the effect of different Voter ID regimes can be most effective when based on clear standards –legal, equitable, practical. The standards outlined here can best be described as the questions policy-makers should ask about Voter ID requirements. We suggest 7 questions that address important dimensions of the problem.

1. Is the Voter ID system designed on the basis of valid and reliable empirical studies of the incidence of the sorts of vote fraud it is designed to prevent?¹¹
2. How effective is the ID requirement in increasing the security of the ballot? How well can it be coordinated with a statewide voter database?¹²
3. How practical is the requirement? (Can it be administered smoothly by the staff and budget likely to be made available? How much additional training of polling place workers might be required?) Is it simple enough or can it be defined with sufficient clarity that poll workers throughout the state can administer it uniformly and with a minimum of local interpretation made on the fly under the pressure of Election Day?¹³
4. How cost-effective is the system? Does it demonstrably increase the security of the ballot affordably, measured in both monetary and other costs? To improve

¹⁰ The EAC's Election Day Study found "improper ID," to be the third most common reason for a provisional ballot to be rejected. "Improper ID" was cited by 7 states responding to the survey, compared to 14 mentions for voting in the wrong precinct. *Election Day Study*, Chapter 6, p. 5.

¹¹ "Often where the battle over voter identification is most heated, real evidence of voter fraud proves scarce: in Georgia, for example, the Secretary of State averred that she had never encountered a single instance of voter impersonation at the polls. State laws might sometimes impose tighter restrictions on in-person voting than on absentee ballots, which yield the greatest incidence of, and provide the easiest avenue for, voter fraud. . ." Harvard Law Review 127:1144 (2006)

¹² See the final section of this report for a brief overview of possible effects of a statewide voter database on voter identification issues.

¹³ In New York, in 2004, disparities in training and voting information were made apparent in a study finding elections officials had wildly varying interpretations of what the state's voter identification requirement actually was. Tova Wang, "Warning Bell in Ohio," December 5, 2005. Website, the Foundation for National Progress.

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understanding of the non-monetary component of the costs, conducting a voter impact study might be appropriate. The voter impact study would examine, before the adoption of the regulation, the cost of compliance by the voter (such as the cost in time and money of acquiring a photo ID card), any offsetting benefits to voters, and the possible disparate effects of the regulation on various groups of voters.¹⁴ A thorough, objective impact statement that demonstrated the nexus between the identification regime and the integrity of the ballot could provide protection against inevitable legal challenges.

5. If a side effect of the Voter ID regulation is likely to reduce turnout, generally or among particular groups, is it possible to take other steps to ameliorate the adverse consequences?¹⁵
6. Does it comply with the letter and spirit of Voting Rights Act?
7. The seventh question is the most difficult to answer. Does the Voter ID requirement have a neutral result on the composition of the qualified and eligible electorate? ID requirements should not be designed to, nor unintentionally, reduce the turnout of particular groups of voters or supporters of one party or another.

Voter ID and Turnout

As of the 2004 election, the states and the District of Columbia could be divided into 5 different Voter ID regimes. These are shown in Table 1, *Voter ID Requirements*. Nine states required that voters give their names; 14 that they sign their names; 8 match the signature to a sample in the registration book; 15 require some form of ID (ranging from a utility bill to a government-issued photo ID), and 5 states in 2004 required a photo ID, although in all those states voters without that credential could cast a regular ballot after signing an affidavit concerning their identity and eligibility or provide other forms of ID.

We recognize the difficulties in summarizing each state's voter ID requirements. The problem is illustrated by the number of footnotes to Table 1 below. The variety of statutory and regulatory details among the states is complex. Moving beyond the statutes and regulations,

¹⁴ "Absent clear empirical evidence demonstrating widespread individual voter fraud, legislatures need to fashion narrowly tailored voter identification provisions with an eye toward the inevitable and well-grounded constitutional challenges that will arise in the courts. Only as states grow more adept at administering elections will courts likely demonstrate greater willingness to uphold strict identification requirements." *Harvard Law Review* 127:1144 (2006)

¹⁵ For example, the Carter-Baker Commission coupled its recommendation for a national voter ID card to a call for an affirmative effort by the states to reach out and register the unregistered, that is, to use the new Voter ID regime as a means to enroll more voters. Similarly, Richard Hasen has suggested combining a national voter ID with universal registration. See his "Beyond the Margin of Litigation: Reforming U.S. Election Administration to Avoid Electoral Meltdown," 62 *Washington and Lee Law Review* 937 (2005).

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we also recognize that the assignment of each state to one category may fail to reflect actual practice at many polling places.

Like any system run by fallible people, the voter ID process is subject to variation in practice.¹⁶ Voters may be confronted with demands for identification different from the directives in state statutes or regulation. Under the pressures of Election Day, there is no sure way to report the wide variety of conditions each voter encounters. It seems reasonable to conclude, however, that while actual practices may vary, the variance is around each state's legal requirement for ID. The analysis of the effect of state requirements on turnout must be viewed with some caution. Nevertheless, we are satisfied that the categories used in this report provide a level of discrimination among voter identification regimes sufficient for the analysis that we have undertaken.

TABLE 1 -- Voter ID Requirements¹⁷

State	Forms of ID Required 2004	Current ID Requirement for First-Time Voters	Current ID Requirements for All Other Voters	Verification Method for Provisional Ballots
Alabama	Provide ID	Provide ID	Provide ID	Address & Registration
Alaska	Provide ID	Provide ID	Provide ID	Signature
Arizona	Provide ID	Gov-issued Photo ID	Gov-issued Photo ID ¹	Address & Registration
Arkansas	Provide ID	Provide ID	Provide ID	Address & Registration
California	Sign Name	Sign Name	Sign Name	Signature
Colorado	Provide ID	Provide ID	Provide ID	Address & Registration
Connecticut	Provide ID	Provide ID	Provide ID	Affidavit
D.C.	Sign Name	Provide ID*	Sign Name	Address & Registration
Delaware	Provide ID	Provide ID	Provide ID	Affidavit
Florida	Photo ID ²	Photo ID	Photo ID	Signature
Georgia	Provide ID	Gov. Issued Photo ID	Gov. Issued Photo ID	Affidavit
Hawaii	Photo ID ^{^^}	Photo ID	Photo ID ^{^^}	Affidavit
Idaho	Sign Name	Provide ID*	Sign Name	EDR
Illinois	Give Name	Provide ID*	Match Sig.	Affidavit
Indiana	Sign Name	Gov. Issued Photo ID	Gov. Issued Photo ID	Bring ID Later
Iowa	Sign Name	Provide ID*	Sign Name	Bring ID Later
Kansas	Sign Name	Sign Name	Sign Name	Bring ID Later
Kentucky	Provide ID	Provide ID	Provide ID	Affidavit
Louisiana	Photo ID	Photo ID	Photo ID [^]	DOB and Address
Maine	Give Name	Provide ID*	Give Name	EDR
Maryland	Sign Name	Provide ID*	Sign Name	Bring ID Later
Mass.	Give Name	Provide ID*	Give Name	Affidavit

¹⁶ One state election official told us that, "We have 110 election jurisdictions in Illinois, and I have reason to believe [the voter ID requirements] are administered little bit differently in each one. We wish it weren't that way, but it probably is."

¹⁷ See Appendix 1 for a more detailed summary, including citations and statutory language, of the identification requirements in each state.

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Michigan	Sign Name	Provide ID*	Sign Name	Bring ID Later
Minnesota	Sign Name	Provide ID*	Sign Name	EDR
Mississippi	Sign Name	Provide ID*	Sign Name	Affidavit
Missouri	Provide ID	Provide ID*	Provide ID	Address & Registration
Montana	Provide ID	Provide ID*	Provide ID	Bring ID Later
Nebraska	Sign Name	Provide ID*	Sign Name	Affidavit
Nevada	Match Sig.	Provide ID*	Match Sig.	Affidavit
New Jersey	Match Sig.	Provide ID*	Match Sig.	Bring ID Later
New Mexico	Sign Name	Provide ID	Provide ID	Bring ID Later
New York	Match Sig.	Provide ID*	Match Sig.	Affidavit
NH	Give Name	Provide ID	Give Name	EDR
North Carolina	Give Name	Provide ID*	Give Name	Varies
North Dakota	Provide ID	Provide ID	Provide ID	No Registration
Ohio	Match Sig.	Provide ID	Provide ID	Address & Registration
Oklahoma	Sign Name	Provide ID*	Sign Name	Address & Registration
Oregon	Match Sig.	Provide ID*	Match Sig.	Signature
Penn.	Match Sig.	Provide ID ⁴	Match Sig.	Address & Registration
Rhode Island	Give Name	Provide ID*	Give Name	Address & Registration
South Carolina	Photo ID ⁵	Photo ID	Photo ID ^{^^}	Address & Registration
South Dakota	Photo ID ⁵	Photo ID	Photo ID ^{^^}	Affidavit
Tennessee	Provide ID	Provide ID ⁷	Provide ID	Affidavit
Texas	Provide ID	Provide ID ⁸	Provide ID	Bring ID Later
Utah	Give Name	Provide ID	Give Name	Bring ID Later
Vermont	Give Name	Provide ID	Give Name	Affidavit
Virginia	Provide ID	Provide ID	Provide ID	Affidavit
Washington	Sign Name	Provide ID	Provide ID	Address & Registration
West Virginia	Match Sig.	Provide ID	Match Sig.	Address & Registration
Wisconsin	Give Name	Provide ID	Give Name	Bring ID Later
Wyoming	Give Name	Provide ID	Give Name	Affidavit

* States applies only HAVA's ID requirement, applicable for first-time voters who registered by mail and did not provide applicable ID at the time of registration.

¹ Arizona voters who lack a photo ID may present 2 forms of ID with no photograph.

² Florida required a photo ID in 2004. Voters without that credential could sign an affidavit concerning their identity and eligibility and cast a regular ballot. Florida subsequently changed its law to require that voters present photo ID to cast a regular ballot, though voters without photo ID may still cast a provisional ballot by signing an affidavit, which ballot should ordinarily be counted.

³ Louisiana required a photo ID in 2004. Voters without that credential could sign an affidavit concerning their identity and eligibility and cast a regular ballot.

⁴ Pennsylvania requires ID of all first-time voters, whether they registered by mail or in-person.

⁵ Voters lacking a photo ID could vote by providing another form of ID in 2004.

⁶ Voters lacking a photo ID could vote by providing another form of ID in 2004.

⁷ Tennessee voters must provide signature and address. In counties without computerized lists, the signature is compared to the registration card. In counties with computerized lists, the signature is compared to a signature on ID presented with the registration.

⁸ Texas voters must present a current registration certificate. Those without a certificate can vote provisionally after completing an affidavit.

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Effect of Voter ID requirements on Turnout

We examined the potential variation in turnout rates based on the type of voter identification required in each state on Election Day 2004 using two sets of data: aggregate turnout data at the county level for each state, as compiled by the Eagleton Institute of Politics, and individual-level survey data included in the November 2004 Current Population Survey conducted by the U.S. Census Bureau. Classification of voter identification requirements comes from a review of state statutes conducted by the Moritz College of Law at the Ohio State University.

The Voter ID category assigned to each state is shown in Table 1. We analyzed turnout data for each county according to the voter identification requirements of its state. We also assessed self-reported turnout by the sample interviewed in the November 2004 Current Population Survey of the Census Bureau.¹⁸

Voter turnout at the state level in 2004 varied based on voter identification requirements. An average of 64.6 percent of the citizen voting age population turned out in states that required voters to state their names, compared to 58.1 percent in states that required photo identification. Other factors, of course, also influence turnout. Taking those other factors into account in the county-level analysis makes the effect of the voter ID requirement less dramatic. But the analysis supports the hypothesis that as voter identification requirements become more stringent, turnout declines. The effect is particularly noticeable in counties with concentrations of Hispanic residents or of people living below the poverty line.

The individual-level analysis, based on the CPS, produced a similar result. Voter identification requirements exert a statistically significant, negative effect on whether survey respondents said they had voted in 2004. The probability that a respondent to the survey voted dropped with each level of voter identification requirement, with a total drop of 2.5 percent across the five types of identification.

Methods

Based on research performed for this study by the Moritz College of Law, states had one of five types of requirements in place on Election Day 2004. Upon arrival at polling places, voters had

¹⁸ See Appendix for the full report: Tim Vercellotti, "Analysis of Voter Identification Requirements on Turnout," The Eagleton Institute of Politics, Rutgers University, May 4, 2006.

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to: state their names (nine states); sign their names (13 states and the District of Columbia); match their signature to a signature on file with the local election board (eight states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (five states).¹⁹

We coded the states according to these requirements to test the assumption that voter identification requirements would pose an increasingly demanding requirement in this order: stating one's name, signing one's name, matching one's signature to a signature on file, providing a form of identification, and providing a form of photo identification.

Election laws in many states, however, offer exceptions to these requirements if potential voters lack the necessary form of identification, and laws in those states set a minimum standard that a voter must meet in order to vote using a regular ballot (as opposed to a provisional ballot). In recognition of this fact, we also categorized states based on the *minimum* requirement for voting with a regular ballot.

In 2004 none of the states required photo identification as a minimum standard for voting with a regular ballot. Four states, however, required voters to swear an affidavit as to their identity (Florida, Indiana, Louisiana, and North Dakota). The five categories for minimum requirements were: state name (12 states), sign name (14 states and the District of Columbia), match one's signature to a signature on file (six states), provide a non-photo identification (14 states), or swear an affidavit (four states).

We treated the minimum ID in terms of increasing demand on the voter: state name, sign name, match signature, provide non-photo identification, and, given the potential legal consequences for providing false information, swearing an affidavit.

We examined turnout among U.S. citizens of voting age in both the aggregate and the individual-level data. Determining citizenship status in the individual-level data simply involved restricting the analyses to individuals who identified themselves as citizens in the November 2004 Current Population Survey. (Those who said they were not citizens did not have the

¹⁹ Oregon conducts elections entirely by mail. Voters sign their mail-in ballots, and election officials match the signatures to signatures on file. For the purposes of this analysis, Oregon is classified as a state that requires a signature match.

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opportunity to answer the supplemental voting questions contained in the Current Population Survey.)

The aggregate data posed a greater challenge to determine percentage of the voting-age population that has U.S. citizenship. The Census Bureau gathers information on the citizenship status of adults ages 18 and older only during the decennial census. While the Census Bureau provides annual estimates of the population to account for changes between decennial censuses, the bureau does not offer estimates for the proportion of the adult population who are citizens as part of the annual estimates. To address this issue we estimated the 2004 citizen voting-age population for each county using a method reported. Therefore, we calculated the percentage of the 2000 voting-age population who were citizens in 2000, and applied that percentage to the July 1, 2004 estimates for voting-age population in each county. This method was used in the analysis of the 2004 Election Day Survey conducted for the U.S. Election Assistance Commission.

We classified each state as having one of five types of identification requirements in place on Election Day 2004. Upon arrival at polling places, voters had to either: state their names (9 states); sign their names (13 states and the District of Columbia); match their signature to a signature on file with the local election board (8 states); provide a form of identification that did not necessarily include a photo (15 states); or provide a photo identification (5 states). We then tested the assumption that voter identification requirements would prove to be increasingly demanding on the voter, with providing photo ID the most rigorous. In the statistical analysis, we coded the voter identification requirements on a scale of one to five, with one representing the least demanding form of identification and five representing the most demanding form of identification.

Findings

As the level of required ID proof increases, with photo identification as the most demanding requirement, turnout declines. Averaging across counties in each state, statewide turnout is negatively correlated with maximum voter identification requirements ($r = -.30, p < .0001$). In considering the array of minimum requirements, with affidavit as the most demanding requirement, voter identification also is negatively correlated with turnout ($r = -.20, p < .0001$). Breaking down the turnout rates by type of requirement reveals in greater detail the relationship between voter identification requirements and voter turnout.

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Table 2 – Variation in 2004 State Turnout Based on Voter Identification Requirements

Maximum Requirement		Minimum Requirement	
Voter Identification Required in the States	Mean Voter Turnout for States in that Category	Voter Identification Required in the States	Mean Voter Turnout for States in that Category
State Name	64.6 %	State Name	63.0 %
Sign Name	61.1 %	Sign Name	60.8 %
Match Signature	60.9 %	Match Signature	61.7 %
Provide Non-Photo ID	59.3 %	Provide Non-Photo ID	59.0 %
Provide Photo ID	58.1 %	Swear Affidavit	60.1 %
<i>Average Turnout (All States)</i>	60.9 %		

The aggregate data show that 60.9 percent of the estimated citizen voting age population voted in 2004. Differences in voter turnout at the state level in 2004 varied based on voter identification requirements. Taking into account the maximum requirements, an average of 64.6 percent of the voting age population turned out in states that required voters to state their names, compared to 58.1 percent in states that required photo identification. A similar trend emerged when considering minimum requirements. Sixty-three percent of the voting age population turned out in states requiring voters to state their names, compared to 60.1 percent in states that required an affidavit from voters.

Voter identification requirements alone do not determine voter turnout. Other factors make a difference in turnout, often a greater difference than the ID requirements. Multivariate models can take into account other predictors of turnout and therefore paint a more complete picture of the relationship between voter identification requirements and turnout. The model used here also took into account such variables as:

- Was the county in a presidential battleground state?
- Was the county was in a state with a competitive race for governor and/or the U.S. Senate?
- Percentage of the voting-age population in each county that was Hispanic or African-American
- Percentage of county residents age 65 and older
- Percentage of county residents below the poverty line

The dependent variable in each model was voter turnout at the county level, with turnout calculated as the percentage of the citizen voting-age population that voted in the 2004 election.

The maximum ID requirements had a small and negative effect on turnout in 2004 controlling for electoral context and demographic factors. Both contextual factors (whether the county was in a state that was a battleground state and whether that state had a competitive race for governor and/or U.S. Senate) increased voter turnout. The more senior citizens and African-Americans in the county, the higher the turnout. The percentage of the population living below the poverty reduced turnout. The effect of the percentage of Hispanic adults in the county on turnout fell just short of statistical significance ($p = .05$).

The analysis tested the hypothesis that stricter voter ID requirements dampen turnout among minorities. The data revealed no statistically significant effect on turnout for African-Americans in general. But it revealed a significant reduction in turnout for Hispanics and the poor. The analysis using the minimum ID categories produced similar results.

Analysis of the aggregate data at the county level supports the hypothesis that as voter ID requirements grow stricter, turnout declines. This effect is strongest in counties with concentrations of Hispanic residents or families below the poverty line. But aggregate data cannot fully capture the individual demographic factors that may figure into the decision to turn out to vote. For example, previous research has found that education is a powerful determinant of turnout.²⁰ Married people are more likely to vote than those who are not married. To explore the effects of voter identification requirements on turnout, examining individual-level data is important.

Individual-level Analysis

Information collected for the Census Bureau Current Population Survey in November 2004 makes it possible to examine the influence of voter ID requirements at the individual level. Self-identified registered voters reported their experience at the polls in the survey. Note that the voter turnout rate for the CPS sample, an average of 89%, is much higher than the turnout rates presented in the aggregate data analysis, which average 60.9%. The difference is a result of several factors, including different denominators in calculating the turnout rate – self-reported registered voters in the CPS versus the much larger citizen voting-age population for the

²⁰ Education is an important factor in predicting turnout. One version of the aggregate model not reported here included the percentage of adults in the county who had at least a college degree. The measure was highly collinear with the percentage of residents living below the poverty line, necessitating removal of the college degree variable from the model.

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aggregate data. Also some survey respondents overstate their incidence of voting. Nevertheless, the CPS serves as a widely accepted source of data on voting behavior.

One of the advantages of the CPS is the sheer size of the sample. The survey's Voting and Registration Supplement consisted of interviews, either by telephone or in person, with 96,452 respondents.²¹ The large sample size permits analyses of smaller groups, such as Black or Hispanic voters or voters with less than a high school education. The analyses reported here are based on reports from self-described registered voters. Excluded are those who said they were not registered to vote and those who said they cast absentee ballots because the identification requirements for absentee ballots may differ from those required when one votes in person. Also excluded are respondents who said they were not U.S. citizens.²²

The dependent variable in these analyses is whether a respondent reported voting in the November 2004 election. As in the aggregate analysis, stricter voter ID requirements exert a statistically significant, negative effect on whether survey respondents said they had voted in 2004.

Table 3 Predicted probability of voter turnout		
ID Category	Maximum requirement	Minimum requirement
State name	91.2%	91.1%
Sign name	90.6%	90.3%
Match signature	90.0%	89.5%
ID	89.4%	88.7%
Photo ID	88.7%	---
Affidavit	---	87.8%
Difference from lowest to highest	2.50%	3.30%
N	54,973	
Predicted probability of registered voters saying they voted as the identification requirement varies from the lowest to the highest point in the scale, with all other variables held constant. Data source: U.S. Census Bureau, Current Population Survey, Voting and Registration Supplement, November 2004.		

²¹ The Census Bureau allows respondents to answer on behalf of themselves and others in the household during the interview. While proxy reporting of voter turnout raises the possibility of inaccurate reports, follow-up interviews with those for whom a proxy report had been given in the November 1984 CPS showed 99 percent agreement between the proxy report and the information given by the follow-up respondent.

²² The CPS did not ask the voting questions of respondents who were not U.S. citizens. The design of the questionnaire skips those questions for non-citizens.

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The influence of voter identification requirements, holding all other variables constant, is shown in Table 3 below. The probability of voting dropped with each level of voter identification requirement, with a total drop of 2.5 percent, across the five types of identification for the maximum requirement and 3.3% for the minimum requirements.²³

Among the key variables of interest in the debate over voter identification requirements are race, age, income, and education. Given the large sample size (54,973 registered voters), it was possible to break the sample into sub-samples along those demographic lines to explore variation in predicted probability by group.

Both the maximum and minimum identification requirements had negative and statistically significant effects for White/Non-Hispanic voters. Allowing the requirements to vary from stating one's name to providing photo identification or an affidavit showed drops of 2.5 percent and 3.2 percent respectively in the predicted probability of voting. The predicted probability of Hispanics voting ranged from 87 percent if stating one's name was the required form of identification to 77.3 percent if a voter would have to provide an affidavit in order to vote, a difference of 9.7 percent.

The effects of voter identification requirements also varied by age, with the greatest variation occurring among voters ages 18 to 24.

- Turnout in states requiring photo ID was predicted as 8.9 percentage points lower than in states where voters simply stated their names.
- The strictest ID requirements reduced the probability that White/Non-Hispanic voters in the 18- to 24-year-old category would turn out by 7.8 to 9.2 percentage points.
- For African-Americans in the 18- to 24-year-old age group the gap was 10.6 percentage points.

Variation also emerged along the lines of income, with the effects of voter identification requirements varying to a greater extent for voters in households below the poverty line compared to those living above the poverty line.²⁴ Allowing the maximum voting requirement to

²³ The voter turnout percentages may seem disproportionately high compared to the turnout rates reported in the aggregate data analysis. It is important to consider that the turnout rates in the aggregate data were a proportion of all citizens of voting-age population, while the turnout rates for the individual-level data are the proportion of only registered voters who said they voted.

²⁴ Respondents were coded as being above or below the U.S. Census Bureau's 2004 poverty line based on their reported annual household income and size of the household.

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vary from the least to the most demanding, the probability that African-American voters below the poverty line said they had voted dropped by 7.5 percent.

The effects of voter identification requirements varied across education levels as well. Registered voters who had less than a high school education had a 77.5 percent probability of voting if the maximum requirement would be stating one's name, and a 70.8 percent probability if they would have to provide photo identification under the maximum requirement, a difference of 6.7 percent. The range of effects of voter identification requirements was smaller among those with higher levels of education (and non-existent for one category – voters with some college education).

Conclusions of the Analysis

As the stringency of voter identification requirements increases, voter turnout declines. This point emerged from both the aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements. The overall effect for all registered voters was fairly small, but statistically significant.

The effects of voter identification requirements were more pronounced for specific subgroups. Hispanic voters and the poor appeared to be less likely to vote as the level of required identification became more demanding, according to both the aggregate and the individual-level data.

- In the individual-level data, for Hispanic voters, the probability of voting dropped by 9.7 percent across the various levels of minimum identification requirements.
- Survey respondents living in poor households were 5.3 percent less likely to vote as the requirements varied from stating one's name to attesting to one's identity in an affidavit.
- African-American voters from households below the poverty line were 7.5 percent less likely to vote as the maximum requirements varied from stating one's name to providing photo identification.

Effects of voter requirements also varied with education.

- Registered voters who had not graduated from high school were 6.7 percent less likely to say they voted as the maximum requirements ranged from stating one's name to providing photo identification.

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- When considering the minimum requirements, those with less than a high school education were 7.4 percent less likely to say they voted if the requirement was an affidavit as opposed to stating one's name.

Age was also a key factor, with voters ages 18 to 24 being 7.7 percent to 8.9 percent less likely to vote as the requirements ranged from stating one's name to providing a photo identification or affidavit. Breaking down the age group by race, the effects were significant for young White/Non-Hispanic and Black/Non-Hispanic voters.

The results shed additional light on the effects of voter identification requirements on two groups often projected as being particularly sensitive to such requirements: African-American voters and elderly voters.

- The effects on African-American voters were pronounced for two specific sub-samples, African-American voters living below the poverty line and those in the 18- to 24-year-old age group.
- The elderly, while they would be slightly less likely to vote as requirements ranged from least to most demanding, would not necessarily be affected in the dramatic manner predicted by some opposed to photo identification requirements in particular.

The data examined in this project could not capture the dynamics of how identification requirements might lower turnout. Do potential voters who cannot or do not want to meet the identification requirements simply stay away from the polls? Or, do the requirements result in some voters being turned away when they cannot meet the requirements on Election Day? (Proponents of stricter voter ID requirements might argue that some part of the reduction comes from keeping the truly ineligible from voting.)

Our data alone cannot resolve these questions. Knowing more about the "on the ground" experiences of voters concerning identification requirements could guide policy-makers at the state and local level in determining whether and at what point in the electoral cycle a concerted public information campaign might be most effective in helping voters to meet identification requirements. Such knowledge also could help in designing training for election judges to handle questions about, and potential disputes over, voter identification requirements.

It is important to note that the 2004 data do not allow us to draw conclusions about the effect of laws such as those recently passed in Georgia and Indiana, which require government-issued

photo ID. No such laws were in place in 2004, and the five states that then required photo ID at the time allowed voters who signed an affidavit or provided another form of identification to cast a regular ballot.

Litigation Over Voter ID Requirements

A handful of cases have challenged identification requirements in court in recent years. In general, requirements that voters provide some identifying documentation have been upheld, where photo ID is *not* the only acceptable form. Whether laws requiring photo ID will be upheld is more doubtful. To date, only one court has considered a law requiring voters to show photo ID (*Common Cause v. Billups*), and that court concluded that this requirement is likely unconstitutional. Cases challenging the mandatory disclosure of voters' Social Security numbers on privacy grounds have yielded mixed results.

Non-photo identification. For the most part, courts have looked favorably on requirements that voters present some form of identifying documents if the photo identification is not the only form accepted. In *Colorado Common Cause v. Davidson*, No. 04CV7709, 2004 WL 2360485, at *1 (Colo. Dist. Ct. Oct. 18, 2004), plaintiffs challenged a law requiring all in-person voters to show identification (not just first-time registrants). The court upheld this requirement against a constitutional challenge. Similarly, in *League of Women Voters v. Blackwell*, 340 F. Supp. 2d 823 (N.D. Ohio 2004), the court rejected a challenge to an Ohio directive requiring first-time voters who registered by mail to provide one of the HAVA-permitted forms of identification, in order to have their provisional ballots counted. Specifically, the directive provided that their provisional ballots would be counted if the voter (a) orally recited his driver's license number or the last four digits of his social security number or (b) returned to the polling place before it closed with some acceptable identification (including reciting those identification numbers). *Id.* This was found to be consistent with HAVA.

Photo ID. Since the 2004 election, two states have adopted laws requiring photo identification in order to have one's vote counted, without an affidavit exception: Georgia and Indiana. Both these requirements were enacted in 2005 and both have been challenged in court. The Georgia law required voters attempting to cast a ballot in person present a valid form of photographic identification. O.C.G.A. § 21-2-417. On October 18, 2005, the District Court granted the Plaintiff's motion for a preliminary injunction,

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enjoining the application of the new identification requirements on constitutional grounds. In granting the injunction, the court held that plaintiffs' claims under both the Fourteenth Amendment (equal protection) and Twenty-Fourth Amendment (poll tax) had a substantial likelihood of succeeding on the merits at trial (*Common Cause v. Billups*, Prelim. Inj. 96, 104). In January 2006, Georgia enacted a modified version of its photo ID law, which the court has not yet ruled on. In the other state that has enacted a photo ID requirement without an affidavit exception (Indiana), legal challenges have also been filed. (*Indiana Democratic Party v. Rokita* and *Crawford v. Marion County Election Board*). Cross-motions for summary judgment are currently pending. Another case of significance, for purposes of photo ID requirements, is *American Civil Liberties Union of Minnesota v. Kiffmeyer*, No. 04-CV-4653, 2004 WL 2428690, at *1 (D. Minn. Oct. 28, 2004). In that case, the court enjoined a Minnesota law that allowed the use of tribal photo ID cards, only for an Indian who lived on the reservation. 2004 WL 2428690, at *1. The Court found no rational basis for distinguishing based on whether or not the cardholder lives on the reservation. *Id.* at *1, 3. The court's decision in this case indicates that courts are likely to look strictly on photo ID requirements.

Privacy. In *Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993), the court struck down on due process grounds a Virginia law requiring disclosure of voters' social security numbers for voter registration. The social security numbers recorded in voter registration lists had been disclosed to the public and political parties that had requested the lists. The court found that the requirement to give the social security number effectively conditioned rights on the consent to an invasion of privacy. It concluded that this public disclosure of the social security numbers was not necessary to achieve the government's interest in preventing fraud. On the other hand, in *McKay v. Thompson*, 226 F.3d 752 (6th Cir. 2000), the court rejected privacy challenges based on both the Constitution and federal statutes, to a Tennessee law requiring social security numbers for voter registration since 1972. 226 F.3d at 755. Second, the NVRA only permits requiring the minimum amount of information necessary to prevent duplicate voter registration and to determine eligibility. The distinction appears to be between the use of Social Security numbers for internal purposes only, which was deemed permissible, and the disclosure of those numbers to the public which was not.

These decisions suggest that the courts will look strictly at requirements that voters produce a photo ID in order to cast a regular ballot. The courts have used a balancing test to weigh the

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legitimate interest in preventing election fraud against the citizen's right to privacy (protecting social security numbers from public disclosure, for example) and the reasonableness of requirements for identity documents. To provide both the clarity and certainty in administration of elections needed to forestall destabilizing challenges to outcomes, these early decisions suggest that best practice may be to limit requirements for voter identification to the minimum needed to prevent duplicate registration and ensure eligibility.

Developments since 2004

Since the passage of HAVA, with its limited requirements for voter identification, and following the 2004 election, debate over voter ID has taken place in state legislatures across the country. That debate has not been characterized by solid information on the consequences of tightening requirements for voters to identify themselves before being permitted to cast a regular, rather than a provisional, ballot.

Better information might improve the quality of the debate. Answers to the following key questions are not available in a form that might satisfy those on both sides of the argument.

- What is the overall incidence of vote fraud?
- How does fraud take place in the various stage of the process: registration, voting at the polls, absentee voting, or ballot counting?
- What contribution can tighter requirements for voter ID make to reducing vote fraud?
- What would be the other consequences of increasingly demanding requirements for voters to identify themselves? This is the question addressed, within the limits of the available data, in the analysis in this report.

Answering these questions would provide the information needed for more informed judgment in the states as they consider the tradeoffs among the competing goals of ballot integrity, ballot access, and administrative efficiency. The Carter-Baker Commission recognized the tradeoffs when it tied recommendation for national ID to an affirmative effort by government to identify unregistered voters and make it easy for them to register.

State Voter Databases and Voter ID

With the implementation of the HAVA Computerized Statewide Voter Registration List, an application for voter registration for an election for Federal office may not be accepted or processed unless the application includes a driver's license number or last four digits of the

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Social Security number on the voter registration form. This information can be used to verify the identity of the registrant through interfacing with lists maintained by the Motor Vehicle office and Social Security office. If registrants do not have either a driver's license or Social Security number, the State will assign a unique identifier number to that person.

HAVA does not require that the states notify registrants to remedy any failure to provide either of these numbers or to confirm that they have provided a verifiable number. Verification at the time of registration could forestall difficulties at the polling place. HAVA is silent on how the ID might be required at the polling place for new voters whose driving license or Social Security number could not be verified. Errors in recording those numbers are sure to occur.

Some states are wrestling now with these unresolved issues. In New Jersey, for example, pending legislation would require that voters must be able to confirm their registration through a secure access to the SVRL. It also requires voters to present ID at the polls in order to cast a regular ballot if the numbers recorded on the registration have not been verified (or if no verifiable number appears on the registration). It recognizes the HAVA requirement that if the number provided by the voter has not been verified and if the voter does not present ID at the polls, that voter may cast a provisional ballot. The bill does not specify they have to provide ID within 48 hours in order for their vote to count, as is the case with first-time mail-in registrants.

As some states gain experience in this area, the EAC would perform a useful service by making timely recommendations of best practices for all states to consider.

Conclusions

The form of Voter ID required of voters affects turnout. Lack of ID can keep voters from the polls. Or, when they go to the polls, it is reasonable to conclude that stricter Voter ID requirements will divert more voters into the line for provisional ballots. (This conclusion is a conjecture because we lack good data on why voters must cast their ballots provisionally.) The result can be longer lines at the polls and confusion, without a clear demonstration that the security of the ballot is correspondingly increased.²⁵

²⁵ In this connection, the Brennan Center's response to the Carter-Baker Commission report observes that, "while it might be true that in a close election "a small amount of fraud could make the margin of difference," it is equally true that the rejection of a much larger number of eligible voters could make a much bigger difference in the outcome." *Response to the Report of the 2005 Commission on Federal*

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The dynamics of Voter ID requirements –how the more rigorous Voter ID requirements—affect the decision by potential voters to go or stay away from the polls are not well understood. This lack of understanding should be recognized in the policy process. The debate over voter ID in the states would be improved by additional research sponsored by the EAC. So far as it may be necessary to reduce vote fraud made possible by inadequate voter ID, the research could identify methods to eliminate the need for voters to bring specific identity documents with them to the polls while assuring that each voter who casts a ballot is eligible and votes only once. One way to break the connection between the benefits of photo ID and the need for the voter to bring identification to the polling place, as recommended elsewhere by one of the authors of this report, Edward Foley: keep the information to verify a voter's identity in the records at the polling place. Other approaches could be developed.²⁶

Election Reform, The Brennan Center for Justice at NYU School of Law and Spencer Overton, On Behalf Of The National Network on State Election Reform, September 19, 2005

²⁶ "A potential solution to this problem is to break the connection with the photo requirement and the obligation to produce identification at the polls. Eligible citizens could be required to provide a photograph at the time they *register* to vote, and poll workers would match this photograph with the image of the person standing in front of them. Given the availability of digital photography, the photos of registered voters could be stored in electronic poll books and easily "pulled up" with a click of a computer mouse when voters sign in to vote. . . Of course, to satisfy the concerns of liberals, a requirement to provide a digital photograph at time of registration would have to address the cost and accessibility issues identified earlier. "

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Appendices

- a. Summary of Voter ID Requirements by State (included)
- b. Summary of case law on Voter ID issues (included with this draft)
- c. Analysis of Effects of Voter ID Requirements on Turnout (furnished separately)
- d. Indexed database of major articles on Voter ID Requirements and related topics
- e. Compendium of states' legislation, procedures, and litigation (available as an electronic document)

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Appendix A

Summary of Voter Identification Requirements By State

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Voter ID Requirements

State	Forms of ID Required 2004	Statutory Language	Statutory Citation
Alabama	Provide ID	<p>(b) Each elector shall provide identification to an appropriate election official prior to voting. A voter required to show identification when voting in person shall present to the appropriate election official either of the following forms of identification:</p> <p>(1) A current valid photo identification. (2) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. The term "other government document" may include, but is not limited to, any of the following:</p> <p>a. A valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification. b. A valid United States passport. c. A valid Alabama hunting or fishing license. d. A valid Alabama permit to carry a pistol or revolver. e. A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States. f. A valid United States military identification card. g. A certified copy of the elector's birth certificate. h. A valid Social Security card. i. Certified naturalization documentation. j. A certified copy of court records showing adoption or name change. k. A valid Medicaid card, Medicare card, or an Electronic Benefits Transfer Card (formerly referred to as a "food stamp card").</p> <p>(c) For voters required to show identification when voting by mail, the voter shall submit with the ballot a copy of one of the forms of identification listed in subsection (b). (e) An individual required to present identification in accordance with this section who is unable to meet the identification requirements of this section shall be permitted to vote by a challenged or provisional ballot, as provided for by law.</p> <p>(f) In addition, an individual who does not have identification in his or her possession at the polls shall be permitted to vote if the individual is positively identified by two election officials as a voter on the poll list who is eligible to vote and the election official signs the voters list by where the voter signs.</p> <p>Effective Date: June 24, 2003</p>	Ala. Code § 17-11A-1
Alaska	Provide ID	<p>(a) Before being allowed to vote, each voter shall exhibit to an election official one form of identification, including</p> <p>(1) an official voter registration card, driver's license, state identification card, current and valid photo identification, birth certificate, passport, or hunting or fishing license; or</p> <p>(2) an original or a copy of a current utility bill, bank statement, paycheck, government check, or other government document; an item exhibited under this</p>	Alaska Stat. § 15.15.225

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		<p>paragraph must show the name and current address of the voter.</p> <p>(b) An election official may waive the identification requirement if the election official knows the identity of the voter. The identification requirement may not be waived for voters who are first-time voters who initially registered by mail or by facsimile or other electronic transmission approved by the director under <u>AS 15.07.050</u>, and did not provide identification as required in <u>AS 15.07.060</u>.</p> <p>(c) A voter who cannot exhibit a required form of identification shall be allowed to vote a questioned ballot.</p> <p>effective June 17, 2003</p>	
Arizona	Provide ID	<p>B. If a statewide voter registration database is not yet operational, for any person who has registered to vote by mail for the first time in this state after January 1, 2003 or who is reregistering by mail after January 1, 2003 after moving from one county to another county in this state, the person shall comply with the following in order to be issued a ballot:</p> <p>1. The person shall present either one of the following:</p> <p>(a) A current form of identification that bears a photograph of the person and the name of the person.</p> <p>(b) A current utility bill, bank statement, paycheck, government issued check or other government document that shows the name and registration address of the person.</p> <p>2. If the person does not present a document that complies with paragraph 1, the person is only eligible to vote a provisional ballot as prescribed by <u>§ 16-584</u>.</p> <p>Effective Dec. 1, 2003</p>	Ariz. Rev. Stat. Ann. § 16-579
Arkansas	Provide ID	<p>7-5-305. Requirements.</p> <p>(a) Before a person is permitted to vote, the election official shall:</p> <p>(1) Request the voter to identify himself in order to verify the existence of his name on the precinct voter registration list;</p> <p>(2) Request the voter, in the presence of the election official, to state his address and state or confirm his date of birth;</p> <p>(3) Determine that the voter's date of birth and address are the same as those on the precinct voter registration list;</p> <p>(4) If the date of birth given by the voter is not the same as that on the precinct voter registration list, request the voter to provide identification as the election official deems appropriate;</p> <p>(5)(A) If the voter's address is not the same as that on the precinct voter registration list, verify with the county clerk that the address is within the precinct.</p> <p>(B) If the address is within the precinct, request the voter to complete a voter registration application form for the purpose of updating county voter registration record files.</p> <p>(C) If the address is not within the precinct, instruct the voter to contact the county clerk's office to determine the proper precinct;</p> <p>(6) If the voter's name is not the same as that on the precinct voter registration list, request the voter to complete a voter registration application form for purposes of updating county voter registration record files;</p> <p>(7) Request the voter, in the presence of the election official, to sign his name, including his given name, his middle name or initial, if any, and his last name in the space provided on the precinct voter registration list. If a person is unable to sign his signature or make his mark or cross, the election official shall enter his initials and the voter's date of birth in the space for the person's signature on the precinct voter registration list; and</p>	Arkansas Code Annotated § 7-5-305

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		<p>(8)(A) Request the voter for purposes of identification to provide a valid driver's license, photo identification card issued by a governmental agency, voter card, social security card, birth certificate, United States passport, employee identification card issued by a governmental agency containing a photograph, employee identification card issued in the normal course of business of the employer, student identification card, Arkansas hunting license, or United States military identification card.</p> <p>(B)(i) If a voter is unable to provide this identification, the election official shall indicate on the precinct voter registration list that the voter did not provide identification.</p> <p>(ii) Following each election, the county board of election commissioners may review the precinct voter registration lists and may provide the information of the voters not providing identification at the polls to the prosecuting attorney.</p> <p>(iii) The prosecuting attorney may investigate possible voter fraud; and</p> <p>(9) Follow the procedures under §§ 7-5-310, 7-5-311, and 7-5-523, if the person is a disabled voter and presents himself or herself to vote.</p> <p>Effective: July 16, 2003</p>	
<p>California</p>	<p>Sign Name</p>	<p>Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct officers finds the name in the index, the officer shall in a like manner repeat the name and address. The voter shall then write his or her name and residence address or, if the voter is unable to write, shall have the name and residence address written by another person on a roster of voters provided for that purpose, whereupon a challenge may be interposed as provided in this article.</p> <p>(Enacted in 1994, no amendments since)</p>	<p>Cal. Elec. Code § 14216</p>
<p>Colorado</p>	<p>Provide ID</p>	<p>(1) Except as provided in subsection (4) of this section, any eligible elector desiring to vote shall show his or her identification as defined in <u>section 1-1-104(19.5)</u>, write his or her name and address on the signature card, and give the signature card to one of the election judges, * * *</p> <p>(4) An eligible elector who is unable to produce identification may cast a provisional ballot in accordance with article 8.5 of this title.</p> <p>(19.5)(a) "Identification" means:</p> <p>(I) A valid Colorado driver's license;</p> <p>(II) A valid identification card issued by the department of revenue in accordance with the requirements of part 3 of article 2 of title 42, C.R.S.;</p> <p>(III) A valid United States passport;</p> <p>(IV) A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;</p> <p>(V) A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States;</p> <p>(VI) A valid United States military identification card with a photograph of the eligible elector;</p> <p>(VII) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector;</p> <p>(VIII) A valid medicare or medicaid card issued by the United States health care</p>	<p>Colo. Rev. Stat. Ann. § 1-7-110; Colo. Rev. Stat. Ann. § 1-1-104</p>

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		<p>financing administration;</p> <p>(IX) A certified copy of a birth certificate for the elector issued in the United States; or</p> <p>(X) Certified documentation of naturalization.</p> <p>(b) Any form of identification indicated in paragraph (a) of this subsection (19.5) that shows the address of the eligible elector shall be considered identification only if the address is in the state of Colorado.</p> <p>Effective 5/28/2004</p>	
Connecticut	Provide ID	<p>(a) In each primary, election or referendum, when an elector has entered the polling place, the elector shall announce the elector's street address, if any, and the elector's name to the checkers in a tone sufficiently loud and clear as to enable all the election officials present to hear the same. Each elector who registered to vote by mail for the first time on or after January 1, 2003, and has a "mark" next to the elector's name on the official registry list, as required by section 9-23r, shall present to the checkers, before the elector votes, either a current and valid photo identification that shows the elector's name and address or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the elector. Each other elector shall (1) present to the checkers the elector's Social Security card or any other preprinted form of identification which shows the elector's name and either the elector's address, signature or photograph, or (2) on a form prescribed by the Secretary of the State, write the elector's residential address and date of birth, print the elector's name and sign a statement under penalty of false statement that the elector is the elector whose name appears on the official checklist. Such form shall clearly state the penalty of false statement. A separate such form shall be used for each elector. If the elector presents a preprinted form of identification under subdivision (1) of this subsection, the checkers shall check the name of such elector on the official checklist. If the elector completes the form under subdivision (2) of this subsection, the assistant registrar of voters shall examine the information on such form and either instruct the checkers to check the name of such elector on the official checklist or notify the elector that the form is incomplete or inaccurate.</p> <p>Effective May 10., 2004</p>	Conn. Gen. Stat. Ann. § 9-261
Delaware	Provide ID	<p>(a) A voter, upon entering the room where an election is being held, shall announce his or her name and address and provide proof of identity, whereupon the clerks shall place a mark or make a notation of his or her name upon the election district record. In the event the voter does not have proof of identity with them, he or she shall sign an affidavit of affirmation that he or she is the person listed on the election district record.</p> <p>Effective: July 9, 2002</p>	15 Del. Code § 4937
D.C.	Sign Name	<p>(i)(1) A person shall be entitled to vote in an election in the District of Columbia if he or she is a duly registered voter. A qualified elector shall be considered duly registered in the District if he or she has met the requirements for voter registration and, on the day of the election, either resides at the address listed on the Board's records or files an election day change of address pursuant to this subsection.</p> <p>(2) Each registered voter who changes his or her place of residence from that listed on the Board's records shall notify the Board, in writing, of the new residence address. A change of address shall be effective on the date the notification was mailed as shown by the United States Postal Service postmark. If not postmarked, the notification shall be effective on the date of receipt by the Board. Change of address notifications from registrants shall be accepted pursuant to subsection (g) of this section, except that any registrant who has not notified the Board of his or her current residence address by the deadline established by subsection (g) of this section may be permitted to vote at the</p>	D.C. Code § 1-1001.07

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		<p>polling place that serves the current residence address by filing an election day change of address notice pursuant to paragraph (4) of this subsection.</p> <p>(3) Each registered voter who votes at a polling place on election day shall affirm his or her residence address as it appears on the official registration roll for the precinct. The act of signing a copy of the official registration roll for the precinct shall be deemed affirmation of the voter's address as it appears on the Board's registration records.</p> <p>(Effective April 3, 2001)(not added as part of 2005 amendment)</p>	
<p>Florida</p>	<p>Photo ID</p>	<p>101.043 (1) The precinct register, as prescribed in <u>s. 98.461</u>, shall be used at the polls in lieu of the registration books for the purpose of identifying the elector at the polls prior to allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present a current and valid picture identification as provided in <u>s. 97.0535(3)(a)</u>. If the picture identification does not contain the signature of the voter, an additional identification that provides the voter's signature shall be required. The elector shall sign his or her name in the space provided, and the clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.</p> <p>(2) Except as provided in subsection (3), if the elector fails to furnish the required identification, or if the clerk or inspector is in doubt as to the identity of the elector, such clerk or inspector shall follow the procedure prescribed in <u>s. 101.49</u>.</p> <p>97.0535 (3)(a) The following forms of identification shall be considered current and valid if they contain the name and photograph of the applicant and have not expired:</p> <ol style="list-style-type: none"> 1. Florida driver's license. 2. Florida identification card issued by the Department of Highway Safety and Motor Vehicles. 3. United States passport. 4. Employee badge or identification. 5. Buyer's club identification. 6. Debit or credit card. 7. Military identification. 8. Student identification. 9. Retirement center identification. 10. Neighborhood association identification. 11. Entertainment identification. 12. Public assistance identification. <p>(b) The following forms of identification shall be considered current and valid if they contain the name and current residence address of the applicant:</p> <ol style="list-style-type: none"> 1. Utility bill. 	<p>West's Fla. Stat. Ann. § 101.043 & West's Fla. Stat. Ann. § 97.0535</p>

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		<p>2. Bank statement.</p> <p>3. Government check.</p> <p>4. Paycheck.</p> <p>5. Other government document (excluding voter identification card).</p> <p>Version effective 1/1/2005-12/31/2005</p>	
<p>Georgia</p>	<p>Provide ID</p>	<p>(a) Each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:</p> <ol style="list-style-type: none"> (1) A valid Georgia driver's license; (2) A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification; (3) A valid United States passport; (4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state; (5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business; (6) A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia; (7) A valid Georgia license to carry a pistol or revolver; (8) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States; (9) A valid United States military identification card; (10) A certified copy of the elector's birth certificate; (11) A valid social security card; (12) Certified naturalization documentation; (13) A certified copy of court records showing adoption, name, or sex change; (14) A current utility bill, or a legible copy thereof, showing the name and address of the elector; (15) A bank statement, or a legible copy thereof, showing the name and address of the elector; (16) A government check or paycheck, or a legible copy thereof, showing the name and address of the elector; or (17) A government document, or a legible copy thereof, showing the name and address of the elector. <p>(b) If an elector is unable to produce any of the items of identification listed in subsection (a) of this Code section, he or she shall sign a statement under oath in a form approved by the Secretary of State, separate and distinct from the elector's voter certificate, swearing or affirming that he or she is the person identified on the elector's voter certificate. Such person shall be allowed to vote without undue delay; provided, however, that an elector who registered for the first time in this state by mail and did not provide one of the forms of identification set forth in subsection (a) of this Code section at the time of registration and who is voting for the first time may vote a provisional ballot pursuant to Code Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this Code section within the time period for verifying provisional ballots pursuant to Code Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement."</p> <p>effective June, 2003</p>	<p>Ga. Code. Ann. § 21-2-417</p>

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Hawaii	Photo ID	<p>(b) The voter shall present valid identification to the official in charge of the pollbook.</p> <p><i>Do I Need an I.D. to Vote on Election Day?</i> Yes. Be sure to have an I.D. with a picture and signature (such as a Hawaii driver's license or state I.D. card) when you go to vote. The NVRAC card is not an acceptable form of identification.</p> <p>From the 2004 version of the administrative code.</p> <p>§ 11-136 Poll book, identification, voting.</p> <p>Every person upon applying to vote shall sign the person's name in the poll book prepared for that purpose. This requirement may be waived by the chairperson of the precinct officials if for reasons of illiteracy or blindness or other physical disability the voter is unable to write. Every person shall provide identification if so requested by a precinct official. A poll book shall not contain the social security number of any person.</p> <p>After signing the poll book and receiving the voter's ballot, the voter shall proceed to the voting booth to vote according to the voting system in use in the voter's precinct. The precinct official may, and upon request shall, explain to the voter the mode of voting.</p> <p>Last amended 2003.</p>	<p>Haw. Code. R. § 2-51-80 (Paper ballots; voting procedure at the polls), § 2-51-83 (Punchcard ballots; voting procedure at polls), 2-51-85.1 (Marksense ballots; voting procedure at the polls.) – All have same subsection (b)</p> <p>Haw. Code. R. T. 2, SUBT. 4, CH. 51, Appendix</p> <p>HRS 11-136</p>
Idaho	Sign Name	<p>(1) An elector desiring to vote shall state his name and address to the judge or clerk in charge of the combination election record and poll book.</p> <p>(2) Before receiving his ballot, each elector shall sign his name in the combination election record and poll book following his name therein.</p> <p>(5) The elector shall then be given the appropriate ballots which have been stamped with the official election stamp and shall be given folding instructions for such ballots.</p> <p>(Last amended in 1972)</p>	Id. St. §34-1106
Illinois	Give Name	<p>Any person desiring to vote shall give his name and, if required to do so, his residence to the judges of election, one of whom shall thereupon announce the same in a loud and distinct tone of voice, clear, and audible; the judges of elections shall check each application for ballot against the list of voters registered in that precinct to whom absentee or early ballots have been issued for that election, which shall be provided by the election authority and which list shall be available for inspection by pollwatchers. A voter applying to vote in the precinct on election day whose name appears on the list as having been issued an absentee or early ballot shall not be permitted to vote in the precinct. All applicable provisions of Articles 4, 5 or 6 shall be complied with and if such name is found on the register of voters by the officer having charge thereof, he</p>	10 Ill. Comp. Stat. 5/17-9

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		<p>shall likewise repeat said name, and the voter shall be allowed to enter within the proximity of the voting booths, as above provided. One of the judges shall give the voter one, and only one of each ballot to be voted at the election, on the back of which ballots such judge shall indorse his initials in such manner that they may be seen when each such ballot is properly folded, and the voter's name shall be immediately checked on the register list. In those election jurisdictions where perforated ballot cards are utilized of the type on which write-in votes can be cast above the perforation, the election authority shall provide a space both above and below the perforation for the judge's initials, and the judge shall endorse his or her initials in both spaces. Whenever a proposal for a constitutional amendment or for the calling of a constitutional convention is to be voted upon at the election, the separate blue ballot or ballots pertaining thereto shall, when being handed to the voter, be placed on top of the other ballots to be voted at the election in such manner that the legend appearing on the back thereof, as prescribed in Section 16-6 of this Act, shall be plainly visible to the voter. At all elections, when a registry may be required, if the name of any person so desiring to vote at such election is not found on the register of voters, he or she shall not receive a ballot until he or she shall have complied with the law prescribing the manner and conditions of voting by unregistered voters. If any person desiring to vote at any election shall be challenged, he or she shall not receive a ballot until he or she shall have established his right to vote in the manner provided hereinafter; and if he or she shall be challenged after he has received his ballot, he shall not be permitted to vote until he or she has fully complied with such requirements of the law upon being challenged. Besides the election officer, not more than 2 voters in excess of the whole number of voting booths provided shall be allowed within the proximity of the voting booths at one time. The provisions of this Act, so far as they require the registration of voters as a condition to their being allowed to vote shall not apply to persons otherwise entitled to vote, who are, at the time of the election, or at any time within 60 days prior to such election have been engaged in the military or naval service of the United States, and who appear personally at the polling place on election day and produce to the judges of election satisfactory evidence thereof, but such persons, if otherwise qualified to vote, shall be permitted to vote at such election without previous registration.</p>	
Indiana	Sign Name		West's Annotated Indiana Code § 3-11-8-25
Iowa	Sign Name	<p>1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:</p> <p style="text-align: center;">VOTER'S DECLARATION OF ELIGIBILITY</p> <p>I do solemnly swear or affirm that I am a resident of the precinct, ward or township, city of, county of, Iowa.</p> <p>I am a registered voter. I have not voted and will not vote in any other precinct in said election.</p> <p>I understand that any false statement in this declaration is a criminal offense punishable as provided by law.</p> <p style="text-align: center;">_____ Signature of Voter</p> <p style="text-align: center;">_____ Address</p> <p style="text-align: center;">_____ Telephone</p> <p>Approved: _____</p>	Iowa Code § 49.77

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		<p>Board Member</p> <p>2. One of the precinct election officials shall announce the voter's name aloud for the benefit of any persons present pursuant to section 49.104, subsection 2, 3, or 5. Any of those persons may upon request view the signed declarations of eligibility and may review the signed declarations on file so long as the person does not interfere with the functions of the precinct election officials.</p> <p>3. A precinct election official shall require any person whose name does not appear on the election register as an active voter to show identification. Specific documents which are acceptable forms of identification shall be prescribed by the state commissioner.</p> <p>A precinct election official may require of the voter unknown to the official, identification upon which the voter's signature or mark appears. If identification is established to the satisfaction of the precinct election officials, the person may then be allowed to vote.</p> <p>(From 2004 version of Iowa Annotated Code; effective January 1, 1995)</p>	
Kansas	Sign Name	<p>(b) A person desiring to vote shall provide to the election board: (1) the voter's name; (2) if required, the voter's address; and (3) the voter's signature on the registration or poll book. A signature may be made by mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding. A signature may be made by another person at the voter's direction if the signature reflects such voter's intention.</p> <p>(Approved April 14, 2004, 2004 Kansas Laws Ch. 93)</p>	Kan. Stat. Ann. § 25-2908(b)
Kentucky	Provide ID	<p>117.227 Confirmation of voter's identity</p> <p>Election officers shall confirm the identity of each voter by personal acquaintance or by a document, such as a motor vehicle operator's license, Social Security card, or credit card. The election officer confirming the identity shall sign the precinct voter roster and list the method of identification.</p> <p>Effective: 7/15/02</p> <p>31 KAR 4:010. Voter identification cards.</p> <p>Section 1. In addition to the forms of identification specifically provided for by <u>KRS 117.227</u>, any identification card that bears both the picture and signature of the voter, or any identification card that has been issued by the county, and which has been approved in writing by the State Board of Elections, shall be acceptable for confirmation of the voter's identity.</p>	<p>Ky Rev. Stat. Ann. 117.227</p> <p>31 Ky. Admin. Regs. 4:010.</p>
Louisiana	Photo ID	<p>A. Identification of voters.</p> <p>(1) A person who desires to vote in a primary or general election shall give his name and address to a commissioner, who shall announce the applicant's name and address to the persons at the polling place.</p> <p>(2) Each applicant shall identify himself, in the presence and view of the bystanders, and present to the commissioners a Louisiana driver's license, a Louisiana special identification card issued pursuant to R.S. 40:1321, or other generally recognized picture identification card. If the applicant does not have a Louisiana driver's license, a Louisiana special identification card, or other generally recognized picture identification card, the applicant shall sign an affidavit, which is supplied by the secretary of state, to that effect before the commissioners who shall place the affidavit in the envelope marked "Registrar of Voters" and attach the envelope to the precinct register, and the applicant</p>	La. Rev. Stat. Ann. 18:562

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		shall provide further identification by presenting his current registration certificate, giving his date of birth or providing other information stated in the precinct register that is requested by the commissioners. However, an applicant that is allowed to vote without the picture identification required by this Paragraph is subject to challenge as provided in <u>R.S. 18:565</u> . Effective: 1/1/2002	
Maine	Give Name	The voting procedure is as follows. 1. Name announced. A voter who wishes to vote must state the voter's name and, upon request, residence address to an election clerk who shall announce the name in a loud, clear voice. (In effect at time of 2003 amendment: 2003, c. 584, § 9)	Me. Rev. Stat. Ann. tit. 21-A, § 671
Maryland	Sign Name	10-310. (a) For each individual who seeks to vote, an election judge, in accordance with instructions provided by the local board, shall: (1) locate the individual's name in the precinct register and locate the preprinted voting authority card and then authorize the individual to vote a regular ballot; (2)(i) if the individual's name is not found on the precinct register, search the inactive list and if the name is found, authorize the individual to vote a regular ballot; or (ii) if the individual's name is not on the inactive list, refer the individual for provisional ballot voting under § 9-404 of this article; (3) establish the identity of the voter by requesting the voter to state the month and day of the voter's birth and comparing the response to the information listed in the precinct register; (4) verify the address of the voter's residence; (5) if any changes to the voting authority card are indicated by a voter, make the appropriate changes in information on the card or other appropriate form; and (6) have the voter sign the voting authority card and either issue the voter a ballot or send the voter to a machine to vote.	Md. Elec. Law § 10-310
Mass.	Give Name	Each voter desiring to vote at a polling place shall give his name and, if requested, his residence to one of the officers at the entrance to the space within the guard rail, who shall thereupon distinctly announce the same. If such name is found on the voting list, the election officer shall check and repeat the name and shall admit the voter to the space enclosed by the guard rail and, in case official ballots, other than those marked "Challenged Ballots" as provided by section thirty-five A, are used, such voter shall be given one ballot. The use of electronic means such as tape recording equipment or radio broadcasting equipment for the recording or broadcasting of the names of voters not yet checked as having voted shall be prohibited. Last amended in 1981 (5B) Identification. If so authorized by the city or town clerk or registrars of voters, an election officer may request any voter to present written identification. Such requests shall not discriminate in any way, but shall be entirely random, consistent, or based on reasonable suspicion. For the purpose of 950 CMR 52.03(5B), of M.G.L. c. 54, § 76B, and of 950 CMR 52.03(5)(b), suitable written identification includes a driver's license, recent utility bill, rent receipt on a landlord's printed letterhead, lease, duplicate copy of a voter registration affidavit, or any other printed identification which contains the voter's name and address. If voters fail to present suitable written identification when so requested, they must still be allowed to vote, but an election officer or any other person may challenge their right to vote under M.G.L. c. 54, § 85 and 950 CMR 52.03(23).	Mass. Ann. Laws 54 § 76 950 Mass. Code Regs. 52.03
Michigan	Sign Name	(1) At each election, before being given a ballot, each registered elector offering to vote shall identify himself or herself by presenting an official state	Mich. Comp. Laws Ann. §

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		<p>identification card issued to that individual pursuant to Act No. 222 of the Public Acts of 1972, being sections 28.291 to 28.295 of the Michigan Compiled Laws, an operator's or chauffeur's license issued to that individual pursuant to the Michigan Vehicle Code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or other generally recognized picture identification card and by executing an application showing his or her signature or mark and address of residence in the presence of an election official. If the voter registration cards are used in the precinct, the election official in charge of the precinct registration file shall compare the signature upon the application with the signature upon the registration card. If voter registration lists are used in the precinct, the election inspector shall determine if the name on the application to vote appears on the voter registration list. If the name appears on the voter registration list, the elector shall provide further identification by giving his or her date of birth or other information stated upon the voter registration list. In precincts using voter registration lists, the date of birth may be required to be placed on the application to vote. If the signature or an item of information does not correspond, the vote of the person shall be challenged, and the same procedure shall be followed as provided in this act for the challenging of an elector. If the person offering to vote has signed the registration card or application by making a mark, the person shall identify himself or herself by giving his or her date of birth, which shall be compared with the date of birth stated upon the registration card or voter registration list, or shall give other identification as may be referred to upon the registration card or voter registration list. If the elector does not have an official state identification card, operator's or chauffeur's license as required in this subsection, or other generally recognized picture identification card, the individual shall sign an affidavit to that effect before an election inspector and be allowed to vote as otherwise provided in this act. However, an elector being allowed to vote without the identification required under this subsection is subject to challenge as provided in section 727.</p> <p>(2) If, upon a comparison of the signature or other identification, it is found that the applicant is entitled to vote, the election officer having charge of the registration list shall approve the application and write his or her initials on the application, after which the number on the ballot issued shall be noted on the application. The application shall serve as 1 of the 2 poll lists required to be kept as a record of a person who has voted. The application shall be filed with the township, city, or village clerk. If voter registration cards are used in the precinct, the date of the election shall be noted by 1 of the election officials upon the precinct registration card of each elector voting at an election. If voter registration lists are used in the precinct, the election official shall clearly indicate upon the list each elector voting at that election. The clerk of a city, village, or township shall maintain a record of voting participation for each registered elector.</p> <p>The Attorney General declared that this statute violated the Equal Protection Clause of the Fourteenth Amendment. Op. Atty. Gen. 1997, No. 6930. That decision is binding on all state agencies.</p> <p>(Effective March 31, 1997)</p>	168.523
Minnesota	Sign Name	<p>(a) An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or convicted of a felony without having civil rights restored, is registered and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not</p>	Minn. Stat. § 204C.10

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		<p>more than \$10,000, or both."</p> <p>(b) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth.</p> <p>(c) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.</p> <p>(Effective January 1, 2004)</p>	
Mississippi	Sign Name	<p>***</p> <p>When any person entitled to vote shall appear to vote, he shall first sign his name in a receipt book or booklet provided for that purpose and to be used at that election only and said receipt book or booklet shall be used in lieu of the list of voters who have voted formerly made by the managers or clerks; whereupon and not before, the initialing manager or, in his absence, the alternate initialing manager shall indorse his initials on the back of an official blank ballot, prepared in accordance with law, and at such place on the back of the ballot that the initials may be seen after the ballot has been marked and folded, and when so indorsed he shall deliver it to the voter, which ballot the voter shall mark in the manner provided by law, which when done the voter shall deliver the same to the initialing manager or, in his absence, to the alternate initialing manager, in the presence of the others, and the manager shall see that the ballot so delivered bears on the back thereof the genuine initials of the initialing manager, or alternate initialing manager, and if so, but not otherwise, the ballot shall be put into the ballot box; and when so done one (1) of the managers or a duly appointed clerk shall make the proper entry on the pollbook. If the voter is unable to write his name on the receipt book, a manager or clerk shall note on the back of the ballot that it was receipted for by his assistance.</p> <p>(Effective January 1, 1987)</p>	Miss. Code Ann. § 23-15-541
Missouri	Provide ID	<p>1. Before receiving a ballot, voters shall identify themselves by presenting a form of personal identification from the following list:</p> <p>(1) Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;</p> <p>(2) Identification issued by the United States government or agency thereof;</p> <p>(3) Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;</p> <p>(4) A copy of a current utility bill, bank statement, government check, paycheck or other government document that contains the name and address of the voter;</p> <p>(5) Driver's license or state identification card issued by another state; or</p> <p>(6) Other identification approved by the secretary of state under rules promulgated pursuant to subsection 3 of this section other identification approved by federal law. Personal knowledge of the voter by two supervising election judges, one from each major political party, shall be acceptable voter identification upon the completion of a secretary of state-approved affidavit that is signed by both supervisory election judges and the voter that attests to the personal knowledge of the voter by the two supervisory election judges. The secretary of state may provide by rule for a sample affidavit to be used for such purpose.</p> <p>(Last amended in 2002)</p>	Mo. Rev. Stat. §115.427.1

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Montana	Provide ID	<p>(1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name. If the elector does not present photo identification, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address.</p> <p>(From 2004 version of the Montana Code Annotated; No updates in 2004, only in 2005 [Unrelated section was amended in 2005])</p>	Mont. Code. Ann. §13-13-114(1)(a)
Nebraska	Sign Name	<p>(1) The clerks of election shall have a list of registered voters of the precinct and a sign-in register at the polling place on election day. The list of registered voters shall be used for guidance on election day and may be in the form of a computerized, typed, or handwritten list or precinct registration cards. Registered voters of the precinct shall place and record their signature in the sign-in register before receiving any ballot. The list of registered voters and the sign-in register may be combined into one document.</p> <p>(Last amended in 2003)</p> <p>Official ballots shall be used at all elections. No person shall receive a ballot or be entitled to vote unless and until he or she is registered as a voter except as provided in section 32-914.01, 32-914.02, 32-915, 32-915.01, or 32-936. Except as otherwise specifically provided, no ballot shall be handed to any registered voter at any election until (1) he or she announces his or her name and address to the clerk of election, (2) the clerk has found that he or she is a registered voter at the address as shown by the precinct list of registered voters unless otherwise entitled to vote in the precinct under section 32-328, 32-914.01, 32-914.02, 32-915, or 32-915.01, (3) if the voter registered by mail after January 1, 2003, and has not previously voted in an election for a federal office within the county, the clerk shall ask the registered voter to present a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document that is current and that shows the name and address of the voter, (4) the clerk has instructed the registered voter to personally write his or her name in the precinct sign-in register on the appropriate line which follows the last signature of any previous voter, and (5) the clerk has listed on the precinct list of registered voters the corresponding line number and name of the registered voter.</p> <p>(Last updated in 2003)</p>	<p>Neb. Rev. Stat. § 32-913</p> <p>Neb. Rev. Stat. § 32-914</p>
Nevada	Match Sig.	<p>1. Except as otherwise provided in <u>NRS 293.541</u>, if a person's name appears in the election board register or if he provides an affirmation pursuant to <u>NRS 293.525</u>, he is entitled to vote and must sign his name in the election board register when he applies to vote. His signature must be compared by an election board officer with the signature or a facsimile thereof on his original application to register to vote or one of the forms of identification listed in subsection 2.</p> <p>2. Except as otherwise provided in <u>NRS 293.2725</u>, the forms of identification which may be used individually to identify a voter at the polling place are:</p> <p>(a) The card issued to the voter at the time he registered to vote;</p> <p>(b) A driver's license;</p> <p>(c) An identification card issued by the Department of Motor Vehicles;</p> <p>(d) A military identification card; or</p>	Nev. Rev. Stat. § 293.277

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		(e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture. Last Amendment Effective Jan. 1, 2004.	
NH	Give Name	A person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his or her name to one of the ballot clerks who shall thereupon repeat the name; and, if the name is found on the checklist by the ballot clerk, the ballot clerk shall put a checkmark beside it and again repeat the name. The ballot clerk shall state the address listed on the checklist for the voter, and ask if the address is correct; if the address on the checklist is not correct, the ballot clerk shall correct the address in red on the checklist. The voter, if still qualified to vote in the town or ward and unless challenged as provided for in <u>RSA 659:27-33</u> , shall then be allowed to enter the space enclosed by the guardrail. After the voter enters the enclosed space, the ballot clerk shall give the voter one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state. Last Amendment Effective July 2, 2002.	N.H. Rev. Stat. Ann. 659:13
New Jersey	Match Sig.	19:15-17. Comparison of signatures or statements made openly; provisional ballots for newly registered voters without proper identification a. The comparison of signatures of a voter made upon registration and upon election day, and if the voter alleges his inability to write, the comparison of the answers made by such voter upon registration and upon election day, shall be had in full view of the challengers. b. If a voter has registered by mail after January 1, 2003 to vote for the first time in his or her current county of residence and did not provide personal identification when registering pursuant to section 16 of P.L.1974, c. 30 (C.19:31-6.4), the voter shall be permitted to vote starting at the first election held after January 1, 2004 at which candidates are seeking federal office after displaying one of the following items: (1) a current and valid photo identification card; (2) a current utility bill, bank statement, government check or pay check; (3) any other government document that shows the voter's name and current address; or (4) any other identifying document that the Attorney General has determined to be acceptable for this purpose. If the voter does not display one of these documents, the voter shall not be permitted to vote by machine but shall instead be provided with a provisional ballot, pursuant to the provisions of P.L.1999, c. 232 (C.19:53C-1 et seq.). This subsection shall not apply to any voter entitled to vote by absentee ballot under the "Uniformed and Overseas Citizens Absentee Voting Act" (42 U.S.C. 1973ff-1 et seq.) or to any voter who is provided the right to vote other than in person under section 3 of Pub.L.98-435, the "Voting Accessibility for the Elderly and Handicapped Act," or any other voter entitled to vote otherwise than in person under any other federal law. This subsection shall also not apply to any person who registers to vote by appearing in person at any voter registration agency or to any person whose voter registration form is delivered to the county commissioner of registration or to the Attorney General, as the case may be, through a third party by means other than by mail delivery. c. Each county commissioner of registration shall collect and maintain, in the manner prescribed by the Attorney General, the information provided pursuant to subsection b. of this section and section 16 of P.L.1974, c. 30 (C.19:31- 6.4). Access to the personal identification information provided pursuant to subsection b. of this section and section 16 of P.L.1974, c. 30 (C.19:31- 6.4). shall be prohibited, in accordance with subsection a. of section 6 of P.L.2001, c. 404 (C.47:1A-5). Last Amendment Effective July 9, 2004	N.J. Stat. Ann. 19:15-17
New Mexico	Sign Name	D. The judge assigned to the voter list used for confirmation of registration and voting shall determine that each person offering to vote is registered and, in the	N.M. Stat. Ann §1-5-10

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		<p>case of a primary election, that the voter is registered in a party designated on the primary election ballot. If the person's registration is confirmed by the presence of his name on the voter list or if the person presents a certificate under the seal and signature of the county clerk showing that he is entitled to vote in the election and to vote in that precinct, the judge shall announce to the election clerks the list number and the name of the voter as shown on the voter list.</p> <p>E. The election clerk shall locate that list number and name on the signature roster and shall require the voter to sign his usual signature or, if unable to write, to make his mark opposite his printed name. If the voter makes his mark, it shall be witnessed by one of the judges of the precinct board. If the signature roster indicates that the voter is required to present a form of identification before voting, the election judge shall ask the voter for a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows and matches the name and address of the voter as indicated on the signature roster. If the voter does not provide the required identification, he shall be allowed to vote on a provisional paper ballot.</p> <p>G. A voter shall not be permitted to vote until he has properly signed his usual signature or made his mark in the signature roster.</p> <p>(From 2004 version of New Mexico Annotated Statutes, amended in 2005 to require presentation of ID)</p>	<p>(Recompiled as §1-12 -7.1 by L. 2005, Ch. 270, §63, effective July 1, 2005)</p>
<p>New York</p>	<p>Match Sig.</p>	<p>1. A person before being allowed to vote shall be required, except as provided in this chapter, to sign his name on the back of his registration poll record on the first line reserved for his signature at the time of election which is not filled with a previous signature, or on the line of the computer generated registration list reserved for his signature. The two inspectors in charge shall satisfy themselves by a comparison of this signature with his registration signature and by comparison of his appearance with the descriptive material on the face of the registration poll record that he is the person registered. If they are so satisfied they shall enter the other information required for the election on the same line with the voter's latest signature, shall sign their names or initials in the spaces provided therefor, and shall permit the applicant to vote. Any inspector or inspectors not satisfied shall challenge the applicant forthwith.</p> <p>2. If a person who alleges his inability to sign his name presents himself to vote, the board of inspectors shall permit him to vote, unless challenged on other grounds, provided he had been permitted to register without signing his name. The board shall enter the words "Unable to Sign" in the space on his registration poll record reserved for his signature or on the line of the computer generated registration list reserved for his signature at such election. If his signature appears upon his registration record or upon the computer generated registration list the board shall challenge him forthwith, except that if such a person claims that he is unable to sign his name by reason of a physical disability incurred since his registration, the board, if convinced of the existence of such disability, shall permit him to vote, shall enter the words "Unable to Sign" and a brief description of such disability in the space reserved for his signature at such election. At each subsequent election, if such disability still exists, he shall be entitled to vote without signing his name and the board of inspectors, without further notation, shall enter the words "Unable to Sign" in the space reserved for his signature at such election.</p> <p>3. The voter's signature made by him upon registration and his signature made at subsequent elections shall be effectively concealed from the voter by a blotter or piece of opaque paper until after the voter shall have completed his signature.</p> <p>4. In any case where a person who has heretofore voted has placed his voting signature on the back of his registration poll record on the first or any succeeding line or lines at the time or times of an election, instead of on the last line of the</p>	<p>N.Y. Law § 8-304 (McKinney)</p>

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		<p>space thereon required to be reserved for such voting signatures and on any lines next running upward therefrom, the inspectors of election shall obliterate such misplaced signature or signatures, initial the obliteration and require such voter to sign his name again in the correct place on such registration poll record.</p> <p>5. Any person who has heretofore registered and who at such time placed his or her registration signature on the back of the registration poll record otherwise than in the space required to be provided therefor at the bottom of such poll record, shall, before being permitted to vote at any election thereafter, subscribe a new registration signature for himself on the last line at the bottom of such poll record, and, at the same time, if the inspectors of election are satisfied that the signatures were made by the same person, obliterate his original registration signature placed elsewhere than on the bottom of such record. Such obliterations may be made by crossing out the signature so as to completely efface the same or by affixing thereover a piece of gummed tape of a size sufficient only to cover such signature and of a type adequate to fully conceal the same Last Amended 1986</p>	
North Carolina	Give Name	<p>(a) Checking Registration. --A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots. If a precinct official states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (c) of this section before voting.</p>	N.C. Gen. Stat. Ann. § 163-166.7
North Dakota	Provide ID	<p>16.1-05-07 Poll clerks to check identification and verify eligibility -- Poll clerks to request, correct, and update incorrect information contained in the pollbook.</p> <p>1. Before delivering a ballot to an individual according to section 16.1-13- 22, the poll clerks shall request the individual to show a driver's license issued by the state, another form of identification displaying a photograph of the individual and the individual's date of birth, or another appropriate form of identification prescribed by the secretary of state. If an individual offering to vote fails or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct. After verifying that the individual's name is contained in the pollbook generated from the central voter file, poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.</p> <p>(From 2003 version of N.D. Century Code; only amendment to this statute that became effective in 2003 was in 2005)</p>	N.D. Cent. Code § 16.1-05-07

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Ohio	Match Sig.	<p>When an elector appears in a polling place to vote he shall announce his full name and address to the precinct election officials. He shall then write his name and address at the proper place in the poll lists or signature pollbooks provided therefore, except that if, for any reason, an elector shall be unable to write his name and address in the poll list or signature pollbook, the elector may make his mark at the place intended for his name and a precinct official shall write the name of the elector at the proper place on the poll list or signature pollbook following the elector's mark, upon the presentation of proper identification. The making of such mark shall be attested by the precinct official who shall evidence the same by signing his name on the poll list or signature pollbook as a witness to such mark.</p> <p>The elector's signature in the poll lists or signature pollbooks shall then be compared with his signature on his registration form or a digitized signature list as provided for in section 3503.13 of the Revised Code, and if, in the opinion of a majority of the precinct election officials, the signatures are the signatures of the same person, the clerks shall enter the date of the election on the registration form or shall record the date by such other means as may be prescribed by the secretary of state. If the right of the elector to vote is not then challenged, or, if being challenged, he establishes his right to vote, he shall be allowed to proceed into the voting machine. If voting machines are not being used in that precinct, the judge in charge of ballots shall then detach the next ballots to be issued to the elector from Stub B attached to each ballot, leaving Stub A attached to each ballot, hand the ballots to the elector, and call his name and the stub number on each of the ballots. The clerk shall enter the stub numbers opposite the signature of the elector in the pollbook. The elector shall then retire to one of the voting compartments to mark his ballots. No mark shall be made on any ballot which would in any way enable any person to identify the person who voted the ballot.</p> <p>(Effective at time of last update, 1992 H 182, eff. 4-9-93)</p>	Ohio Rev. Code Ann. § 3505.18
Oklahoma	Sign Name	<p>Each person presenting himself to vote shall announce his name to the judge of the precinct, whereupon the judge shall determine whether said person's name is in the precinct registry.</p> <p>(Last amended in 1990)</p> <p>Persons who have been determined to be eligible to vote shall sign, in the presence of the clerk, the proper precinct registry. Said clerk shall thereupon issue proper ballots to said person. The voter's signature on said precinct registry shall be the best evidence of said voter's having voted at said election. Said precinct registry shall be retained in the office of the county election board for a period of twenty-two (22) months following the election and shall be subject to public inspection during regular office hours.</p> <p>(Last amended in 1990)</p>	Okla. Stat. Ann. tit. 26, § 7-114 Okla. Stat. Ann. tit. 26, § 7-117
Oregon	Match Sig.	<p>All elections in Oregon are Vote by Mail.</p> <p>An Elections Official will compare the signature on your ballot return envelope to the signature on your voter registration card to verify your identity</p> <p>(http://www.uhavavote.org/votingguide/votebymail.html) (unknown date, but use of wayback machine shows that this provision on site on following dates: 7/11/04, 10/20/04 and 10/29/04)</p>	Or. Rev. Stat. § 254.385
Penn.	Match Sig.	<p>(a.3) All electors, including any elector that shows identification pursuant to subsection (a), shall subsequently sign a voter's certificate, and, unless he is a State or Federal employee who has registered under any registration act without declaring his residence by street and number, he shall insert his address therein, and hand the same to the election officer in charge of the district register. Such election officer shall thereupon announce the elector's name so that it may be heard by all members of the election board and by all watchers present in the</p>	25 Pa. Stat. Ann. § 3050

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		<p>polling place and shall compare the elector's signature on his voter's certificate with his signature in the district register. If, upon such comparison, the signature upon the voter's certificate appears to be genuine, the elector who has signed the certificate shall, if otherwise qualified, be permitted to vote: Provided, That if the signature on the voter's certificate, as compared with the signature as recorded in the district register, shall not be deemed authentic by any of the election officers, such elector shall not be denied the right to vote for that reason, but shall be considered challenged as to identity and required to make the affidavit and produce the evidence as provided in subsection (d) of this section. When an elector has been found entitled to vote, the election officer who examined his voter's certificate and compared his signature shall sign his name or initials on the voter's certificate, shall, if the elector's signature is not readily legible, print such elector's name over his signature, and the number of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and at primaries a letter or abbreviation designating the party in whose primary he votes shall also be entered by one of the election officers or clerks. As each voter is found to be qualified and votes, the election officer in charge of the district register shall write or stamp the date of the election or primary, the number of the stub of the ballot issued to him or his number in the order of admission to the voting machines, and at primaries a letter or abbreviation designating the party in whose primary he votes, and shall sign his name or initials in the proper space on the registration card of such voter contained in the district register.</p> <p>(In effect at time of, and unaltered by: 2004, Oct. 8, P.L. 807, No. 97, § 5.1 (changes procedure for first time voters, not established voters))</p>	
Rhode Island	Give Name	<p>(a) Each person desiring to vote shall state his or her name and residence, including that person's street address, if he or she has any, to one of the first pair of bi-partisan supervisors, who shall then announce the name and residence in a loud and distinct voice, clear and audible. As each voter's name is announced, the voter shall be handed a ballot application in the following form:</p> <p>BALLOT APPLICATION</p> <p>(Poll List) Senatorial District _____ Representative District _____ Voting District _____</p> <p>Election _____ Date _____</p> <p>I hereby certify that I am a registered and qualified elector in the above voting district of City of _____</p> <p>and hereby make application for ballots to be voted at this election.</p> <p>_____</p> <p>(Signature of Voter)</p> <p>_____</p> <p>(Residence Address)</p> <p>Number Approved _____</p> <p>(Supervisor of Election)</p>	R.I. Gen. Laws § 17-19-24

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		<p>(b) The voter shall sign the application in the presence and view of a bipartisan pair. They shall locate the voter's name on the certified voting list for the voting district. Upon finding the voter's name on the certified voting list for the district, they shall initial the ballot application in the place provided next to the word "Approved" and shall enter on the certified list of voters a proper notation that the applicant has voted in the election. They shall then return the ballot application to the voter who shall pass down the line and present it to the clerk. After the voter has handed the approved ballot application to the clerk, the clerk shall provide the voter with the appropriate computer ballot and security sleeve, the warden shall direct the voter to the voting booth which the voter shall use, and unless the voter needs instruction or assistance as provided in this chapter, the voter shall cast his or her vote, and if he or she desires place the voted computer ballot in a security sleeve, and shall proceed to the optical scan precinct count unit and shall personally place his or her voted ballot into the designated ballot slot on the unit, and after doing so, shall leave the enclosure at once. No voter shall remain within the voting booth longer than ten (10) minutes, and if the voter refuses to leave after the lapse of ten (10) minutes, the voter shall be removed from the voting booth by order of the warden. Except for the election officials and the election inspector, not more than two (2) voters in excess of the number of voting booths shall be permitted within the enclosed space at any time.</p> <p>(Last amended 2004, Current through January 2005 Session)</p>	
South Carolina	Photo ID	<p>§ 7-13-710. Proof of right to vote; signing poll list; comparison of signatures.</p> <p>When any person presents himself to vote, he shall produce his valid South Carolina driver's license or other form of identification containing a photograph issued by the Department of Motor Vehicles, if he is not licensed to drive, or the written notification of registration provided for by §§ 7-5-125 and 7-5-180 if the notification has been signed by the elector. If the elector loses or defaces his registration notification, he may obtain a duplicate notification from his county board of registration upon request in person, or by telephone or mail. After presentation of the required identification, his name must be checked by one of the managers on the margin of the page opposite his name upon the registration books, or copy of the books, furnished by the board of registration. The managers shall keep a poll list which must contain one column headed "Names of Voters". Before any ballot is delivered to a voter, the voter shall sign his name on the poll list, which must be furnished to the appropriate election officials by the State Election Commission. At the top of each page the voter's oath appropriate to the election must be printed. The signing of the poll list or the marking of the poll list is considered to be an affirmation of the oath by the voter. One of the managers shall compare the signature on the poll list with the signature on the voter's driver's license, registration notification, or other identification and may require further identification of the voter and proof of his right to vote under this title as he considers necessary. If the voter is unable to write or if the voter is prevented from signing by physical handicap, he may sign his name to the poll list by mark with the assistance of one of the managers.</p> <p>Last amended: 1968</p>	S.C. Code Ann. § 7-13-710
South Dakota	Photo ID	<p>When a voter is requesting a ballot, the voter shall present a valid form of personal identification. The personal identification that may be presented shall be either:</p> <ol style="list-style-type: none"> (1) A South Dakota driver's license or nondriver identification card; (2) A passport or an identification card, including a picture, issued by an agency of the United States government; (3) A tribal identification card, including a picture; or (4) An identification card, including a picture, issued by a high school or an accredited institution of higher education, including a university, college, or 	S.D. Codified Laws § 12-18-6.1

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		<p>technical school, located within the State of South Dakota.</p> <p>Last amended March 2004</p>	
Tennessee	Provide ID	<p>Identification of eligible voters</p> <p>(a)(1) A voter shall sign an application for ballot, indicate the primary in which the voter desires to vote, if any, and present it to a registrar. The application for ballot shall include thereon a space for the address of the voter's current residence, and the voter shall write or print such address on the application when the voter signs it. The registrar shall compare the signature and information on the application with the signature and information on the duplicate permanent registration record. The registrar shall make a determination whether the voter's address is different from the address on the voter's permanent registration record or if the registration is in inactive status. If the voter has changed residence, or the voter's registration is inactive, the registrar shall follow the procedures for voting pursuant to § 2-7-140. If, upon comparison of the signature and other identification, it is found that the applicant is entitled to vote, the registrar shall initial the application and shall note on the reverse side of the voter's duplicate permanent registration record the date of the election, the number of the voter's ballot application, and the elections in which the voter votes. If the applicant's signature is illegible, the registrar shall print the name on the application. The registrar shall give the voter the ballot application which is the voter's identification for a paper ballot or ballots or for admission to a voting machine. The voter shall then sign the duplicate poll lists without leaving any lines blank on any poll list sheet.</p> <p>(2) In any computerized county, the county election commission shall have the option of using an application for a ballot as provided in this section, or using the computerized voter signature list. A computerized voter signature list shall include the voter's name, current address of residence, social security number or registration number, birth date and spaces for the voter's signature, elections voted, ballot number and precinct registrar's initials. The following procedures shall be followed in the case of computerized voter signature lists:</p> <p>(A) The voter shall sign the signature list and indicate the election or elections the voter desires to vote in and verify the voter's address in the presence of the precinct registrar;</p> <p>(B) The registrar shall compare the voter's signature and information on the signature list with other evidence of identification supplied by the voter. If, upon comparison of the signature and other evidence of identification, it is found that the applicant is entitled to vote, the registrar shall initial the signature list;</p> <p>(C) If the applicant's signature is illegible, the registrar shall print the name of the applicant on the voter list; and</p> <p>(D) If a voter is unable to present any evidence of identification specified in subsection (c), the voter shall be required to execute an affidavit of identity on a form provided by the county election commission.</p> <p>Last amended 2003</p>	Tenn. Code Ann. § 2-7-112
Texas	Provide ID	<p>(b) On offering to vote, a voter must present the voter's voter registration certificate to an election officer at the polling place.</p> <p>(Last amended in 1997)</p>	Tex. Elec. Code Ann. § 63.001
Utah	Give Name	<p>(1)(a) Any registered voter desiring to vote shall give his name, and, if requested, his residence, to one of the election judges.</p> <p>(b) If an election judge does not know the person requesting a ballot and has reason to doubt that person's identity, the judge shall request identification or have the voter identified by a known registered voter of the district.</p> <p>(3) If the election judge determines that the voter is registered:</p> <p>(a) the election judge in charge of the official register shall:</p> <p>(i) write the ballot number opposite the name of the voter in the official register; and</p>	Utah Code Ann. § 20A-3-104

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		<p>(ii) direct the voter to sign his name in the election column in the official register;</p> <p>(b) another judge shall list the ballot number and voter's name in the pollbook; and</p> <p>(c) the election judge having charge of the ballots shall:</p> <p>(i) endorse his initials on the stub;</p> <p>(ii) check the name of the voter on the pollbook list with the number of the stub;</p> <p>(iii) hand the voter a ballot; and</p> <p>(iv) allow the voter to enter the voting booth.</p> <p>(In effect at time of last update prior to 2005: Laws 2003, c. 37, § 1, eff. May 5, 2003)</p>	
Vermont	Give Name	<p>Before a person may be admitted to vote, he or she shall announce his or her name and if requested, his or her place of residence in a clear and audible tone of voice, or present his or her name in writing, or otherwise identify himself or herself by appropriate documentation. The election officials attending the entrance of the polling place shall then verify that the person's name appears on the checklist for the polling place. If the name does appear, and if no one immediately challenges the person's right to vote on grounds of identity or having previously voted in the same election, the election officials shall repeat the name of the person and:</p> <p>(1) If the checklist indicates that the person is a first-time voter in the municipality who registered by mail and who has not provided required identification before the opening of the polls, require the person to present any one of the following: a valid photo identification; a copy of a current utility bill; a copy of a current bank statement; or a copy of a government check, paycheck, or any other government document that shows the current name and address of the voter. If the person is unable to produce the required information, the person shall be afforded the opportunity to cast a provisional ballot, as provided in subchapter 6A of this chapter. The elections official shall note upon the checklist a first-time voter in the municipality who has registered by mail and who produces the required information, and place a mark next to the voter's name on the checklist and allow the voter to proceed to the voting booth for the purpose of voting.</p> <p>(2) If the voter is not a first-time voter in the municipality, no identification shall be required, the clerk shall place a check next to the voter's name on the checklist and allow the voter to proceed to the voting booth for the purpose of voting.</p> <p>(Last amended in 2003)</p>	Vt. Stat. Ann. tit. 17, § 2563
Virginia	Provide ID	<p>§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification</p> <p>A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.</p> <p>B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.</p> <p>If the voter's name is found on the pollbook, if he presents one of the forms of</p>	Va. Code. Ann.

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		<p>identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth.</p> <p>Except as provided in subsection E of this section, if a voter is entitled to vote except that he is unable to present one of the forms of identification listed above, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be. A voter who requires assistance in voting by reason of physical disability or inability to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement.</p> <p>(Version in effect as of 2004- effective 4/12/2004)</p>	
Washington	Sign Name	<p>29A.44.201.</p> <p>A voter desiring to vote shall give his or her name to the precinct election officer who has the precinct list of registered voters. This officer shall announce the name to the precinct election officer who has the copy of the inspector's poll book for that precinct. If the right of this voter to participate in the primary or election is not challenged, the voter must be issued a ballot or permitted to enter a voting booth or to operate a voting device. For a partisan primary in a jurisdiction using the physically separate ballot format, the voter must be issued a nonpartisan ballot and each party ballot. The number of the ballot or the voter must be recorded by the precinct election officers. If the right of the voter to participate is challenged, RCW 29A.08.810 and 29A.08.820 apply to that voter.</p> <p>(In effect at time of last update prior to 2005: 2004 c 271 § 136, eff. June 10, 2004)</p> <p>29A.44.210.</p> <p>Any person desiring to vote at any primary or election is required to sign his or her name on the appropriate precinct list of registered voters. If the voter registered using a mark, or can no longer sign his or her name, the election officers shall require the voter to be identified by another registered voter.</p> <p>The precinct election officers shall then record the voter's name.</p> <p>Effective date: July 1, 2004</p>	<p>Wash. Rev. Code § 29A.44.201 & 29A.44.210</p>
West Virginia	Match Sig.	<p>(a) Any person desiring to vote in an election shall, upon entering the election room, clearly state his or her name and residence to one of the poll clerks who shall thereupon announce the same in a clear and distinct tone of voice. If that person is found to be duly registered as a voter at that precinct, he or she shall be required to sign his or her name in the space marked "signature of voter" on the pollbook prescribed and provided for the precinct. If that person is physically or otherwise unable to sign his or her name, his or her mark shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk affixing the voter's mark shall be indicated immediately under the affixation. No ballot may be given to the person until he or she so signs his or her name on the pollbook or his or her signature is so affixed thereon.</p> <p>* * *</p> <p>(c) When the voter's signature is properly on the pollbook, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the</p>	<p>W. Va. Code § 3-1-34 (a)</p>

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		<p>election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another official ballot, signed by the clerks on the reverse side required by this subsection. The voter shall thereupon retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his or her ballot using a ballpoint pen of not less than five inches in length or other indelible marking device of not less than five inches in length. In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in section five, article six of this chapter.</p> <p>(In effect at time of last update prior to 2005: Acts 2003, c. 100, eff. 90 days after March 7, 2003)</p>	
Wisconsin	Give Name	<p>6.79(2)(a) Except as provided in sub. (6), where there is registration, each person, before receiving a voting number, shall state his or her full name and address. Upon the prepared registration list, after the name of each elector, the officials shall enter the serial number of the vote as it is polled, beginning with number one. Each elector shall receive a slip bearing the same serial number. A separate list shall be maintained for electors who are voting under s. 6.15, 6.29 or 6.55(2) or (3) and electors who are reassigned from another polling place under s. 5.25(5)(b). Each such elector shall have his or her full name, address and serial number likewise entered and shall be given a slip bearing such number.</p> <p>(In effect at time of last update prior to 2005: 2003 Act 327, § 4, eff. June 12, 2004)</p>	Wis. Stat. § 6.79
Wyoming	Give Name	<p>(a) Unless a voter is challenged pursuant to W.S. 22-15-101 through 22-15-109, no identification shall be required when:</p> <p>(i) Voting in person or by mail after having registered in person; or</p> <p>(ii) Voting in person or by mail after having registered by mail and having previously voted in a Wyoming federal election.</p> <p>(In effect at time of last update prior to 2005: Effective dates. -- Laws 2004, ch. 94, § 5, makes the act effective immediately upon completion of all acts necessary for a bill to become law as provided by art. 4, § 8, Wyo. Const. Approved March 5, 2004.)</p>	Wyo. Stat. Ann. § 22-3-118

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APPENDIX B –Court Decisions and Literature on Voter Identification and Related Issues

Court Decisions

Summary of Relevant Cases:

Challenges Prevailed:

American Civil Liberties Union of Minnesota v. Kiffmeyer, 2004

- Action for temporary restraining order – granted
- Statute: allowed use of tribal identification cards w/ name, address & photo as a valid identification to register to vote only if the voter lives on the reservation to “complete” a mail-in application (which only affected about 600 voters w/ incomplete applications)
- Claim -14th Amendment EPC: likely to prevail, no rational basis for a distinction between Indians residing on reservations and those not
- Statute: may use certain forms of photo identification lacking address together with a utility bill but not tribal identification cards
- Claim -14th Amendment EPC: likely to prevail

Greidinger v. Davis, 1993

- Statute: mandated disclosure of SS # as a precondition to voter registration (rationale was voter identification, but the numbers were rarely used to verify identity & were disclosed in voter lists to both political parties and the public upon request)
- Claims:
 - 14th Amendment EPC: no classification (applied strict scrutiny)
 - Substantive due process: law invalid; found that the statute conditioned the fundamental right to vote on the consent to an invasion of privacy; this was found to be a substantial burden (applied strict scrutiny)
 - Compelling interests: preventing voter fraud (deemed compelling)
 - Necessary: fails, preventing voter fraud when allowing names for inspection could be achieved by supplying addresses and DOBs or use of voter registration numbers
 - HOWEVER: Court also made it clear that if the registration scheme kept the SS# for internal use only – it would be valid

Challenges Rejected:

League of Women Voters v. Blackwell, 2004.

- Sec. of State Directive: provisional ballots issued if first-time voter, who registered by mail and did not provide ID, cannot produce proper ID at the polls AND that the provisional ballot will only be counted if the voter returns to the poll before it closes w/ ID or can recite SS# or DL#
- Claims – Supremacy Clause & HAVA: ruled that HAVA did not specify how the first-time voters' identifications should be verified and this method was not unreasonable or too burdensome

Colorado Common Clause v. Davidson, 2004

- Statute: required all voters to show ID (most types permitted) before voting
- Claims:
 - HAVA: ruled that HAVA did not preempt more strict state laws & allowed States to be more strict as long as consistent with the purpose of HAVA (both HAVA & CO provisions' purposes were to prevent voter fraud)
 - Substantive due process and equal protection
 - No improper discrimination

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- Preventing voter fraud is a compelling interest since it is irreversible once vote is cast
- Only marginally more intrusive than HAVA, many types of identification permitted – thus, valid

McKay v. Thompson, 2000

- Statute: mandated disclosure of SS # as a precondition to voter registration
- Claims:
 - Privacy Act, Section 7: ruled that Tennessee voter system exempt from Privacy Act because it is pre-75
 - NVRA, permitting only min. amt. of info. necessary to prevent duplicate registration and determine eligibility: ruled that NVRA does not specifically forbid the use of SS#s & the Privacy Act specifically permits them pre-75
 - Substantive due process: ruled that internal use of SS# not a burden
 - Free Exercise, based on Bible's supposed prohibition on use of universal identifiers: ruled that law is generally applicable and thus valid
 - P&I, Article IV: does not protect in-state citizens
 - P&I, 14th Amend.: no protection for privilege where Congress authorized its infringement

Kemp v. Tucker, 1975

- Statute: required name, occupation, address, sex, race, height, hair color, eye color, and date of birth be listed on voter registration card for identification purposes
- Claims:
 - VRA: ruled that race was not made a "qualification" for voting
 - 15th Amendment: ruled that it did not abridge right to vote on account of race because rejection of application was due to failure to provide information, not race; race only one factor in identification
 - 14th Amendment EPC: ruled there was no distinction among voters

Perez v. Riddlehoover, 1966

- Statute: date of birth, place of birth, mother's first or maiden name, color of eyes, sex, race, occupation, and whether owner, tenant or boarder must appear on the registration for identification
- Claims:
 - VRA: ruled that it was not a "test or device" because it applied equally
 - 15th Amendment: same reasons

Cases in Which the Plaintiffs Have Prevailed in Challenging the Statute Requiring Voter Identification:

American Civil Liberties Union of Minnesota v. Kiffmeyer, No. 04-CV-4653, 2004 WL 2428690, at *1 (D. Minn. Oct. 28, 2004).

This was an action just before the November 2004 election for a temporary restraining order, which was granted. The ACLU challenged a Minnesota law allowing the use of tribal identification cards with the name, address, and photograph as a valid identification (equal to a driver's license) for use in "completing" an incomplete mail-in voter registration only if the Indian lives on the reservation. 2004 WL 2428690, at *1. The Court ruled that this distinction would likely violate the Equal Protection Clause because there was no rational basis for differentiating

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between the validity of the identification based on whether or not the cardholder lives on the reservation. *Id.* at *1, 3.

Secondly, the ACLU challenged a second statute which allowed the use of certain photo identification lacking the voter's address to be used together with a utility bill or bank statement as valid identification for registration. *Id.* at *3. The statute did not, however, permit using a tribal identification for this same purpose. *Id.* The Court ruled that this likely violated the equal protection clause as well. *Id.*

***Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993).**

This case challenged a Virginia law requiring the social security number for voter registration, which the State subsequently disclosed to the public and political parties upon request in voter registration lists, which included the social security numbers. Failure to provide the social security number resulted in the denial of the registration application. The law was challenged under the Equal Protection Clause and under substantive due process. The Court quickly rejected the equal protection challenge because the law made no classification. 988 F.2d at 1350.

The law was invalidated under substantive due process. *Id.* at 1355. The Court found that the statutory scheme conditioned the fundamental right to vote on the consent to an invasion of privacy, based on concerns of identity theft. *Id.* at 1353-54. The Court found this to be a substantial burden on the right to vote. *Id.* at 1354. The Court recognized that the government's interest in preventing voter fraud was compelling. *Id.* However, the Court found that disclosure of the information to the public and political parties was not necessary to achieve that interest. *Id.* Disclosure of addresses or dates of birth would be sufficient to aid the public in distinguishing between two voters with the same name. *Id.* at 1355. The Court did state that required disclosure of the social security number for internal use only would be valid. *Id.* at 1354 n.10.

Cases in Which the Statute or Practice of Voter Identification Has Been Upheld:

***League of Women Voters v. Blackwell*, 340 F. Supp. 2d 823 (N.D. Ohio 2004).**

The League of Women Voters challenged the Secretary of State's directive that provisional ballots should be issued to all first-time voters who registered by mail without providing identification who cannot show proper identification at the polls. 340 F. Supp. 2d at 828. The Directive also stated that the provisional ballots would only be counted if the voter orally recited his driver's license number or the last four digits of his social security number or returned to the polling place before it closed with some acceptable identification, including reciting those identification numbers. *Id.* The Court stated that HAVA only requires verification of eligibility of first time voters registering by mail; it does not say how that should be done. *Id.* at 831. The Court found the burden on the right to vote to be slight. *Id.* The Directive was found valid under HAVA and the Supremacy Clause because the number of uncounted votes would be small, the requirement was reasonable, and there was adequate notice of the requirement on the registration forms. *Id.* at 829-30.

***Colorado Common Cause v. Davidson*, No. 04CV7709, 2004 WL 2360485, at *1 (Colo. Dist. Ct. Oct. 18, 2004).**

In this case, the validity of three Colorado statutory provisions was challenged. The laws (1) required all in-person voters to show identification (not just first-time registrants); (2) provided that votes cast in the wrong precinct would not be counted; and (3) provided that